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STATUTORY INSTRUMENTS

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**2007 No. 365**

**EDUCATION, ENGLAND**

**The School Finance (England) (Amendment) Regulations 2007**

*Made* - - - - *10th February 2007*  
*Laid before Parliament* *19th February 2007*  
*Coming into force* - - *16th March 2007*

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred upon the Secretary of State by sections 47, 49(2A) and 138(7) of, and paragraph 2B of Schedule 14 to, the School Standards and Framework Act 1998(1).

**Citation, commencement, and application**

1.—(1) These Regulations may be cited as The School Finance (Amendment) (England) Regulations 2007 and come into force on 16th March 2007.

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

(3) These Regulations apply only in relation to funding period 2.

**Amendment of the School Finance (England) Regulations 2006(2)**

2.—(1) The School Finance (England) Regulations 2006 are amended as follows.

(2) After regulation 10 (Initial determination of allocation of schools' budget shares for funding periods 1 and 2), insert the following regulation—

**“Delegated budgets for new schools**

**10A.**—(1) A new school must have a delegated budget from the appropriate date.

(2) Subject to paragraphs (3) and (6), the appropriate date is a date which is either—

(a) the date which is fifteen calendar months before the opening date(3) of the new school, or

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(1) 1998 c.31. Section 49(2A) was inserted by paragraph 4 of Schedule 5 to the Education and Inspections Act 2006 (c.40). Paragraph 2B of Schedule 14 was inserted by paragraph 5 of that Schedule. For the meaning of “prescribed” and “regulations”, see section 142(1) of the 1998 Act.

(2) S.I.2006/468.

(3) Section 34(9) of the Education Act 2002 provides that the school opening date, in relation to a new maintained school, is the date upon which the school first admits pupils.

(b) the date upon which a temporary governing body is constituted for that school, whichever is the later.

(3) A local education authority may apply to their schools forum to vary the appropriate date to a date proposed by the authority (“the proposed date”).

(4) Upon receipt of an application by the local education authority under paragraph (3), the schools forum may—

- (a) vary the appropriate date to the proposed date,
- (b) vary the appropriate date to a different date, or
- (c) refuse to vary the appropriate date.

(5) Where—

- (a) a schools forum
  - (i) varies the appropriate date to a different date which is not acceptable to the local education authority, or
  - (ii) refuses to vary the appropriate date; or
- (b) a local education authority are not required to establish a schools forum for their area<sup>(4)</sup>,

the authority may make an application to the Secretary of State for variation of the appropriate date.

(6) The Secretary of State may—

- (a) vary the appropriate date to the proposed date,
- (b) vary the appropriate date to a different date, or
- (c) refuse to vary the appropriate date.

(7) A local education authority must determine the amount of a new school’s delegated budget for the period from the appropriate date to the opening date as an amount which is sufficient to fund the appointment of staff, and purchase any goods and services necessary to enable the school to admit pupils. Thereafter, the amount of the school’s delegated budget must be determined in accordance with the authority’s formula for the relevant funding period.”

(3) In regulation 14(4)(h), (Pupil numbers), for “spends more than half of his time in full time education”, substitute “is”.

(4) In regulation 20, (New, reorganised and closing schools), omit paragraph (2).

(5) For regulation 23(5), (Pupils permanently excluded from, or leaving, maintained schools), substitute—

“(5) For the purposes of this regulation, the relevant date—

- (a) up to and including 31st August 2007, has the meaning prescribed in regulations made under section 494 of the 1996 Act, and
- (b) on and after 1st September 2007 is the 6th school day following the date on which the pupil is permanently excluded.”.

(6) In regulation 23, after paragraph (5), insert—

“(5A) Where a pupil permanently excluded on or after 1st September 2007 is subsequently reinstated by the governing body of the school or by an appeal panel

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(4) Section 47A(2) of the School Standards and Framework Act 1998 provides that the requirement in section 47A(1) of that Act to establish a schools 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.

constituted under regulations made under section 52 of the 2002 Act, the school's budget share must be increased by an amount which is no less than  $G \times (H/I)$  where—

G is the amount by which the authority has reduced the school's budget share;

H is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

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

(7) After regulation 26, (Required content of schemes), add the following regulation—

**“Approval by the schools forum or the Secretary of State of proposals to revise schemes**

**26A.**—(1) Where a local education authority submit proposals for any revisions to their scheme to their schools forum for approval pursuant to paragraph 2A of Schedule 14 to the 1998 Act, the schools forum may—

- (a) approve any such proposals,
- (b) approve any such proposals subject to modifications, or
- (c) refuse to approve any such proposals.

(2) Where the schools forum approve any revisions to the scheme, they may specify the date upon which any revised scheme is to come into force.

(3) Where—

- (a) the schools forum refuse to approve proposals submitted under paragraph 2A of Schedule 14 to the 1998 Act, or approve any such proposals subject to modifications which are not acceptable to the local education authority, or
- (b) the local education authority is not required to establish a schools forum for their area,

the authority may apply to the Secretary of State for approval of such proposals.

(4) The Secretary of State may—

- (a) approve any such proposals,
- (b) approve any such proposals subject to modifications, or
- (c) refuse to approve any such proposals.

(5) Where the Secretary of State approves any revisions to the scheme, he may specify the date upon which any revised scheme is to come into force.

(6) No revised scheme is to come into force unless approved by the schools forum or the Secretary of State in accordance with this regulation.”

(8) In regulation 27 (Publication of schemes), omit paragraph (2).

(9) In paragraph 20(g) of Schedule 2 (Classes or descriptions of planned expenditure which may be deducted from the schools budget of a local education authority), for “regulations 10 and 11 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as defined in regulation 11A of those Regulations”, substitute “regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006;”.

(10) After paragraph 1(e)(i) of Schedule 5 (Minimum Funding Guarantee), add

“;and

- (aa) the amount of funding the school received under paragraph 3 of Schedule 2 (Threshold and Performance Pay) where the local education authority intends to include an amount in respect of this in the school's budget share for funding period 2;”

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(11) In paragraph 1(e)(iii) of Schedule 5, for “36” substitute “35”.

(12) After paragraph 1(e)(iv) of Schedule 5, add

“(v) any amounts included in respect of adjustments made under regulation 21 (Budget share adjustments in relation to the financial year beginning on 1<sup>st</sup> April 2005: Pupil numbers) or regulation 22 (Budget share adjustments in relation to the financial year beginning on 1st April 2005: Non-pupil number factors);”.

10th February 2006

*Jim Knight*  
Minister of State  
Department for Education and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make minor amendments to the School Finance (England) Regulations 2006 under powers inserted by the Education and Inspections Act 2006.

They make new provision relating to the budget shares of new schools, and give additional powers to schools forums to vary the appropriate date from which a new school must have a delegated budget, (new regulation 10A), and to approve revisions to local education authorities' financial schemes, (new regulation 26A).

They amend the relevant date for the purposes of redetermining a maintained school's budget share in the event of a permanent exclusion with effect from 1<sup>st</sup> September 2007, (new regulation 23(5)).

They make minor amendments to regulation 14 (pupil numbers) and Schedule 5 (Minimum Funding Guarantee).

Regulation 27(2) (Publication of schemes) is omitted because paragraph (7)(a) of Schedule 14 to the 1998 Act now provides that a scheme must be published on its coming into force as revised<sup>(5)</sup>.

Paragraph 20(g) of Schedule 2 is amended to update references following the revocation of the Transfer of Undertakings (Protection of Employment) Regulations 1981.

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<sup>(5)</sup> See paragraph 5(4)(b) of Schedule 5 to the Education and Inspections Act 2006.