

*These notes refer to the Education Act 2005 (c.18)
which received Royal Assent on 7 April 2005*

EDUCATION ACT 2005

EXPLANATORY NOTES

COMMENTARY

Part 4: Miscellaneous

Maintained schools

Schedule 16: Funding of maintained schools

183. Various provisions of the Schedule amend sections 45, 45A and 47 of SSFA 1998 by substituting the concept of a funding period for the term financial year. There are powers to specify the funding period for the LEA budget, the schools budget and individual schools' budget shares in regulations. The financial year remains the default funding period unless otherwise prescribed in regulations.
184. *Paragraph 3(5)* of the Schedule clarifies that the amount of the schools budget of a local education authority will include any grant given by the Secretary of State under section 14 of the Education Act 2002 or any other legislation subject to a condition that it be applied towards the schools budget. In England, a ring-fenced grant paid by the Secretary of State under section 14 of the 2002 Act will replace the Revenue Support Grant currently paid to local education authorities on the basis of Schools Formula Spending Share (SFSS) allocations from 2006. In Wales, the Assembly intends to continue to provide funding for schools through the local government revenue settlement although the amendments to SSFA 1998 made by Schedule 16 will enable the funding of schools through specific grant under section 14 of the Education Act 2002 should the Assembly so decide at some future date.
185. *Paragraph 3(8)* repeals the requirement on local education authorities to notify the Secretary of State and the governing bodies of schools maintained by the authority of their proposed schools budget for the following financial year by a fixed date (31 December for England and 31 January for Wales) each year. *Paragraph 4* (new section 45AB) reinstates that requirement for authorities in Wales only, and adds a power for the Assembly to vary the deadline in regulations. The deadline will remain 31 January unless otherwise prescribed.
186. *Paragraph 4* (new section 45AA) provides that regulations can require a local education authority in England to set their schools budget for a funding period up to 48 months before the beginning of the funding period, make provision for the budget thus set to be redetermined before the funding period begins and impose requirements for notifying governing bodies of the authority's schools budget. It is intended that this power should be used in England to require local education authorities to set schools budgets at specified dates for a number of periods which total three years, although there would be scope to make later adjustments for each funding period within the total. *Paragraph 4* (new section 45AC) provides corresponding powers for the Assembly but provides that regulations under new section 45AC are not to have effect in relation to the schools budget for any funding period if new section 45AB (duty of local education authorities in Wales to determine schools budget) is in force.

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187. *Paragraph 5* repeals the power in sections 45B and 45C of SSFA 1998 for the Secretary of State to determine a minimum schools budget for an authority in England or Wales where that authority's proposed schools budget appears to him to be inadequate, and replaces that with a similar power for the Assembly in relation to Welsh authorities only. New section 45D gives the Assembly power to repeal by order new sections 45AB (the duty of local authorities in Wales to determine a schools budget), 45B (power of Assembly to set a minimum schools budget for local education authorities in Wales) and 45C (effect of notices made under section 45B). These sections preserve the existing regime in Wales whereby local education authorities are required to determine their proposed schools budget and give notice of this to the Assembly. The Assembly has power to set a minimum schools budget, and notify a local education authority of this. It is envisaged that, if the Assembly decides to use the new powers in section 45AC(1) to (3), which correspond to the powers that will be operated in England, the provisions in 45AB, 45B and 45C will no longer be needed.
188. *Paragraph 6(3)(a) and (c) and (4)* makes corresponding amendments to section 47 of SSFA 1998 which have the effect of providing that individual schools' budget shares may have to be calculated for funding periods which start up to 48 months after a prescribed date, with provision for such budget shares for each period to be redetermined before the start of the funding period in question, if necessary. However, there could also be provision to redetermine the budget shares during the funding period to reflect data changes, or in the subsequent funding period in the form of retrospective adjustments. There is also provision for requiring governing bodies to be notified of schools' budget shares. It is intended to use these provisions to introduce three-year budgets for schools in England.
189. At present the extent to which a local education authority may deduct expenditure within their schools budget (that is, retain funding to spend on pupil-related provision which is managed centrally rather than delegating it to individual schools in the form of budget shares) is in England subject to control through regulations which may set limits on the size of specified types of expenditure or set other conditions. Any variation on this has so far had to be allowed by amending regulations.
190. *Paragraph 3(7)* of the Schedule allows regulations to make provision for a local education authority to apply to their schools forum or the Secretary of State for approval to make deductions not otherwise authorised in the regulations. This may relate either to a higher deduction for specific items, or the total of deducted items, or the deduction of items not normally permitted by the regulations. It is however intended that in respect of schools forums in England, regulations will include a power only to allow them to agree to a local education authority deducting from its schools budget a higher total than any national limit. If the forum does not authorise the local education authority's proposals, the authority will have the right to make an application to the Secretary of State. A schools forum will not be able to originate and approve its own proposals for central spend; it may only approve those put forward by its local education authority. For the City of London and the Isles of Scilly (which do not have schools forums) such applications would be made direct to the Secretary of State.
191. At present the Secretary of State may authorise (but not require) arrangements for calculating schools' budget shares which vary from those normally permitted by the regulations made under section 47 of SSFA 1998. *Paragraph 6(3)(d)* provides that regulations may extend this power to schools forums. Again, the proposal must be made by the local education authority themselves, and regulations will provide that if the forum does not approve the proposal, the local education authority may apply instead to the Secretary of State. It is intended that the regulations in England will allow schools forums to approve only limited variations in the operation of the minimum funding guarantee in respect of individual schools or groups of schools to avoid them receiving anomalous budget shares.

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192. Currently in Wales, no limits are prescribed in regulations on the size of specified types of expenditure which may be deducted within the school budget to be spent centrally by the local education authority; and no minimum funding guarantee for schools is prescribed in regulations. However, the provisions in paragraphs 3(7) and 6(3)(d) will also apply in Wales and if, at a future date, regulations prescribe such limits or guarantees, then paragraph 3(7) or 6(3)(d) as appropriate will allow for regulations to provide for an authority's proposals to be conditional on approval by their schools forum or by the Assembly.
193. *Paragraph 7* amends the description of schools forums' functions in section 47A of SSFA 1998 so as to include the exercise of the new powers to approve certain local education authority proposals conferred on schools forums by paragraphs 3(7) and 6(3)(d).