
STATUTORY INSTRUMENTS

1992 No. 555

**The Education (Grant-maintained
Schools) (Finance) Regulations 1992**

PART 2

**DETERMINATION OF AMOUNT OF MAINTENANCE GRANT
WHERE THE FORMER MAINTAINING AUTHORITY ARE REQUIRED
TO PREPARE A STATEMENT UNDER SECTION 42 OF THE ACT**

Determination of amount of maintenance grant

4.—(1) This Part applies for the purpose of determining the amount of maintenance grant payable by the Secretary of State to the governing body of a school for a financial year in respect of which the former maintaining authority are required to prepare a statement under section 42 of the Act, and is subject to the provisions of Part 4.

(2) Subject to regulation 13, the amount of maintenance grant payable in a case to which this Part applies for the financial year in question shall be the sum of the following amounts—

- (a) an amount determined in accordance with (as the case may be) regulation 5, 6 or 7;
- (b) an amount determined in accordance with (as the case may be) regulation 8, 9 or 10;
- (c) an amount determined in accordance with regulation 11; and
- (d) (where applicable) an amount determined in accordance with regulation 12.

(3) Where in the opinion of the Secretary of State precise calculation for the purpose of determining any of the amounts referred to in paragraph (2)—

- (a) would be impracticable;
- (b) would not significantly affect the amount; or
- (c) would be disproportionately costly having regard to the complexity of the calculation and the likely effect on the amount, State to determine as the amount of maintenance grant payable for the financial year in question such amount as appears to him to be fair and reasonable having regard in particular to the former maintaining authority's scheme.

Determination of an amount in respect of a comparable maintained school's budget share

5.—(1) Subject to regulations 6 and 7, the Secretary of State shall determine an amount which he is satisfied is or approximates to an amount which the former maintaining authority could have determined, by the application (subject to the following provisions of this regulation) of the allocation formula in their scheme in relation to a comparable maintained school covered by the scheme, as such a school's budget share for the financial year in question.

(2) Where—

- (a) before the beginning of the financial year in question the allocation formula included provision for taking into account a particular characteristic of a school which will affect

the needs of the school as distinct from those of other schools which do not share that characteristic; and

- (b) the scheme has been varied or replaced before the relevant date in relation to the school (as initially determined) and for the financial year in question—
 - (i) no such provision is included in the allocation formula; or
 - (ii) the proportion of a comparable maintained school's budget share derived from the application of that provision would be less than it would have been had the scheme not been varied or replaced,

the allocation formula shall be deemed, for the purposes of determining the amount under paragraph (1), to include such provision as it had effect immediately before the scheme was so varied or replaced:

Provided that the Secretary of State shall add to, or subtract from, any sum derived from the application of the said provision such amount as appears to him to be fair and reasonable having regard to any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of schools maintained by them occurring during or since the financial year immediately preceding the financial year in question.

(3) Where—

- (a) by the application of the allocation formula a part of a school's budget share is determined by reference to either—
 - (i) an amount of expenditure attributable to each registered pupil of each relevant age group or falling within each relevant age group;
 - (ii) an amount or amounts (as the case may be) of expenditure attributable to any unit of measurement adopted for any factor included in the allocation formula; or
 - (iii) the amount or amounts (as the case may be) of expenditure attributable to any other such factor; and
- (b) the proportion that any such amount is of a comparable maintained school's budget share is less in the financial year in question than it would have been in a previous financial year, deemed by the Secretary of State, in applying the allocation formula for the purpose of determining the amount under paragraph (1), to be the amount or amounts determined in accordance with paragraph (4).

(4) For the purposes of paragraph (3), the Secretary of State shall determine as the amount or amounts of expenditure so attributable for the purposes of the allocation formula the amount or amounts so attributable in such previous financial year as the Secretary of State shall decide, adjusted by such amount or amounts as appears or appear to him to be fair and reasonable having regard, in particular, to—

- (a) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of schools maintained by them occurring during or since that year; and
- (b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the Secretary of State will be likely to occur before the end of the financial year in relation to which grant is being determined.

