
STATUTORY INSTRUMENTS

2006 No. 468

The School Finance (England) Regulations 2006

PART 1

INTRODUCTION

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School Finance (England) Regulations 2006 and shall come into force two days after the day on which they are made.

(2) These Regulations apply in relation to the financial years beginning on 1st April 2006 and 1st April 2007.

(3) These Regulations apply only in relation to England.

(4) In these Regulations—

“the 1996 Act” means the Education Act 1996(1);

“the 1998 Act” means the School Standards and Framework Act 1998;

“the 2000 Act” means the Learning and Skills Act 2000(2);

“the 2002 Act” means the Education Act 2002(3);

“the 2005 Act” means the Education Act 2005(4);

“the 2003 (No. 2) Regulations” means the Financing of Maintained Schools (England) (No. 2) Regulations 2003(5);

“the 2004 Regulations” means the Financing of Maintained Schools (England) Regulations 2004(6);

“the Budget Regulations” means the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2004(7); and

The “Amended Budget Regulations” means the LEA Budget, Schools Budget and Individual Schools Budget (Amendment) (England) Regulations 2005(8);

“admission number” means the number of pupils in any relevant age group intended to be admitted in any school year as determined by an admission authority in accordance with section 89A of the 1998 Act(9);

(1) 1996 c. 56.

(2) 2000 c. 21.

(3) 2002 c. 32.

(4) 2005 c. 18.

(5) S.I.2003/3247.

(6) S.I. 2004/3130.

(7) S.I. 2004/3131.

(8) S.I. 2005/526.

(9) This is the definition inserted by regulation 2(1) of the Education (Variation of Admission Arrangements) (Amendment) (England) Regulations 2002 (S.I. 2002/2896) into the Education (Variation of Admission Arrangements) (England) Regulations 1999 (S.I. 1999/126).

“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper practices, or expenditure which shall be treated as capital expenditure by virtue of any regulations or directions made under section 16 of the Local Government Act 2003⁽¹⁰⁾;

“central expenditure” means the total amount deducted by a local education authority from their schools budget;

“CERA” means capital expenditure which an authority expect to charge to a revenue account of the authority within the meaning of section 22 of the Local Government Act 2003⁽¹¹⁾;

a “combined service” is a service funded partly from central expenditure, and partly from other budgets of the authority or contributions from other bodies;

the “Dedicated Schools Grant” is the grant of that name paid to a local education authority by the Secretary of State under section 14 of the 2002 Act;

“expenditure on the school specific contingency” is expenditure—

- (a) it would not be reasonable to expect a governing body to meet from the school’s budget share;
- (b) on increases to a school’s budget share to which the school is entitled by virtue of the authority’s formula or the determination of budget shares under the authority of the schools forum or the Secretary of State; and
- (c) on the correction of errors;

“funding period 1” is the financial year beginning on 1st April 2006;

“funding period 2” is the financial year beginning on 1st April 2007;

“key stage 4” means the fourth key stage of the National Curriculum for England comprising core and foundation subjects, and other elements as described in section 85 of the 2002 Act, as amended by any Order made by the Secretary of State under subsection (6)(d) of that section;

a “local education authority’s formula” has the meaning in regulation 9;

the “LSC” is the Learning and Skills Council for England⁽¹²⁾;

a reference (however framed) to a maintained nursery school, a community, foundation or voluntary school or a community or foundation special school includes a proposed school which on implementation of proposals for the establishment of the school will be such a school, and which has a temporary governing body;

a reference to a particular class or description of expenditure in relation to maintained schools and to pupils registered at such schools shall include any expenditure of that class or description as the authority may incur in relation to Academies⁽¹³⁾, and to pupils registered at Academies;

a “Performance Reward Grant” is the grant of that name paid under section 31 of the Local Government Act 2003 to reward local authorities for improvements in local services;

“PFI scheme unitary payment” means a charge payable by a local education authority under a private finance transaction as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997⁽¹⁴⁾;

“primary or secondary school” means a primary or secondary school which is a community, foundation, voluntary or maintained nursery school;

⁽¹⁰⁾ 2003 (c. 26). Regulations made under this section are the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 (S.I. 2003/3146), as amended by S.I. 2004/534 and 2004/3055.

⁽¹¹⁾ 2003 c. 26.

