
STATUTORY INSTRUMENTS

2012 No. 2991

**The School and Early Years Finance
(England) Regulations 2012**

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School and Early Years Finance (England) Regulations 2012 and come into force on 1st January 2013.

(2) These Regulations apply in relation to the financial year beginning on 1st April 2013.

(3) These Regulations apply only in relation to England.

(4) In these Regulations—

“the 1996 Act” means the Education Act 1996⁽¹⁾;

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

“the 2002 Act” means the Education Act 2002;

“the 2005 Act” means the Education Act 2005⁽²⁾;

“the 2006 Act” means the Education and Inspections Act 2006⁽³⁾;

“the 2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009⁽⁴⁾;

“the 2012 Regulations” means the School Finance (England) Regulations 2012⁽⁵⁾;

“academic year” means any period commencing with 1st August and ending with the next 31st July;

“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the Local Government Act 2003⁽⁶⁾;

“CRC” means the CRC Energy Efficiency Scheme operated by the Environment Agency;

“central expenditure” means the total amount deducted by a local authority from their schools budget in accordance with regulation 8;

“CERA” means capital expenditure which an authority expect to charge to a revenue account of the authority within the meaning of section 22 of the Local Government Act 2003;

(1) 1996 c.56.

(2) 2005 c.18.

(3) 2006 c.40.

(4) 2009 c.22.

(5) S.I. 2012/335.

(6) 2003 c.26. Regulations made under this section in relation to England are the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146, as amended by S.I. 2004/534, 2004/3055 and 2007/573).

“children in need” means children in respect of whom the local authority in whose area they reside must provide a range and level of services appropriate to their needs under section 17 of the Children Act 1989(7);

“combined service” is a service funded partly from central expenditure, and partly from other budgets of the authority or contributions from other bodies;

“Dedicated Schools Grant” is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act;

“Early Years Foundation Stage Profile” has the meaning given in section 39 of the Childcare Act 2006(8);

“early years provision” has the meaning given in section 20 of the Childcare Act 2006;

“expenditure on the schools specific contingency” is central expenditure deducted for the purpose of ensuring that monies are available to enable an increase in a school’s budget share after it has been allocated and where it subsequently becomes apparent that a governing body have incurred expenditure which it would be unreasonable to expect them to meet from the school’s budget share which may include expenditure in relation to—

- (i) schools in financial difficulty,
- (ii) the writing-off of deficits of schools which are discontinued, excluding any associated costs and overheads,
- (iii) new, amalgamating or closing schools, or
- (iv) other expenditure where the circumstances were unforeseen when initially determining the school’s budget share;

“funding period” means the financial year beginning on 1st April 2013;

“hospital education” means education provided at a community special school or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the 1996 Act (exceptional provision of education), where the child is being provided with such education by reason of a decision made by a medical practitioner and “hospital education places” shall be read accordingly;

“IDACI” means the Income Deprivation Affecting Children Index;

“IDACI bands” means the groupings of IDACI scores as published by the Department for Education in the document named “School Funding Reform: Arrangements for 2013-14”(9);

“IDACI score” means the score allocated to a child under IDACI;

“institution within the further education sector” has the meaning given in section 91(3) of the Further and Higher Education Act 1992(10);

“key stage” means the key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 84, 85 and 85A of the 2002 Act(11) and “key stage 1”, “key stage 2”, “key stage 3” and “key stage 4” mean the first, second, third and fourth key stages referred to in those sections respectively, and references to the number of pupils at those key stages are references to the number at the school on 4th October 2012 unless otherwise stated;

“learning difficulty” means a significantly greater difficulty in learning than the majority of persons of his or her age, or a disability which either prevents or hinders the person from

(7) 1989 c.41.

(8) 2006 c.21.

(9) Available at: <http://media.education.gov.uk/assets/files/pdf/s/school%20funding%20reform%20-%20final%202013-14%20arrangements.pdf>

(10) 1992 c.13.

