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STATUTORY INSTRUMENTS

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**2006 No. 468**

**The School Finance (England) Regulations 2006**

**PART 2**

**ACTION TO BE TAKEN BY A LOCAL EDUCATION AUTHORITY**

**CHAPTER 1**

appropriation of the lea budget

**LEA Budget**

**3.—(1)** The following classes or descriptions of local education authority expenditure are prescribed for the purposes of section 45A(1) of the 1998 Act and the determination of a local education authority's LEA budget, subject to the exceptions in regulation 6—

- (a) those specified in Schedule 1, and
- (b) any other expenditure which falls outside the classes or descriptions of expenditure specified in regulation 5 and Schedule 2 (the schools budget).

(2) Any expenditure which falls within the classes or descriptions of expenditure specified in regulation 5 or Schedule 2 is not expenditure prescribed for the purposes of section 45A(1) of the 1998 Act.

**CHAPTER 2**

determination of schools budgets, individual schools budgets, and budget shares for funding periods 1 and 2

**Initial determination of a local education authority's schools budgets**

- 4.** A local education authority must not later than 31st March 2006—
- (a) make an initial determination of their schools budgets for funding periods 1 and 2, and
  - (b) give notice of any such determination to the governing bodies of the schools they maintain.

**Schools Budget**

**5.—(1)** The classes or descriptions of local education authority expenditure specified in subparagraphs (a) and (b) are prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local education authority's schools budget, subject to the exceptions in regulation 6—

- (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils registered at maintained schools; and

- (b) expenditure on the education of pupils at independent schools, non-maintained special schools<sup>(1)</sup>, pupil referral units, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for pupils otherwise than at schools maintained by a local education authority.

(2) Where a local education authority operates a combined service for the benefit of pupils referred to in paragraph (1), expenditure referred to in paragraph 35(c) of Schedule 2 is expenditure prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local education authority's schools budget, provided that any expenditure incurred is commensurate with the educational benefit to those pupils.

### **Exceptions**

6. A local education authority's LEA budget or schools budget shall not include the following classes or descriptions of expenditure—

- (a) capital expenditure other than CERA;
- (b) expenditure on capital financing other than expenditure incurred on prudential borrowing;
- (c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984<sup>(2)</sup> (arrangements for patrolling school crossings); and
- (d) expenditure met by the local education authority under section 51A of the 1998 Act (community purposes).

### **Determination of the individual schools budget for funding periods 1 and 2**

7.—(1) Subject to paragraphs (2) and (3), not later than 31st March 2006, a local education authority may deduct from their schools budget any or all of the classes or descriptions of planned expenditure set out in Schedule 2 (the “central expenditure”), in order to arrive at their individual schools budgets for funding periods 1 and 2.

(2) Any deductions made under paragraph (1) must be made in accordance with the provisions of Schedule 3 (Maximum Increase in Central Expenditure), unless the authority has obtained the approval of their schools forum or the Secretary of State under regulation 13 to vary the limit imposed by that Schedule.

(3) In deducting any of the classes or descriptions of planned expenditure referred to in paragraph 35 of Schedule 2, a local education authority must not exceed the limit or exclude the condition referred to in that paragraph, unless they have obtained the approval of their schools forum or the Secretary of State under regulation 13 to vary that limit, or exclude that condition.

(4) References to planned expenditure in this regulation are references to that expenditure net of—

- (a) all related specific grants;
- (b) all related fees, charges and income; and
- (c) any funding received from the Secretary of State in respect of PFI scheme unitary payments.

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(1) Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act. Section 342 was substituted by paragraph 82 of Schedule 30 to the 1998 Act.

(2) 1984 c. 27, amended by the Local Government Act 1985 (c. 51), section 8 and Schedule 5, the Greater London Authority Act 1999 sections 288 and 423 and Schedule 34, and the Transport Act 2000 sections 270 and 274 and Schedule 31.

## **Consultation**

8.—(1) In initially determining schools' budget shares for funding periods 1 and 2, a local education authority may make changes to the formula they have used in the financial year beginning 1st April 2005.

(2) A local education authority must consult their schools forum about any proposed changes under paragraph (1), in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(3) Paragraph (2) shall not apply to changes made pursuant to regulation 19 (sixth form funding) or 23 (permanently excluded pupils).