⁽¹²⁾ The Learning and Skills Council for England was established under section 1 of the 2000 Act.

⁽¹³⁾ Academies are established under section 482 of the 1996 Act. Section 482 was substituted by section 65 of the 2002 Act.

⁽¹⁴⁾ S.I. 1997/319, as amended by S.I. 1998/371, 1999/1852 and 2003/515. The Local Authorities (Capital Finance) (Consequential, Transitional and Savings Provisions) Order 2004 (S.I. 2004/533) contains savings provisions for regulation 16 of the 1997 Regulations.

“proper practices” means those accounting practices which a local authority are required to follow by virtue of any enactment, or which, so far as they are consistent with any such enactment are generally regarded, whether by reference to any generally recognised published code or otherwise, as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned⁽¹⁵⁾;

“prudential borrowing” means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings that will be achieved are equal to or more than the expenditure that will be incurred in borrowing the money;

“School Improvement Partner” means a person employed by, or engaged to work for, a local education authority in accordance with the programme of that name;

“School Standards Grant” is the grant of that name paid to a local education authority by the Secretary of State under section 14 of the 2002 Act;

“school year” means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July, in accordance with the Education (School Day and School Year) (England) Regulations 1999⁽¹⁶⁾;

“SEN transport costs”, for the purposes of paragraph 35(e) of Schedule 2, means the costs of home to school transport for pupils with special educational needs in schools maintained by the authority, where the revenue savings that will be achieved by placing such children in a school maintained by the authority are equal to, or greater than, the cost of such transport;

“specific grant” means grant, other than the Dedicated Schools Grant and any grant made by the LSC under section 7 of the 2000 Act, paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used;

“summer term” means the third term of the school year;

“Threshold and Performance Pay Grant” means a sum of money paid under that name to a local education authority by the Secretary of State under section 14 of the 2002 Act;

“termination of employment costs”, for the purposes of paragraph 35(b) of Schedule 2, means expenditure in respect of the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a maintained school where—

- (a) the dismissal, premature retirement or resignation occurs after the beginning of funding period 1, and
- (b) the revenue savings that will be achieved are equal to or greater than the costs incurred;

“vocational education” means education provided to pupils aged 14–16 years at school or elsewhere which prepares them for a qualification for a particular profession, trade or employment, or which provides the necessary training and skills for such a profession or employment.

Revocation of previous Regulations

2. The 2003 (No. 2) Regulations, the Budget Regulations, and the Amended Budget Regulations are revoked on 1st April 2006.

⁽¹⁵⁾ Section 2 of the Local Government Act 2003 (c. 32) and regulations 25 and 26 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146) as amended by S.I. 2004/534.

⁽¹⁶⁾ S.I. 1999/3181.

PART 2

ACTION TO BE TAKEN BY A LOCAL EDUCATION AUTHORITY

CHAPTER 1

appropriation of the lea budget

LEA Budget

3.—(1) The following classes or descriptions of local education authority expenditure are prescribed for the purposes of section 45A(1) of the 1998 Act and the determination of a local education authority's LEA budget, subject to the exceptions in regulation 6—

- (a) those specified in Schedule 1, and
- (b) any other expenditure which falls outside the classes or descriptions of expenditure specified in regulation 5 and Schedule 2 (the schools budget).

(2) Any expenditure which falls within the classes or descriptions of expenditure specified in regulation 5 or Schedule 2 is not expenditure prescribed for the purposes of section 45A(1) of the 1998 Act.

CHAPTER 2

determination of schools budgets, individual schools budgets, and budget shares for funding periods 1 and 2

Initial determination of a local education authority's schools budgets

4. A local education authority must not later than 31st March 2006—
- (a) make an initial determination of their schools budgets for funding periods 1 and 2, and
 - (b) give notice of any such determination to the governing bodies of the schools they maintain.

Schools Budget

5.—(1) The classes or descriptions of local education authority expenditure specified in subparagraphs (a) and (b) are prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local education authority's schools budget, subject to the exceptions in regulation 6—

- (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils registered at maintained schools; and
- (b) expenditure on the education of pupils at independent schools, non-maintained special schools⁽¹⁷⁾, pupil referral units, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for pupils otherwise than at schools maintained by a local education authority.