(11) Sections 85 and 85A were substituted for section 85, as originally enacted, by section 74(1) of the 2006 Act.

making use of facilities of a kind generally provided for further education to persons of his or her age;

“learning difficulty assessment” has the meaning given in section 13(5) of the 1996 Act, and a reference to a person being subject to learning difficulty assessment has the meaning given in section 13(4) of the 1996 Act;

“looked after child” means a person who, for the purposes of the Children Act 1989, is a child looked after by a local authority, and references to the authority looking after the child are to be read accordingly;

“non-domestic rate” has the meaning given in section 54 of the Local Government Finance Act 1988(12);

“PFI scheme unitary payment” means a charge payable by a local authority under a private finance transaction, as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(13);

“prescribed early years provision” means early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006;

“previous funding period” means the financial year beginning on 1st April 2012;

“primary or secondary school” means a primary or secondary school which is a community, foundation or voluntary school;

“proper practices” means those accounting practices which a local authority are required to follow by virtue of any enactment, or which, so far as they are consistent with any such enactment are generally regarded, whether by reference to any generally recognised published code or otherwise, as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned(14);

“provider”, in relation to prescribed early years provision, may be a governing body of a school or a relevant early years provider;

“prudential borrowing” means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings expected to be achieved are equal to or more than the expenditure expected to be incurred in borrowing the money;

“pupil premium” means the amount allocated by a local authority from the pupil premium grant to a school in respect of each registered pupil at that school who is entitled to it under the terms and conditions of the grant;

“pupil premium grant” is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

“relevant early years provider” means a provider of prescribed early years provision, other than the governing body of a maintained school;

“relevant early years provision” means prescribed early years provision provided by a relevant early years provider;

“school census” means the record of individual pupil information supplied by local authorities to the Secretary of State under section 537A of the 1996 Act;

“school year” has the meaning given in section 579(1) of the 1996 Act(15);

(12) 1988 c.41.

(13) S.I. 1997/319. These Regulations have lapsed but article 11 of the Local Authorities (Capital Finance) (Consequential, Transitional and Savings Provisions) Order 2004 (S.I. 2004/533) contains a savings provision for regulation 16 of the 1997 Regulations.

(14) This definition is taken from section 21 of the Local Government Act 2003 and regulation 31 of the Local Government (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146).

(15) Section 57(1) of, and paragraph 43 of Schedule 7 to, the Education Act 1997 (c.44) inserted this definition.

“sixth form grant” means a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of sixth form pupils, on condition that it is passed on to a particular school;

“special Academy” means an Academy which meets the requirements of section 1A(2) of the Academies Act 2010⁽¹⁶⁾;

“specific grant” means any grant (other than the Dedicated Schools Grant or any sixth form grant) paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used;

“unavoidable costs” means costs which must be incurred by virtue of a statutory requirement.

(5) In these Regulations—

a reference to a determination or redetermination of a budget share or amount to be allocated is for the funding period, unless otherwise stated;

a reference to a “governing body” of a school shall include the management committee of a pupil referral unit;

a reference to a particular class or description of expenditure in relation to maintained schools and to pupils registered at such schools includes such expenditure of that class or description as the authority may incur in relation to Academies, and to pupils registered at Academies;

a reference to “special educational needs transport costs”, for the purposes of paragraph 4(d) of Schedule 2, is a reference to the costs of home to school transport for pupils with special educational needs in schools maintained by a local authority where the authority are meeting such costs because the revenue savings that will be achieved by placing such children in a school maintained by them are equal to, or greater than, the costs of such transport; and

a reference to “termination of employment costs”, for the purposes of paragraph 4(b) of Schedule 2, is a reference to expenditure relating to the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a maintained school.

Revocation of previous Regulations

2. The Financing of Maintained Schools (England) Regulations 2004⁽¹⁷⁾, the School Finance (England) Regulations 2011⁽¹⁸⁾ and the School Finance (Amendment) (England) Regulations 2011⁽¹⁹⁾ are revoked on 1st April 2013.

Amendments

3.—(1) The Schools Forums (England) Regulations 2012⁽²⁰⁾ are amended as follows.

(2) In regulation 8—

(a) in paragraph (9), for “paragraph (10)”, substitute “paragraphs (9A) to (10)”,

(b) after paragraph (9) insert—

“**9A.** Only the schools members of the schools forum who are representatives of primary schools may vote to decide whether or not to authorise the matters referred to in regulation 12(1)(d) of the School and Early Years Finance (England) Regulations 2012 where they relate to primary schools.

⁽¹⁶⁾ 2010 c.32 as amended by section 53(7) of the Education Act 2011 (c.21).

⁽¹⁷⁾ S.I. 2004/3130.

⁽¹⁸⁾ S.I. 2011/371.

⁽¹⁹⁾ S.I. 2011/778.

⁽²⁰⁾ S.I. 2012/2261.

9B. Only the schools members of the schools forum who are representatives of secondary schools may vote to decide whether or not to authorise the matters referred to in regulation 12(1)(d) of the School and Early Years Finance (England) Regulations 2012 where they relate to secondary schools.”