2004 No. 3131

EDUCATION, ENGLAND

The LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2004

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In exercise of the powers conferred on the Secretary of State by sections 45A and 138(7) of the School Standards and Framework Act 1998(**a**), the Secretary of State for Education and Skills hereby makes the following Regulations:—

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2004 and shall come into force on 13th January 2005.

(2) These Regulations apply in relation to the financial year beginning on 1st April 2005.

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

(4) In these Regulations—

(a) "the 1996 Act" means the Education Act 1996(**b**);

(b) "the 1998 Act" means the School Standards and Framework Act 1998;

(c) "the 2000 Act" means the Learning and Skills Act 2000(**c**);

(d) "the 2002 Act" means the Education Act 2002(**d**);

(e) "the 2003 Regulations" means the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2003(**e**);

(f) a reference to capital expenditure means expenditure which an authority propose to capitalise in their accounts in accordance with proper practices being those accounting practices—

(i) which the authority are required to follow by virtue of any enactment, or

(ii) 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(**f**);

(g) a reference to CERA means capital expenditure which an authority expect to charge to a revenue account(**g**) of the authority;

(**a**) 1998 c. 31. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the powers conferred by these provisions are exercisable by the Secretary of State only in relation to England. For the meaning of "prescribed" and "regulations" see section 142(1). Section 45A was inserted by section 41 of the Education Act 2002.

(**b**) 1996 c. 56.

(**c**) 2000 c. 21.

(**d**) 2002 c. 32.

(**e**) S.I. 2003/3170, as amended by 2004/659 and 2004/804.

(**f**) "Capital Expenditure" is defined in section 16 of the Local Government Act 2003 (c. 26) and regulations 25 and 26 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146). "Proper Practices" are defined in section 2 of that Act and regulation 61 of those Regulations.

(**g**) "Revenue account" is defined in section 22 of the Local Government Act 2003 (c. 26).

(h) a reference (however framed) to a community, foundation or voluntary school, a community or foundation special school or maintained nursery school includes a proposed school which on implementation of proposals for the establishment of the school will be such a school and which has a temporary governing body;

(i) the "Excellence in Cities" and "Excellence Clusters" programmes mean the programmes of that name under which funds are paid to schools;

(j) references to expenditure are references to that expenditure net of—

(i) all related specific grants,

(ii) all related fees, charges and income,

(iii) funding received from the Secretary of State in respect of PFI scheme unitary payments, and

(iv) any LPSA grant which the authority propose to apply to an agreed activity or activities in pursuance of targets specified under the relevant Local Public Service Agreement received by the local education authority;

(k) a reference to a former grant-maintained or grant-maintained special school is a reference to a school which was such a school within the meaning of the 1996 Act immediately before 1st April 1999;

(l) a reference to a formula means a formula determined (after consultation) by the local education authority before the beginning of the financial year beginning on 1st April 2005 by which they will determine schools' budget shares in that financial year having regard to factors, criteria and requirements prescribed in regulations made under section 47 of the 1998 Act;

(m) a reference to a governing body includes the temporary governing body of a proposed school falling within paragraph (h);

(n) a reference to the individual schools budget means the amount of a local education authority's schools budget which remains after the authority has deducted any classes or descriptions of planned expenditure set out in Schedule 3 in accordance with the provisions of regulation 6, and which is divided between the schools the authority maintains in the form of budget shares for those schools;

(o) a reference to LPSA grant is a reference to a special grant paid to the authority under section 31 of the Local Government Act 2003(**a**) in connection with a Local Public Service Agreement into which the authority has entered;

(p) "maintained school" means a community, foundation or voluntary school or a community or foundation special school or a maintained nursery school;

(q) a reference to a particular class or description of expenditure in relation to maintained schools and to pupils registered at such schools shall include any expenditure of that class or description as the authority may incur in relation to Academies(**b**) and to pupils registered at Academies;

(r) a reference to a PFI scheme unitary payment is a reference to a charge payable by the local education authority under a private finance transaction;

(s) a reference to a primary or secondary school means a primary or secondary school which is a community, foundation, voluntary or maintained nursery school;

(t) a reference to a private finance transaction is a reference to a transaction as defined by regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(**c**);

(u) a reference to proposals for the establishment of a school is a reference to a proposal for the establishment of the school under section 28 or 31 of, or paragraph 5 of Schedule 7 to, the 1998 Act, section 70 of the 2002 Act, or section 113A of and Schedule 7A(**d**) to the 2000 Act;

(v) a reference (however framed) to schools maintained by a local education authority does not include schools which are pupil referral units(**e**);

(**a**) 2003 c. 26.