(2) Where a local education authority operates a combined service for the benefit of pupils referred to in paragraph (1), expenditure referred to in paragraph 35(c) of Schedule 2 is expenditure prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local education authority's schools budget, provided that any expenditure incurred is commensurate with the educational benefit to those pupils.

(17) Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act. Section 342 was substituted by paragraph 82 of Schedule 30 to the 1998 Act.

Exceptions

6. A local education authority's LEA budget or schools budget shall not include the following classes or descriptions of expenditure—

- (a) capital expenditure other than CERA;
- (b) expenditure on capital financing other than expenditure incurred on prudential borrowing;
- (c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984⁽¹⁸⁾ (arrangements for patrolling school crossings); and
- (d) expenditure met by the local education authority under section 51A of the 1998 Act (community purposes).

Determination of the individual schools budget for funding periods 1 and 2

7.—(1) Subject to paragraphs (2) and (3), not later than 31st March 2006, a local education authority may deduct from their schools budget any or all of the classes or descriptions of planned expenditure set out in Schedule 2 (the “central expenditure”), in order to arrive at their individual schools budgets for funding periods 1 and 2.

(2) Any deductions made under paragraph (1) must be made in accordance with the provisions of Schedule 3 (Maximum Increase in Central Expenditure), unless the authority has obtained the approval of their schools forum or the Secretary of State under regulation 13 to vary the limit imposed by that Schedule.

(3) In deducting any of the classes or descriptions of planned expenditure referred to in paragraph 35 of Schedule 2, a local education authority must not exceed the limit or exclude the condition referred to in that paragraph, unless they have obtained the approval of their schools forum or the Secretary of State under regulation 13 to vary that limit, or exclude that condition.

(4) References to planned expenditure in this regulation are references to that expenditure net of—

- (a) all related specific grants;
- (b) all related fees, charges and income; and
- (c) any funding received from the Secretary of State in respect of PFI scheme unitary payments.

Consultation

8.—(1) In initially determining schools' budget shares for funding periods 1 and 2, a local education authority may make changes to the formula they have used in the financial year beginning 1st April 2005.

(2) A local education authority must consult their schools forum about any proposed changes under paragraph (1), in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(3) Paragraph (2) shall not apply to changes made pursuant to regulation 19 (sixth form funding) or 23 (permanently excluded pupils).

Formula for determination of budget shares

9.—(1) A local education authority must determine before the beginning of funding period 1, and after the consultation referred to in regulation 8, the formulae which they will use to determine and

⁽¹⁸⁾ 1984 c. 27, amended by the Local Government Act 1985 (c. 51), section 8 and Schedule 5, the Greater London Authority Act 1999 sections 288 and 423 and Schedule 34, and the Transport Act 2000 sections 270 and 274 and Schedule 31.

redetermine schools' budget shares in funding periods 1 and 2, having regard to the factors, criteria and requirements set out in Part 3.

(2) A local education authority may not make changes to their formula for funding period 1 after the beginning of that funding period.

(3) A local education authority may make changes to the formula they will use for funding period 2 after the beginning of funding period 1, provided any such change—

- (a) is made before the beginning of funding period 2, and
- (b) is approved by their schools forum or the Secretary of State under regulation 25 (additional arrangements).

(4) Any formulae determined by a local education authority under paragraph (1) may include different factors, criteria and requirements for different funding periods.

(5) A local education authority may not use factors or criteria in their formulae under this Part which make an allowance, in whole or in part, for any amount allocated to a school from any School Standards Grant paid to the authority.

(6) Except as provided by paragraph (3), and regulation 25 (additional arrangements), a local education authority must use the formulae determined under paragraph (1) in all determinations and redeterminations of budget shares in respect of funding periods 1 and 2.

Initial determination of allocation of schools' budget shares for funding periods 1 and 2

10. Not later than 31st March 2006, a local education authority must—

- (a) initially determine the allocation of all their individual schools budget as the budget shares of the schools which they maintain for funding periods 1 and 2 in accordance with Part 3 of these Regulations, and
- (b) give notice of each school's budget share for funding period 2 to the governing bodies of the schools which they maintain.