(5) Subject to paragraphs (6), (7) and (8), references in this Part (other than in regulation 10) to a maintained school are references to a school maintained by the former maintaining authority concerned, and references to a comparable maintained school are references to a maintained county school, any characteristics of which relevant for the purposes of any formula of a kind referred to in paragraph (2) are identical to any such characteristics of the grant-maintained school and are references (in particular) to a school—

- (a) the number of registered pupils in each age group at which is identical to the number of such pupils in each age group at the grant-maintained school; and
 - (b) any other factors affecting the needs of which (including in particular, the number of registered pupils at the school who have special educational needs and the nature of the special educational provision required to be made for them) are identical to any other factors affecting the needs of the grant-maintained school.
- (6) Where the allocation formula includes provision for taking into account the amount of any non-domestic rate payable in respect of a school, the Secretary of State shall, in applying the allocation formula for the purpose of determining the amount under paragraph (1), apply that provision as if the amount of the non-domestic rate payable was—
- (a) in the case of a school which was a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is a charity; and
 - (b) in the case of a school which was not a charity before becoming a grant-maintained school, that payable in respect of a comparable maintained school which is not a charity.
- (7) For the purposes of this regulation, it is to be assumed that there is a comparable maintained school covered by the former maintaining authority’s scheme whether or not there is in fact such a school; and, for the purposes of paragraph (6), it is to be further assumed that a comparable maintained school is capable of being a charity.
- (8) References in these Regulations to any change in the characteristics of the school include, in particular, references to any change in the number of registered pupils there at.
- (9) In this regulation—
- “charity” means an institution established for charitable purposes only;
 - “factor” means, in relation to the allocation formula, any circumstance, fact or matter affecting the needs of individual schools and subject to variation from school to school which is to be taken into account in accordance with the allocation formula; and
 - “relevant” in relation to “age” and “age group” means an age group separately treated in the allocation formula for the purposes of determining that part of each school’s budget share which is to be determined by reference to numbers of registered pupils.
- 6.—(1)** This regulation applies in the case of any school whose incorporation date is after 1st April in the financial year in question.
- (2) In any case to which this regulation applies the Secretary of State shall not determine an amount in accordance with regulation 5(1); but he shall determine an amount in accordance with paragraph (3).
- (3) The Secretary of State shall determine an amount which appears to him to be equal to that amount of the school’s budget share for the financial year in question in respect of which either sums had not yet been made available pursuant to section 36(2) and (3) of the Act, or, if made available, had not been spent, immediately before the school’s incorporation date by the governing body of the school (before it acquired grant-maintained status) in exercise of their powers under section 36(5) of the Act.
- 7.—(1)** This regulation applies in the case of a school, which was a grant-maintained school at any time in the financial year preceding the financial year in question, where it appears to the Secretary of State that, in relation to the financial year in question, the comparable maintained school’s budget share would have been determined wholly or mainly by reference to expenditure (whether actual, estimated, notional or otherwise characterised) for the purposes of that school in a previous financial year.

(2) In any case to which this regulation applies, the Secretary of State may decide not to determine an amount in accordance with regulation 5, but instead to determine an amount in accordance with paragraph (3).

(3) Where the Secretary of State decides to determine an amount in accordance with this paragraph he shall determine an amount in respect of a comparable maintained school's budget share by reference to the school's maintenance grant for the financial year preceding the financial year in question, adjusted by such amount as the Secretary of State is satisfied is fair and reasonable having regard to, among other things—

- (a) any increase or decrease in the actual or planned level of spending of the former maintaining authority in respect of the schools maintained by them occurring during or since the end of the immediately preceding financial year, and
- (b) any significant change in the characteristics of the school occurring as aforesaid or which it appears to the Secretary of State will be likely to occur before the end of the financial year in relation to which grant is being determined.

Determination of an amount as a percentage addition

8. Subject to regulations 9 and 10, the Secretary of State shall determine an amount which is equal to 15 per cent. of the amount determined in respect of the school in accordance with, as the case may be, regulation 5, 6 or 7.

