



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

#### GRANT-MAINTAINED SCHOOLS

#### *Finance*

#### **79 Maintenance grants, special purpose grants and capital grants**

- (1) The payments the Secretary of State is required to make in pursuance of his duty to maintain a grant-maintained school are annual grants to the governing body of the school in respect of expenditure for the purposes of the school incurred or to be incurred by the governing body in the financial year to which any such grant relates (to be known as maintenance grants).
- (2) The amount of the maintenance grant payable in respect of such a school for any financial year shall be such as may be determined (and from time to time revised) in accordance with regulations made by the Secretary of State under this section (referred to below in this Chapter as grant regulations).
- (3) Grant regulations may also provide for the payment to the governing bodies of such schools—
  - (a) of grants (to be known as special purpose grants) in respect of expenditure incurred or to be incurred by them of any class or description specified in the regulations—
    - (i) for or in connection with educational purposes of any class or description so specified;
    - (ii) in making any provision (whether of educational services or facilities or otherwise) of any class or description so specified which appears

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- to the Secretary of State to be required for meeting any special needs of the population of the area served by the school; or
- (iii) in respect of expenses of any class or description so specified, being expenses which it appears to the Secretary of State the governing bodies of such schools cannot reasonably be expected to meet from maintenance grant; and
- (b) of grants (to be known as capital grants) in respect of expenditure of a capital nature incurred or to be incurred by them of any class or description so specified.
- (4) Grant regulations may provide for special purpose grants to be payable on a regular basis in respect of expenditure of a recurrent kind or by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.
- (5) The amount of any capital grant shall be equal to 100 per cent. of the expenditure in respect of which it is made.
- (6) The descriptions of expenditure which are to be regarded for the purposes of subsection (3)(b) above as expenditure of a capital nature shall be such as may be determined by or in accordance with the regulations.
- (7) A governing body to whom any payments in respect of maintenance grant or special purpose grants are made shall comply with such requirements as the Secretary of State may from time to time impose, being requirements—
- (a) specified in grant regulations as requirements which may be imposed by the Secretary of State on governing bodies to whom such payments are made; or
- (b) determined in accordance with such regulations by the Secretary of State.
- (8) 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.
- (9) Requirements imposed under subsection (7) or (8) above—
- (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed; and
- (b) may at any time be waived or removed or, subject to subsection (10) below, varied by the Secretary of State.
- (10) The power of the Secretary of State to vary such a requirement—
- (a) does not apply to a requirement imposed under subsection (7)(a) above; and
- (b) is subject, in the case of a requirement imposed under subsection (7)(b) above, to the provisions of the regulations with respect to the determination of the requirements that may be so imposed in the case of payments in respect of the grants in question.
- (11) The requirements—
- (a) which may be specified in or authorised by grant regulations as requirements which may be imposed on governing bodies to whom payments are made in respect of special purpose grants; or
- (b) which may be imposed by the Secretary of State on a governing body to whom payments in respect of capital grants are made;
- include in particular requirements with respect to the repayment, in whole or in part, of payments made in respect of those grants if any other requirement imposed under subsection (7) or (8) above by reference to payments of such grants (whether imposed

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before, at or after the time when the payments subject to the repayment requirement are made) is not complied with.

(12) Subject to—

- (a) any requirements imposed by the Secretary of State under subsection (7) above; and
- (b) any requirements with respect to the application of maintenance grant contained in the articles of government of the school;

it shall be the duty of the governing body of a grant-maintained school to apply any payments made to them in respect of maintenance grant solely for the purposes of the school.

## **80 Grants: further provisions**

(1) The times at which, and the manner in which, payments are made in respect of—

- (a) maintenance grant for any grant-maintained school in respect of any financial year;
- (b) special purpose grants; and
- (c) capital grants;

shall be such as may be determined from time to time by the Secretary of State.

(2) Payments in respect of maintenance grant for any such school in respect of any financial year may be made, before any amount has been determined in accordance with grant regulations as the amount of such grant payable for that year in respect of that school, by reference to an estimate of the amount which will be so payable made by the Secretary of State.

(3) Where in respect of any financial year any over-payment of maintenance grant is made to the governing body of such a school a sum equal to the amount of that over-payment shall be recoverable from the governing body by the Secretary of State.

(4) Where any sum is payable by the governing body of such a school to the Secretary of State—

- (a) in respect of any over-payment of maintenance grant in respect of any financial year; or
- (b) by way of repayment of special purpose grant or capital grant (whether by virtue of any such requirement as is mentioned in section 79(11) of this Act or otherwise);

the Secretary of State may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by him to the governing body.