CHAPTER 3

redetermination of schools budgets, individual schools budgets,
and schools' budget shares, for funding periods 1 and 2

Redetermination of schools budgets and individual schools budgets

11.—(1) Subject to paragraphs (2) and (3), a local education authority may make a redetermination of their schools budgets and their individual schools budgets for funding periods 1 and 2 at any time before or during the funding period to which those budgets relate.

(2) In making any such redetermination, the authority may only reduce the amount of their schools budgets where they receive an amount of Dedicated Schools Grant which is lower than the amount on which they based their initial determinations under regulation 7.

(3) A local education authority may not make deductions of any classes or descriptions of planned expenditure set out in Schedule 2 from their schools budgets which exceed the amount of any deductions they have made under regulation 7, unless they have obtained authorisation to make any such deduction from their schools forum or the Secretary of State under regulation 13.

(4) A local education authority may not—

- (a) exceed the limit or exclude the condition imposed by paragraph 35 of Schedule 2, or
- (b) exceed the limit imposed by Schedule 3

unless their schools forum or the Secretary of State enable those limits to be varied or that condition to be excluded under regulation 13.

(5) Where a local education authority makes a redetermination under paragraph (1), they must give notice of that redetermination to the governing bodies of the schools which they maintain.

Redetermination of allocation of budget shares for funding period 2

12. Not later than 31st March 2007, a local education authority must redetermine any allocation of schools' budget shares under regulation 10(a) for funding period 2 in accordance with Part 3 of these Regulations.

CHAPTER 4

schools forum and secretary of state powers

Applications to the schools forum and the Secretary of State

13.—(1) Subject to paragraph (2), a local education authority may apply to their schools forum to—

- (a) authorise the making of deductions from their schools budget of any class or description of expenditure referred to in Schedule 2 where such deductions would exceed the amount of any deductions made previously under regulations 7(1) or 11(3), or
- (b) enable the limit or the condition imposed by paragraph 35 of Schedule 2, or the limit imposed by Schedule 3, to be varied or excluded.

(2) Upon receipt of an application by a local education authority under paragraph (1), their schools forum may authorise the making of further deductions, vary the limit or exclude the condition referred to in paragraph 35 of Schedule 2, or vary the limit in Schedule 3.

(3) Where—

- (a) a schools forum does not authorise the making of deductions, variation of limits, or exclusion of conditions referred to in paragraph (1), or
 - (b) a local education authority is not required to establish a schools forum for their area⁽¹⁹⁾,
- the authority may make an application to the Secretary of State for such authorisation, variation or exclusion.

PART 3

FORMULAE FOR DETERMINATION OF BUDGET SHARES

CHAPTER 1

factors and criteria taken into account

Pupil numbers

14.—(1) Subject to paragraphs (2) and (5), in determining and redetermining budget shares for maintained nursery schools, other primary schools and secondary schools, a local education authority must take into account in their formulae for funding periods 1 and 2 the number of registered pupils at those schools on the dates specified in paragraph (6), weighted, if the authority consider it appropriate, in accordance with paragraph (4).

⁽¹⁹⁾ Section 47A(2) of the 1998 Act provides that the requirement in section 47A(1) of that Act to establish a school forum for their area does not apply to the Common Council of the City of London or the Council of the Isles of Scilly. Section 47A was inserted by section 43 of the 2002 Act and has been amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2005 Act.

