

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 3 – Maintained Schools

Chapter 2 – Financing of maintained schools

Determination of budgets

Sections 41 to 43

Sections 41 to 43: Determination of specified budgets of LEA, power of Secretary of State to set minimum schools budget and Schools Forums

122. These sections are related to the introduction of a new system of funding LEAs and schools in England. Much of this will be accomplished under existing local government finance legislation - the Local Government Finance Act 1992 (as amended). The new system will involve separate financial assessments for expenditure on school pupils and expenditure on the central functions of LEAs. These sections amend education finance legislation to bring it into line and set up new arrangements in connection with the new system.
123. **Section 41** introduces new definitions of the “LEA budget” for central functions and the “schools budget” for expenditure on pupils. Details will be set out in regulations. That part of the schools budget which is placed under the control of individual schools will continue to be known as the “individual schools budget”. These new definitions will apply in Wales but in the context of the existing funding arrangements for LEAs and schools. The Secretary of State, or the NAW, will continue to have power to set limits on the classes, descriptions and amounts of expenditure that may or must be deducted from the schools budget to arrive at the individual schools budget.
124. **Section 41** requires LEAs to notify the Secretary of State, or the NAW, and all the schools maintained by them, by the end of January each year, of the proposed amount of their schools budget for the following financial year. **Section 42** provides for a reserve power of intervention by the Secretary of State, or the NAW. It is intended that this would be exercised in exceptional circumstances, where the Secretary of State, or the NAW, considers that the schools budget proposed by the LEA is seriously inadequate. It also allows the Secretary of State to intervene if an authority fails to notify him of its proposed budget by the end of January. In coming to such a conclusion the Secretary of State, or the NAW, would have to consider all relevant circumstances, such as an LEA’s proposed schools budget compared with its school funding assessment; the performance of an LEA’s schools; significant and demonstrable pressures from other services; or the degree to which the authority has failed to pass on extra funding for schools.
125. **Section 43** requires LEAs to establish a schools forum, to represent the views of schools and such other organisations as are included by the LEA in the membership of the forum, on the authority’s schools budget. The functions of the forum will be set out in regulations: it is intended that they will include the giving of advice on funding policy

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

and other financial issues affecting schools, which the LEA will be obliged to take into account in setting the schools budget; consultation on the LEA's school funding formula, and consultation on contracts for services provided by the local authority.

Accounts and financial statements

Sections 44 and 45

Sections 44 and 45: Accounts of maintained schools and financial statements

126. These sections will allow requirements to be imposed as to the way maintained schools keep accounts, and report information based upon those accounts. In England, this will be implemented under the Consistent Financial Reporting (CFR) initiative for schools. This will provide a consistent minimum standard for school financial reporting, and enable all schools to compare their expenditure with that of similar schools. The Secretary of State, or the NAW, will publish information reported by schools so as to facilitate financial benchmarking. The main provision will also allow requirements to be imposed as to the way in which maintained schools' resources are to be audited. In both cases the scope of the provision extends both to public funds and private funds controlled by the governing body.
127. **Section 45** makes related amendments of section 52 of the SSFA, extending the scope of that section to private funds included in the main provision. This will enable LEAs, in publishing their annual out-turn statements, to include data relating to such funds.