9.—(1) Without prejudice to regulation 10, this regulation applies in the case of any school—

- (a) whose incorporation date falls in or before the financial year ending on 31st March 1992;
- (b) in respect of which maintenance grant was determined for that financial year under regulation 4, 5 or 6 of the 1991 Regulations; and
- (c) in respect of which the amount first referred to in regulation 8 is less than the amount which was determined in respect of the school under (as the case may be) regulation 4(5), 5(6) or 6(6) of the 1991 Regulations for the financial year ending on 31st March 1992.

(2) In any case to which this regulation applies, regulation 8 shall have effect as if it required the Secretary of State to determine an amount equal to the amount which was determined in respect of the school under (as the case may be) regulation 4(5) or (6), 5(6), or 6(6) or (7) of the 1991 Regulations for the financial year ending on 31st March 1992.

10.—(1) In any case to which this regulation applies the Secretary of State shall not determine an amount in accordance with regulation 8 or 9; but he shall determine an amount in accordance with paragraph (4).

(2) This regulation applies in any case where—

- (a) before the relevant date in relation to the school (as initially determined) either the former maintaining authority or the governing body of the school request in writing that a determination is made under this regulation; and
- (b) it appears to the Secretary of State that, on the relevant date in relation to the school (as initially determined), at least 15 per cent. of either—
 - (i) primary maintained schools in the area of the former maintaining authority (rounded up to a whole number); or
 - (ii) secondary maintained schools in the area of the former maintaining authority (rounded up to a whole number),

- (a) (3) (a) For the purposes of paragraph (4), the Secretary of State shall calculate the percentage that the amount determined in accordance with sub-paragraph (b) below is of

the amount determined in accordance with sub-paragraph (c) below (referred to in this regulation as “the relevant percentage”).

- (b) The Secretary of State shall determine an amount by the application of the following formula—

$$A \times \frac{B}{C}$$

where

A is the amount of the former maintaining authority’s general school’s budget for the financial year in question which, in the opinion of the Secretary of State would remain after deducting from it—

- (i) their aggregated budget for the year;
- (ii) the authority’s planned expenditure on those heads or items specified in Schedule 1;
- (iii) the authority’s planned expenditure on the provision of school meals; and
- (iv) any amount appropriated for meeting expenditure in respect of contingencies:

Provided that in determining the amounts under paragraphs (ii) to (iv) the Secretary of State shall exclude any such expenditure, or, in the case of expenditure in respect of contingencies, any amount appropriated by the authority for meeting such expenditure, falling within their aggregated budget;

B is the number of registered pupils on a date determined by the Secretary of State at all primary schools or all secondary schools maintained or formerly maintained by the former maintaining authority (according as to whether the school is a primary school or a secondary school) which are required to be covered by a statement for the financial year in question under section 42 of the Act; and

C is the number of registered pupils on that date at all such schools whether primary or secondary.

- (c) The Secretary of State shall determine an amount which appears to him to be equal to the amount of the authority’s aggregated budget which is available for allocation to all primary schools or all secondary schools maintained or formerly maintained by them which are required to be covered by the authority’s scheme for the financial year in question, according as to whether the school is a primary school or a secondary school.

(4) The Secretary of State shall determine an amount which is equal to the relevant percentage of the amount determined in respect of the school in accordance with, as the case may be, regulation 5, 6 or 7.

(5) In paragraph (2), references to primary maintained schools and secondary maintained schools are references to (as the case may be) primary schools or secondary schools which are—

- (a) county or voluntary schools; and
- (b) grant-maintained schools.

Determination of an amount in respect of school meals, contingencies and the provision of nursery education

11.—(1) The Secretary of State shall determine the amount which is the sum of the amounts determined in accordance with paragraphs (2) to (5).

(2) The Secretary of State shall determine an amount in respect of the provision of school meals calculated by the application of the following formula—

$$\frac{(M \times F)}{(P)} + \frac{(S \times G)}{(B)},$$

where

M is the total number of registered pupils in receipt of free school meals at the school;

F is the total of the former maintaining authority's planned expenditure for the year in providing meals to pupils in receipt of free school meals at relevant schools;

P is the number of registered pupils in receipt of free school meals at relevant schools;

S is the number of registered pupils at the school who bought meals at the school on a date in the immediately preceding financial year determined by the Secretary of State;

G is the total of the authority's planned expenditure for the year on school meals, other than free school meals, at relevant schools and excluding expenditure to be met from any charges for such meals; and

B is the number of registered pupils at relevant schools who bought meals at those schools on a date in the immediately preceding financial year determined by the Secretary of State.