- (2) For the purposes of paragraph (1), the number of registered pupils does not include pupils—
- (a) in places—
 - (i) in maintained nursery schools,
 - (ii) in other primary or secondary schools which the authority recognise as reserved for children with special educational needs,
 - (iii) in nursery classes, and
 - (iv) in boarding accommodation at boarding schools other than special schools where the authority exercise their discretion to take these places into account under regulation 15(1)(b);
 - (b) in respect of whom grant is payable to the authority by the LSC; or
 - (c) in infant classes where the authority choose to take the class into account as an additional factor under paragraph 35 of Schedule 4.
- (3) Where a local education authority exercise their discretion under regulation 15(1) to take into account places, they may also take into account in their formula the number of registered pupils at the schools, or in the reserved places at primary or secondary schools, referred to in that paragraph, on the dates specified in paragraph (6).
- (4) A local education authority may weight pupil numbers according to any or all of the following factors—
- (a) age, including weighting according to key stage or year group;
 - (b) whether the pupil is provided with nursery education by a school;
 - (c) in the case of pupils aged under five, their exact age when admitted to the school;
 - (d) in the case of pupils aged under five, whether they have been admitted to the school in excess of the admission number agreed with the authority;
 - (e) in the case of pupils aged under five, hours of attendance;
 - (f) special educational needs;
 - (g) whether the pupil is attending a middle school;
 - (h) whether the pupil is at key stage 4, and spends more than half of his time in full time education accessing vocational education either at school or elsewhere;
 - (i) whether a pupil at a school is also attending a college of further education or a course delivered by any training provider; and
 - (j) whether the pupil is in an infant class (in cases where an infant class is not taken into account as an additional factor under paragraph 35 of Schedule 4).
- (5) Subject to paragraph (7), for the purposes of determining budget shares for funding period 2 under regulation 10, a local education authority must estimate the number of pupils they will take into account under paragraph (1) for that funding period.
- (6) The dates for ascertaining pupil numbers are—
- (a) 19th January 2006 in respect of funding period 1, and
 - (b) 18th January 2007 in respect of funding period 2.
- (7) Subject to paragraph (8), where—
- (a) a primary school operates a policy of admitting children into nursery or reception classes in the summer term, and
 - (b) will admit pupils into such classes in the summer term immediately after either of the dates specified in paragraph (6)

a local education authority may determine a number representing the number of pupils who will be admitted in that summer term, and take such number into account in their formulae for funding period 1 or 2.

(8) In determining the number of pupils they will take into account under paragraph (7), a local education authority—

- (a) must not determine any number which exceeds the number of pupils admitted in the summer term immediately prior to either of the dates specified in paragraph (6), and
- (b) must make any such determination before the beginning of the funding period during which the pupils will be admitted.

(9) A local education authority may adjust the number of registered pupils used to determine or redetermine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly, the permanent exclusion of a pupil from the school or the admission of a pupil following his permanent exclusion from another school maintained by a local education authority.

Places

15.—(1) In determining and redetermining budget shares for funding periods 1 and 2, a local education authority may take into account the number of places they wish to fund—

- (a) in special schools, or
- (b) in—
 - (i) maintained nursery schools,
 - (ii) primary or secondary schools with places which the authority recognise as reserved for children with special educational needs,
 - (iii) nursery classes, or
 - (iv) schools with boarding accommodation.

(2) In determining and redetermining budget shares for funding periods 1 and 2, a local education authority may take into account the nature of any special educational needs in question when funding places at special schools or places reserved for children with special educational needs in primary and secondary schools.

(3) A local education authority must provide that, if any places are taken into account in accordance with paragraph (1)(a), the number must be no fewer than the number of registered pupils at the school on the relevant date in regulation 14(6).

(4) For the purpose of determining budget shares for funding period 2 under regulation 10, a local education authority must estimate the number of places they will fund under paragraph (1) for that funding period.

Differential funding

16.—(1) For the purpose of initially determining budget shares in respect of funding periods 1 and 2, a local education authority must use factors or criteria which differentiate between different categories or descriptions of schools in so far as the functions of the governing bodies of those schools justify such differentiation, but may not otherwise do so except as required or expressly permitted by these Regulations.

(2) A local education authority must use factors or criteria which differentiate between a school and other schools of the same category or description if such differentiation is justified by reference to the choice that that school's governing body have made as to the inclusion in their school's budget share of funding in respect of expenditure of the kinds referred to in paragraph 15(a) and (b) (meals), 26 (insurance) or 28 (library services) of Schedule 2.

(3) A local education authority are not required to use factors or criteria in their formulae which differentiate between maintained nursery schools, primary schools, secondary schools, special schools, or schools whose pupils are in different age ranges, but they may do so.

Additional factors or criteria

17.—(1) Subject to regulation 16 (differential funding), a local education authority may, in determining budget shares in respect of funding periods 1 and 2, take into account in their formulae any or all of the factors or criteria set out in Schedule 4.

(2) A local education authority must, in determining budget shares for both primary and secondary schools which they maintain, take into account in their formulae a factor or factors based on the incidence of social deprivation among pupils registered at all such schools if they have no factor elsewhere in their formulae which is based on such incidence.

(3) A factor included in an authority's formula pursuant to paragraph 17 of Schedule 4 (school milk, meals and refreshment) is not, for the purpose of paragraph (2), a factor based on the incidence of social deprivation among pupils registered at a school.

