
STATUTORY INSTRUMENTS

1998 No. 2670

EDUCATION, ENGLAND AND WALES

**The School Standards and Framework Act
1998 (Modification) Regulations 1998**

<i>Made</i>	- - - -	<i>30th October 1998</i>
<i>Laid before Parliament</i>		<i>30th October 1998</i>
<i>Coming into force</i>	- -	<i>20th November 1998</i>

In exercise of the powers conferred on the Secretary of State by section 144 of the School Standards and Framework Act 1998(1), the Secretary of State for Education and Employment, as regards England, and the Secretary of State for Wales, as regards Wales, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the School Standards and Framework Act 1998 (Modification) Regulations 1998 and shall come into force on 20th November 1998.

(2) In these Regulations—

“the 1996 Act” means the Education Act 1996(2);

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

“the relevant period” means the period beginning on 1st April 1999 and ending immediately before 1st September 1999.

Obligation to maintain grant-maintained and grant-maintained special schools

2.—(1) Subject to paragraph (2) below, in the relevant period a local education authority shall maintain every grant-maintained and grant-maintained special school situated in their area.

(2) Where an order has been made under section 20(5) of the 1998 Act before 1st April 1999 in respect of a grant-maintained school to the effect that it shall be maintained from the appointed day(3) by the former maintaining authority rather than the authority in whose area it is situated on the appointed day, then during the relevant period that grant-maintained school shall be maintained

(1) 1998 c. 31.

(2) 1996 c. 56.

(3) The appointed day is 1st September 1999 by virtue of S.I.1998/2083.

by the former maintaining authority referred to in that order rather than the authority in whose area it is situated.

(3) A local education authority's duty to maintain a grant-maintained or grant-maintained special school includes the duty of defraying all the expenses of maintaining it save that the authority shall have the power but not the duty to meet any such expenses which fall within the meaning of expenditure for capital purposes in section 40 of the Local Government and Housing Act 1989(4).

(4) For the purposes of these Regulations the expenses of maintaining a grant-maintained or grant-maintained special school include the payment of rates.

(5) References in any enactment to a maintained school or a school maintained by a local education authority (however framed) shall not apply to a grant-maintained or grant-maintained special school unless these Regulations or that enactment so provide and maintenance of a grant-maintained or grant-maintained special school by a local education authority pursuant to this regulation shall not cause that school to cease to be a school of that category and to become a county, voluntary or maintained special school within the meaning of the 1996 Act.

Financing of maintained schools etc.

3.—(1) In relation to the relevant period, section 44(5) and (6) and Chapter IV of Part II of, and Part I and paragraph 6 of Schedule 11 to, the 1998 Act shall apply in relation to—

- (a) county, voluntary, maintained special, grant-maintained and grant-maintained special schools; and
- (b) proposed county, voluntary and maintained special schools,

within the meaning of the 1996 Act, and shall do so with the following modifications.

(2) In section 44(5) references to temporary governing bodies and temporary governors shall include temporary governing bodies and temporary governors as defined in section 181(3) of the 1996 Act.

(3) All references in Chapter IV of Part II of, and Part I of Schedule 11 to, the 1998 Act to maintained schools or schools maintained by a local education authority (however framed) shall be construed as references to county, voluntary, maintained special, grant-maintained and grant-maintained special schools within the meaning of the 1996 Act.

(4) For section 45(3) and (4) there shall be substituted—

“(3) In this Chapter—

- (a) references, in a context referring to a local education authority or to a county, voluntary, maintained special, grant-maintained or grant-maintained special school (being references so construed in accordance with the School Standards and Framework Act 1998 (Modification) Regulations 1998), shall be read as including a new school—
 - (i) proposals for the establishment of which have been published under section 35, 41 or 339(1) of the Education Act 1996 but not yet implemented, and
 - (ii) which has a temporary governing body; and
- (b) references to the governing body of a county, voluntary, maintained special, grant-maintained or grant-maintained special school shall accordingly be read

as including the temporary governing body of a new school falling within paragraph (a)(5).

(4) In this Chapter “new school” (without more) means a new school within the meaning of Part II of the Education Act 1996.”.

(5) For section 49(6)(b) there shall be substituted the following paragraph—

“(b) (in the case of a voluntary aided or special agreement school within the meaning of the Education Act 1996) to meet expenses payable by the governing body under section 45(1) or 59(2) or (3) of that Act.”.

Grammar school ballots

4. In section 107(5) of the 1998 Act (restriction on publication of material etc. relating to grammar school ballots)—

- (a) the reference in paragraph (a) to the appointed day shall have effect instead as a reference to 1st April 1999; and
- (b) paragraph (b) shall have effect as if the words “, in relation to any time before 1st April 1999,” were inserted before “a reference”.

Suspension of delegated budgets

5.—(1) In addition to the circumstances set out in paragraph 5(1) of Schedule 32 to the 1998 Act, a maintained school falling within section 49(1) of that Act shall not have a delegated budget as from the day on which section 49 comes into force(6) if—

- (a) the governing body’s right to a delegated budget has been suspended under section 17 of that Act; and
- (b) that suspension has not been previously revoked with effect from that or any earlier day.