(3) In paragraph (2),

“number of registered pupils” means the number of pupils on a school's register on a date determined by the Secretary of State;

“planned expenditure” means the initial amount appropriated by the authority for meeting expenditure at all relevant schools excluding any such expenditure falling within their aggregated budget; and

“relevant schools” means all primary or all secondary schools maintained or formerly maintained by the authority required to be covered by a statement for the year under section 42 of the Act, according as to whether the school is a primary school or a secondary school.

(4) The Secretary of State shall determine the amount which it appears to him the governing body of the school, had it continued to be maintained by the authority, would have been eligible in accordance with the authority's scheme to receive in respect of contingencies.

(5) Where the governing body of the school provides education for junior pupils who have not attained the age of five years, the Secretary of State shall determine an amount in respect of such provision which he is satisfied is fair and reasonable having regard in particular to the extent that, in his opinion, the cost of such provision ought to be met from the amount determined in accordance with (as the case may be) regulation 5, 6 or 7.

Determination of an amount representing the unspent sum of a previous financial year's budget share

12.—(1) This regulation applies where—

(a) the determination of maintenance grant in respect of a school is for the financial year in which the school's incorporation date falls; and

(b) in a previous or previous financial years the school (before it acquired grant-maintained status) had a delegated budget under a scheme made by the former maintaining authority.

(2) In any case to which this regulation applies, there shall be added to the amount of maintenance grant payable in respect of the school under regulation 4 an amount determined in accordance with paragraph(3).

(3) The Secretary of State shall determine the amount which it appears to him is equal to that amount of the school's budget share for any financial year prior to the financial year in question in respect of which either sums were not made available pursuant to section 36(2) or (3) of the

Act, or, if made available, were not spent by the governing body in exercise of their powers under section 36(5) of the Act.

Determination of amount of maintenance grant otherwise than under regulation 4

13.—(1) Notwithstanding the provisions of regulation 4, but subject to the following provisions of this regulation, the Secretary of State may determine the amount of maintenance grant payable to the governing body of a school for the financial year in question in accordance with the provisions of regulation 15(2) to (7), or, as the case may be, regulation 16(2) to (6) save that—

- (a) in the definition of “relevant schools” in regulation 15(6)(b) (including that definition as it is applied for the purposes of regulation 16(6)), for the reference to “section 50” there shall be substituted a reference to “section 42”;
- (b) in regulation 16(5) there shall be substituted—
 - (i) in sub-paragraph (a)(ii), for the words “regulation 5 or 6” the words “regulation 4, 5 or 6”; and
 - (ii) in sub-paragraphs (a)(iii) and (c), for the words “regulation 5(6) or 6(6)” the words “regulation 4(5), 5(6) or 6(6)”;
- (c) in any case where, were the amount of maintenance grant in respect of the school to be determined under regulation 4, the Secretary of State would be required to determine an amount pursuant to regulation 12, there shall be added to the amount of maintenance grant determined in respect of the school the amount which would have been determined for the school in accordance with that regulation.

(2) Subject to paragraph (3), the Secretary of State shall consult the former maintaining authority and (as the case may be) the governing body or the prospective governing body of the school before determining pursuant to paragraph (1) the amount of maintenance grant payable in respect of the school for the financial year in question.

(3) Paragraph (2) shall not apply in any case where—

- (a) the school’s incorporation date is 1st April in the financial year in question; and
- (b) it appears to the Secretary of State that, in relation to that financial year, a comparable maintained school’s budget share, determined by the application of the allocation formula in the former maintaining authority’s scheme, would have been determined wholly or mainly by reference to expenditure (whether actual, estimated, notional or otherwise characterised) for the purposes of that school in a previous financial year.