## **Formula for determination of budget shares**

9.—(1) A local education authority must determine before the beginning of funding period 1, and after the consultation referred to in regulation 8, the formulae which they will use to determine and redetermine schools' budget shares in funding periods 1 and 2, having regard to the factors, criteria and requirements set out in Part 3.

(2) A local education authority may not make changes to their formula for funding period 1 after the beginning of that funding period.

(3) A local education authority may make changes to the formula they will use for funding period 2 after the beginning of funding period 1, provided any such change—

- (a) is made before the beginning of funding period 2, and
- (b) is approved by their schools forum or the Secretary of State under regulation 25 (additional arrangements).

(4) Any formulae determined by a local education authority under paragraph (1) may include different factors, criteria and requirements for different funding periods.

(5) A local education authority may not use factors or criteria in their formulae under this Part which make an allowance, in whole or in part, for any amount allocated to a school from any School Standards Grant paid to the authority.

(6) Except as provided by paragraph (3), and regulation 25 (additional arrangements), a local education authority must use the formulae determined under paragraph (1) in all determinations and redeterminations of budget shares in respect of funding periods 1 and 2.

## **Initial determination of allocation of schools' budget shares for funding periods 1 and 2**

10. Not later than 31st March 2006, a local education authority must—

- (a) initially determine the allocation of all their individual schools budget as the budget shares of the schools which they maintain for funding periods 1 and 2 in accordance with Part 3 of these Regulations, and
- (b) give notice of each school's budget share for funding period 2 to the governing bodies of the schools which they maintain.

## CHAPTER 3

redetermination of schools budgets, individual schools budgets,  
and schools' budget shares, for funding periods 1 and 2

### **Redetermination of schools budgets and individual schools budgets**

**11.**—(1) Subject to paragraphs (2) and (3), a local education authority may make a redetermination of their schools budgets and their individual schools budgets for funding periods 1 and 2 at any time before or during the funding period to which those budgets relate.

(2) In making any such redetermination, the authority may only reduce the amount of their schools budgets where they receive an amount of Dedicated Schools Grant which is lower than the amount on which they based their initial determinations under regulation 7.

(3) A local education authority may not make deductions of any classes or descriptions of planned expenditure set out in Schedule 2 from their schools budgets which exceed the amount of any deductions they have made under regulation 7, unless they have obtained authorisation to make any such deduction from their schools forum or the Secretary of State under regulation 13.

(4) A local education authority may not—

- (a) exceed the limit or exclude the condition imposed by paragraph 35 of Schedule 2, or
- (b) exceed the limit imposed by Schedule 3

unless their schools forum or the Secretary of State enable those limits to be varied or that condition to be excluded under regulation 13.

(5) Where a local education authority makes a redetermination under paragraph (1), they must give notice of that redetermination to the governing bodies of the schools which they maintain.

### **Redetermination of allocation of budget shares for funding period 2**

**12.** Not later than 31st March 2007, a local education authority must redetermine any allocation of schools' budget shares under regulation 10(a) for funding period 2 in accordance with Part 3 of these Regulations.

## CHAPTER 4

schools forum and secretary of state powers

### **Applications to the schools forum and the Secretary of State**

**13.**—(1) Subject to paragraph (2), a local education authority may apply to their schools forum to—

- (a) authorise the making of deductions from their schools budget of any class or description of expenditure referred to in Schedule 2 where such deductions would exceed the amount of any deductions made previously under regulations 7(1) or 11(3), or
- (b) enable the limit or the condition imposed by paragraph 35 of Schedule 2, or the limit imposed by Schedule 3, to be varied or excluded.

(2) Upon receipt of an application by a local education authority under paragraph (1), their schools forum may authorise the making of further deductions, vary the limit or exclude the condition referred to in paragraph 35 of Schedule 2, or vary the limit in Schedule 3.

(3) Where—

- (a) a schools forum does not authorise the making of deductions, variation of limits, or exclusion of conditions referred to in paragraph (1), or

(b) a local education authority is not required to establish a schools forum for their area<sup>(3)</sup>, the authority may make an application to the Secretary of State for such authorisation, variation or exclusion.

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(3) Section 47A(2) of the 1998 Act provides that the requirement in section 47A(1) of that Act to establish a school forum for their area does not apply to the Common Council of the City of London or the Council of the Isles of Scilly. Section 47A was inserted by section 43 of the 2002 Act and has been amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2005 Act.