(4) The factors and criteria set out in Schedule 4 may not be taken into account by a local education authority on the basis of actual or estimated cost unless otherwise stated in that Schedule.

(5) Where a local education authority take new factors or criteria into account in their formula or delete factors from their formula or determine a formula substantially or wholly different from the previous year, they may make such transitional provision as they consider reasonable.

Minimum funding guarantee

18.—(1) Subject to regulation 25 (additional arrangements), in determining and redetermining budget shares for all schools maintained by them in respect of funding periods 1 and 2, a local education authority must ensure—

- (a) in respect of primary (other than maintained nursery schools) and secondary schools, that an amount equal to the guaranteed funding level is included for each of those funding periods, calculated in accordance with paragraphs 1–4 of Schedule 5;
- (b) in respect of special schools, that the formula must provide for an increase in those schools' budget shares for each of those funding periods, calculated in accordance with paragraph 5 of Schedule 5; and
- (c) in respect of maintained nursery schools either—
 - (i) that an amount equal to the guaranteed funding level is included for each of those funding periods, calculated in accordance with paragraphs 1–4 of Schedule 5, or
 - (ii) that the formula must provide for an increase in those schools' budget shares for each of those funding periods, calculated in accordance with paragraph 5 of that Schedule as if every reference to a special school were a reference to a maintained nursery school, save that the figure of 4% must be used instead of the figure of 3.4% where it occurs in paragraph 5 of that Schedule.

(2) For the purposes of determining budget shares in respect of funding periods 1 and 2, paragraph (1) does not apply to any school opening during either funding period save in the circumstances set out in paragraph 4 of Schedule 5.

(3) For the purpose of determining budget shares for funding period 2 under regulation 10, a local education authority must apply the relevant provisions in Schedule 5 using estimates of—

- (a) the number of registered pupils in schools funded on the basis of pupil numbers in accordance with regulation 14(5), or
- (b) the number of places they will fund in accordance with regulation 15(4).

Sixth form funding

19.—(1) A local education authority must include in a secondary school’s budget share for funding periods 1 and 2 an amount equal to any sum notified to the local education authority by the LSC as being the allocation in respect of that school’s sixth form(**20**).

(2) A local education authority may, in determining budget shares, use a factor which allocates funding in respect of sixth forms.

(3) A local education authority may, in determining budget shares for schools with sixth forms, reduce the amount payable to each such school under their formula by a sum representing any element which has been duplicated in the LSC’s allocation.

(4) A secondary school’s budget share for funding periods 1 and 2 must be redetermined before the end of the relevant funding period where the authority receive a written notification from the LSC of a revised allocation in respect of the sum referred to in paragraph (1).

New, reorganised and closing schools

20.—(1) A local education authority must include factors or criteria in their formulae which enable them to determine a school’s budget share for funding periods 1 and 2 so as to take into account the particular needs of that school in the following cases—

- (a) a proposed school;
- (b) a school, proposals for the establishment of which have not been fully implemented(**21**);
- (c) a school which is the subject of a prescribed alteration(**22**);
- (d) a school which is to be discontinued;
- (e) a school which is to be the subject of a significant change, as determined by the authority.

(2) In the case of schools falling within sub-paragraph (1)(a), the authority must, in any funding period preceding the funding period in which the school first admits pupils, determine the amount of the budget as an amount which is sufficient to fund the appointment of staff, and purchase any services and goods necessary to enable the school to admit pupils.

(3) In the case of schools falling within sub-paragraph (1)(c), such factors or criteria may only be used within seven years of the date of implementation of the relevant change to the school.

(4) For the purposes of these Regulations, proposals for the establishment of a school have been fully implemented when the number of pupils admitted to the school in each age group has, in the opinion of the local education authority, reached—

- (a) the number of pupils indicated, when proposals for the establishment of the school were published, as the number of pupils to be admitted to each age group when the proposals were fully implemented; or
- (b) if no such number was indicated, such number as the authority may determine.

(20) The authority’s funding in respect of sixth forms is paid by the LSC in the form of a grant under section 7 of the 2000 Act. Section 7 was amended by section 215(1) of, and paragraph 124(1) and (2) of Schedule 21 to, the 2002 Act, and section 117 of, and paragraph 12 of Schedule 18 to, the 2005 Act.