(5) References in this section, in relation to any such school, to an overpayment of maintenance grant in respect of any financial year are references to any amount by which the aggregate amount of any payments in respect of maintenance grant made to the governing body of the school in respect of that year exceeds the amount finally determined in accordance with grant regulations as the amount of maintenance grant payable for that year in respect of the school.

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## **81 Recovery from local funds of sums in respect of maintenance grant**

- (1) The Secretary of State may in respect of any financial year recover from the former maintaining authority sums in respect of the maintenance grant payable for that year to the governing body of a grant-maintained school.
- (2) Subject to subsection (5) below, sums recoverable by virtue of subsection (1) above in respect of any school for any financial year—
  - (a) shall be of such amounts; and
  - (b) shall fall due on such date or dates;
 as may be determined by the Secretary of State.
- (3) The total amount so recoverable shall be such as may be determined (and from time to time revised) in accordance with regulations made by the Secretary of State under this section (referred to below in this section as recoupment regulations).
- (4) Subject to any provision made by such regulations by virtue of subsection (6) below, recoupment regulations shall provide for the total amount so recoverable to be determined by reference to any amount determined under grant regulations as the amount of the maintenance grant payable in respect of the school and the financial year in question (as from time to time revised).
- (5) The amount of any sum so recoverable shall be determined—
  - (a) where before the determination of the amount of that sum any amount has been determined under recoupment regulations as the total amount recoverable by virtue of subsection (1) above in respect of the school and financial year in question, by reference to any amount so determined as the total amount so recoverable; and
  - (b) in any other case, by reference to any amount estimated by the Secretary of State as the amount which will initially be so determined as the total amount so recoverable;
 which the Secretary of State considers it appropriate to adopt for the time being as a basis for determining the amounts of sums so recoverable.
- (6) Recoupment regulations may provide for reducing any amount which would otherwise fall to be determined under the regulations as the total amount recoverable from any authority by virtue of subsection (1) above in respect of any school for any financial year by reference to any excess amounts recovered under this section in respect of any previous financial year.
- (7) For the purposes of subsection (6) above an excess amount is recovered under this section in respect of any financial year if the aggregate amount of the sums recovered under this section for that year from the former maintaining authority for any grant-maintained school—
  - (a) in respect of any school in respect of which sums are recoverable from the authority under this section; or
  - (b) where there is more than one such school, in respect of both or all of those schools;
 exceeds the total amount recoverable under this section in accordance with recoupment regulations in respect of that school or (as the case may be) in respect of both or all of those schools for that year.
- (8) The Secretary of State may recover sums due to him under this section from such an authority in either or both of the following ways—

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- (a) by requiring the authority to pay the whole or any part of any such sum at such time or times as he thinks fit; and
  - (b) by deducting, at such time or times as he thinks fit, the whole or any part of any such sum from any grant payable by him to the authority under any enactment (whether passed before or after this Act).
- (9) Any sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.

## **82 Provisions consequential on section 81**

- (1) For the purposes of determining the grant related expenditure of a local authority in accordance with Part VI of the Local Government, Planning and Land Act 1980—
- (a) the provision of education for registered pupils at any grant-maintained school in respect of which sums are recoverable from the authority under section 81 of this Act shall be regarded as a function of the authority; but
  - (b) no account shall be taken of the authority's actual expenditure in any year under that section in determining so much of the authority's notional total expenditure for that year as is referable to the notional exercise of that function.
- (2) Subsection (1)(b) above applies notwithstanding that the whole or any part of the actual expenditure there mentioned falls in accordance with section 3 of the Local Government Finance Act 1987 to be taken into account in determining the authority's total expenditure in relation to the year in question for the purposes of Part VI.
- (3) In subsections (1) and (2) above—
- “local authority” means a body which is a local authority for the purposes of Part VI; and
  - “year” has the same meaning as in that Part;
- and the reference in subsection (1)(a) above to the provision of education includes a reference to the provision of any benefits or services for which provision is made by or under the enactments relating to education.
- (4) For the purposes of sections 51 and 52 of the 1986 Act (recoupment for provision for education of pupils belonging to, or having connection with, area of another authority) the provision for education made in any financial year in respect of a registered pupil at a grant-maintained school shall be taken to have been made by the local education authority from whom sums are recoverable under section 81 of this Act in respect of the school and that year.
- (5) The reference in subsection (4) above to provision for education includes a reference to provision of any benefits or services for which provision is made by or under the enactments relating to education.
- (6) The governing body of a grant-maintained school shall provide the local education authority from whom sums are recoverable under section 81 of this Act in respect of the school with such information relating to the registered pupils at the school as the authority may require for the purposes of claiming any amount in respect of any such pupil from another authority under section 51 of the 1986 Act or by virtue of regulations under section 52 of that Act.