(2) The reference in paragraph 5(5)(a) of Schedule 32 to the 1998 Act to any suspension of a school’s delegated budget by virtue of sub-paragraph (1) of that paragraph shall include any such suspension under section 17 of the 1998 Act.

6. The suspension of a governing body’s right to a delegated budget under section 28 of the School Inspections Act 1996(7) shall have effect for the purposes of Chapter V of Part II of the 1996 Act and Chapter IV of Part II of the 1998 Act as if made under section 117 of the 1996 Act or paragraph 1 of Schedule 15 to the 1998 Act but section 119(1)(a) of the 1996 Act or paragraph 3(1)(a) of Schedule 15 to the 1998 Act (right to appeal against imposition of suspension) shall not apply.

Capital grants for grant-maintained and grant-maintained special schools

7.—(1) Section 246 of the 1996 Act(8) (capital grants) shall apply in relation to the payment of capital grant in respect of the financial year commencing on 1st April 1999 as if—

- (a) in subsection (1) for “the funding authority” there were substituted “the Secretary of State”; and
- (b) subsections (3) to (5) were omitted.

(5) Where proposals for the establishment of the school have been implemented and the temporary governing body remain in existence by virtue of paragraph 2(a) of Schedule 10 to the 1996 Act then that temporary governing body are already treated as if they were the governing body by virtue of paragraph 2(b) of that Schedule.

(6) S.I. 1998/2212 provides that this is 1st April 1999.

(7) 1996 c. 57.

(8) Sections 246, 247 and 248 apply to grant-maintained special schools and their governing bodies by virtue of regulation 23 of S.I. 1994/653, as substituted by regulation 11 of S.I. 1994/1231 and read with paragraph 1(4) of Schedule 39 to the 1996 Act.

(2) Section 247 of the 1996 Act (imposition of requirements on governing body in receipt of grant) shall apply in relation to payment of capital grant in respect of the financial year commencing on 1st April 1999 as if—

(a) for subsections (1) to (5) there were substituted—

“(1) A governing body to whom any payments in respect of capital grant are made shall comply with such requirements determined by the Secretary of State as he may from time to time impose.

(2) Requirements imposed under subsection (1)—

(a) may be imposed on or at any time after the making of any payment by reference to which they were imposed; and

(b) may at any time be waived, removed or varied by the Secretary of State.”;

(b) for subsection (6) there were substituted—

“(6) The requirements which may be imposed by the Secretary of State on a governing body to whom payments in respect of capital grant are made may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.”; and

(c) subsection (9) were omitted.

(3) Section 248(1) to (4) of the 1996 Act (further provisions about grants) shall apply in relation to payment of capital grant in respect of the financial year commencing on 1st April 1999 as if for the references to “the funding authority” there were substituted references to “the Secretary of State”.

Recoupment: excluded pupils

8. In relation to the relevant period, section 494 of the 1996 Act⁽⁹⁾ shall have effect as if references to a school maintained by a local education authority included a grant-maintained school or grant-maintained special school maintained by that authority pursuant to regulation 2 of these Regulations.

Grants in respect of nursery education

9. In relation to the relevant period, section 1(3)(a) of the Nursery Education and Grant-Maintained Schools Act 1996⁽¹⁰⁾ shall have effect as if the reference to schools maintained by local education authorities included grant-maintained and grant-maintained special schools maintained by those local education authorities.

Teachers' Pensions

10. In relation to the relevant period, paragraph 1 of Schedule 2 to the Teachers' Pensions Regulations 1997⁽¹¹⁾ shall have effect as if the reference to a school maintained by a local education authority included a grant-maintained school.

28th October 1998

Estelle Morris
Minister of State,
Department for Education and Employment

⁽⁹⁾ Section 494 is substituted by paragraph 128 of Schedule 30 to the 1998 Act with effect from 1st April 1999 see S.I. [1998/2212](#).

⁽¹⁰⁾ [1996 c. 50](#).

⁽¹¹⁾ [S.I. 1997/3001](#).

30th October 1998

Peter Hain
Parliamentary Under Secretary of State, Welsh
Office

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make incidental, consequential, transitional and supplemental provision for the purposes of the School Standards and Framework Act 1998 (“the 1998 Act”).

In the period commencing on 1st April 1999 and ending immediately before 1st September 1999 (“the relevant period”) local education authorities are to be responsible for the maintenance of grant-maintained and grant-maintained special schools save that they will have the power but not the duty to meet capital expenditure in respect of such schools.

Certain provisions in the 1998 Act regarding the financing of schools and school government are modified so that they apply in relation to the relevant period to categories of schools in the Education Act 1996.

Modifications are also made to the effect of section 107(5) of the 1998 Act (regarding grammar school ballots), section 494 of the Education Act 1996, as substituted by the 1998 Act (regarding transfers of funds between local education authorities in respect of excluded pupils) and Schedule 2 to the Teachers' Pensions Regulations 1997.