(21) Proposals for the establishment of a school may be published under section 28 or 31 of, paragraph 5 of Schedule 7 to, the 1998 Act, section 113A of and Schedule 7A to the 2000 Act or section 70 of the 2002 Act. Section 113A and Schedule 7A were inserted by section 72 of, and Schedule 9 to, the 2002 Act. Section 70 of the 2002 Act is prospectively repealed by section 123 of, and Schedule 19 to, the 2005 Act.

(22) A prescribed alteration is an alteration prescribed by regulations made under section 28(1)(b) or (2)(b) of the 1998 Act.

CHAPTER 2

adjustments

Budget share adjustments in relation to the financial year beginning on 1st April 2005: Pupil numbers

21.—(1) This regulation applies to the extent that a school’s budget share for the financial year beginning on 1st April 2005 was determined pursuant to regulation 8(1) or (3) of the 2004 Regulations other than in cases where pupil numbers were weighted according to special educational needs.

(2) To the extent that a school’s budget share for the financial year beginning on 1st April 2005 was—

- (a) determined by reference to an estimate of the number of registered pupils at the school; and
- (b) differences between the estimated number of pupils on the dates determined by the authority in accordance with regulation 9 of the 2004 Regulations, and the actual number of pupils at the school on those dates were not taken into account in a redetermination of the school’s budget share for that financial year,

the local education authority must determine that school’s budget share for funding period 1 so as to take into account those differences.

Budget share adjustments in relation to the financial year beginning on 1st April 2005: Non-pupil number factors

22.—(1) This regulation applies to the extent that a school’s budget share for the financial year beginning on 1st April 2005 was determined other than pursuant to regulation 8(1) or (3) of the 2004 Regulations or was determined in accordance with pupil numbers weighted according to special educational needs.

(2) Where—

- (a) there has been a change in the data on the basis of which that determination was made; and
- (b) that change was not taken into account in a redetermination of the school’s budget share for the financial year beginning on 1st April 2005,

the local education authority may determine that school’s budget share for funding period 1 so as to take into account those changes.

Pupils permanently excluded from, or leaving, maintained schools

23.—(1) Where a pupil is permanently excluded from a school maintained by a local education authority, the authority must redetermine the school’s budget share for that funding period in accordance with paragraph (2).

(2) The school’s budget share must be reduced by the amount

$$A \times (B/52)$$

where—

A is the amount, in the funding period in which the permanent exclusion takes effect, determined by the authority in accordance with this Part, to be attributable for the full funding period to a registered pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority:

for the purposes of this definition, the amount attributable to a registered pupil is the sum of the amounts determined in accordance with the authority’s formula as determined in

accordance with these Regulations by reference to pupil numbers rather than by reference to the number of places at the school or any other factor or criterion not dependent on pupil numbers (except that, where the registered pupil in question is a pupil in respect of whom grant is payable to the authority by the LSC under section 7 of the 2000 Act, the amount attributable to that pupil must be £3,019 for funding period 1 and £3,131 for funding period 2); and

B is the number of complete weeks remaining in the funding period calculated from the relevant date:

except that where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school prior to being admitted to another school with a different pupil age range, B is the number of complete weeks remaining in that school year calculated from the relevant date.

(3) Where a pupil is admitted to a school maintained by a local education authority (“the admitting school”) who has been permanently excluded from another maintained school in that financial year the authority must redetermine the admitting school’s budget share in accordance with paragraph (4).

(4) The admitting school’s budget share must be increased by an amount which may not be less than the amount

$$D \times (E/F)$$

where—

D is the amount by which the authority reduce the budget share of the school from which the pupil was permanently excluded, or would have reduced it had that school been maintained by the authority;

E is the number of complete weeks remaining in the funding period during which the pupil is a registered pupil at the admitting school; and

F is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) For the purposes of this regulation, the relevant date has the meaning prescribed in regulations made under section 494 of the 1996 Act(23).

(6) Paragraphs (1) and (2) also apply where pupils have been deleted from the admissions register of a maintained school—

(a) to attend an educational or training establishment other than a maintained school or an independent school, or

(b) to access an education programme provided by a registered charity through the internet.

(23) Section 494(5) of the 1996 Act, which was substituted by paragraph 128 of Schedule 30 to the 1998 Act, provides that regulations may prescribe when a permanent exclusion is to be regarded as taking effect. The Education (Amount to Follow Permanently Excluded Pupil) Regulations 1999 (S.I. 1999/495) provide that a permanent exclusion takes place on the “relevant date” as defined in those regulations, and amendments to them in the Education (Pupil Exclusions) (Miscellaneous Amendments) (England) Regulations 2004 (S.I. 2004/402). On and after 22nd March 2004, the “relevant date” is the date that an appeal panel constituted under regulations made under section 52 of the 2002 Act decides not to direct reinstatement; or if there is no appeal, on the day after the last date on which an appeal may be made, or on the day (if earlier) that the parent (or pupil who has attained the age of 18) notifies the local education authority that he does not intend to appeal.

CHAPTER 3

correction of errors and additional arrangements
approved by the schools forum or secretary of state

Correction of errors and changes in non-domestic rates

24.—(1) A local education authority may at any time during funding period 1 or 2 redetermine a school's budget share for a previous financial year or funding period, or the current funding period, in order to correct an error in a determination or redetermination under these, or previous, Regulations, whether arising from a mistake as to the number of registered pupils at the school or otherwise, provided the error is of a kind not provided for by any specific error correction provision in the authority's formula.

(2) A local education authority may redetermine a school's budget share for funding periods 1 and 2 to take into account any changes in that school's non-domestic rates liability in relation to a current funding period, previous funding period or previous financial year.

(3) Insofar as any redetermination under paragraph (1) would require the amount that would otherwise have been the budget share of a school to be reduced, it may not be reduced to a figure which is lower than that which could have been allocated to that school under the regulations in force during the financial year or funding period in which the error occurred.

Additional arrangements approved by the schools forum or the Secretary of State

25.—(1) The Secretary of State may authorise a local education authority to determine or redetermine budget shares, to such extent as he may specify, in accordance with arrangements approved by him in place of the arrangements provided for by these Regulations.

(2) Subject to paragraphs (3) and (4), a schools forum may authorise a local education authority to determine or redetermine budget shares in accordance with arrangements approved by them in place of the arrangements provided for by these Regulations, where such determination or redetermination relates to—

- (a) the operation of regulation 18; or
- (b) any change to the formula determined under regulation 9(1) in respect of funding period 2 before the beginning of that funding period.

(3) A schools forum may not authorise or approve any arrangements under paragraph (2)(a) that will affect more than 20 per cent of schools maintained by the authority in the funding period to which the authorisation relates.

(4) A schools forum may not authorise or approve any arrangements under paragraph (2)(a), the effect of which would be either—

- (a) to remove the sum notified to the local education authority by the LSC as being the allocation in respect of sixth form funding for secondary schools maintained by the authority from the schools budget, or
- (b) to remove sixth form pupils from the calculation of the guaranteed funding level (calculated under Schedule 5).

(5) Where—

- (a) a schools forum does not authorise a local education authority's determination or redetermination of budget shares under paragraph (2), or

(b) a local education authority is not required to establish a schools forum for their area,
any determination or redetermination by the authority may be authorised by the Secretary of State.

(6) Authorisations given and arrangements approved by the Secretary of State under previous regulations must, unless the contrary intention appears in such authorisation or arrangements, continue to apply in relation to funding period 1.

(7) Authorisations given and arrangements approved by the Secretary of State or the schools forum in relation to funding period 1 must, unless the contrary intention appears in such authorisation or arrangements, continue to apply to funding period 2.

PART 4

SCHEMES

Required content of schemes

26. A scheme prepared by a local education authority under section 48(1) of the 1998 Act⁽²⁴⁾ must deal with the matters connected with the financing of schools maintained by the authority set out in Schedule 6.

Publication of schemes

27.—(1) A local education authority must publish their scheme in such manner as they see fit.

(2) For the purposes of paragraph 1(7)(b) of Schedule 14 to the 1998 Act (prescribed occasions on which publication of schemes is required), a scheme must be published by the local education authority on the coming into force of any revision of it.

23rd February 2006

Jacqui Smith
Minister of State
Department for Education and Skills

(24) Section 48(1) has been amended by section 40 and paragraphs 2(1) and (2) of Schedule 3 to the 2002 Act.