(**b**) Academies are established under section 482 of the 1996 Act. Section 482 was substituted by section 65 of the 2002 Act.

(**c**) S.I. 1997/319, as amended by S.I. 1998/371, 1999/1852 and 2003/515. The Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004 (S.I. 2004/533) contains savings provisions for regulation 16 of the 1997 Regulations.

(**d**) Section 113A and Schedule 7A were inserted by section 72 of, and Schedule 9 to, the 2002 Act.

(**e**) Pupil referral units are established under section 19 of the 1996 Act.

(w) a reference to specific grant means any grant paid to the authority under conditions which impose restrictions on the particular purposes of the authority for which the grant may be used, provided that a specific grant shall not include—

(i) any grant made by the Learning and Skills Council for England(**a**) under section 7 of the 2000 Act in respect of sixth form funding,

(ii) any specific grant which is used to support expenditure through the individual schools budget, or

(iii) any allocation made to schools from funding deducted from the Schools Budget in accordance with paragraph 32 of Schedule 3 to these Regulations;

(x) "standards fund grant" means the sum of money paid under that name to a local education authority by the Secretary of State under section 14 of the 2002 Act.

Revocation

2. The LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2002(**b**) are revoked on 1st April 2005.

Schools Budget

3. The classes or descriptions of local education authority expenditure specified in paragraphs (a) to (d) are hereby 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 5—

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

(b) expenditure on the education of pupils at independent schools, non-maintained special schools(**c**), pupil referral units, at home and 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;

(c) expenditure incurred in borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate provided the local education authority—

(i) has consulted the schools forum on the amount of any proposed expenditure,

(ii) reasonably believes in incurring the expenditure that the revenue savings that will be achieved are equal to or more than any expenditure that will be incurred in borrowing the money, and

(iii) is able to demonstrate to the satisfaction of the Secretary of State how such savings are to be achieved; and

(d) all other expenditure incurred in connection with the authority's functions in relation to the provision of primary and secondary education, in so far as such expenditure does not fall within paragraph (a), (b) or (c).

LEA Budget

4.—(1) Subject to paragraph (2), the classes or descriptions of local education authority expenditure specified in Schedule 1 are hereby prescribed for the purposes of section 45A(1) of the 1998 Act and the determination of a local education authority's LEA budget.

(2) The classes or descriptions of local education authority expenditure specified in Schedule 1 shall not include any of the following—

(a) any expenditure which, by virtue of the authority's scheme (as defined by section 48(5) of the 1998 Act) or by virtue of any enactment, falls to be met from a school's budget share; or

(b) any expenditure which falls within paragraph 1(2) or 2 of Schedule 3.

(**a**) The Learning and Skills Council was established under section 1 of the 2000 Act.
(**b**) S.I. 2002/3199.
(**c**) Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act.

Exceptions

5. 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 under regulation 3(c);

(c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984(**a**) (arrangements for patrolling school crossings); and

(d) expenditure incurred by the local education authority under section 51A of the 1998 Act(**b**) (expenditure incurred for community purposes).

Individual schools budget

6. Subject to the provisions of Schedule 2, 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 3, in whole or in part, in order to arrive at their individual schools budget for the financial year.

David Miliband
Minister of State
9th December 2004 Department for Education and Skills

(**a**) 1984 c. 27, amended by the Local Government Act 1985 (c. 51), section 8 and Schedule 5, the Greater London Authority Act 1999 (c. 29) sections 288 and 423 and Schedule 34, and the Transport Act 2000 (c. 38) sections 270 and 274 and Schedule 31.

(**b**) Section 51A was inserted by section 40 of, and paragraph 4 of Schedule 3 to, the 2002 Act.

SCHEDULE 1

Regulation 4

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE PRESCRIBED FOR THE PURPOSES OF THE LEA BUDGET OF A LOCAL EDUCATION AUTHORITY

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.

Special educational provision

1. Expenditure on services provided by educational psychologists.

2. Expenditure in connection with the authority's functions under sections 321 to 331 of the 1996 Act (which functions relate to the identification and assessment of children with special educational needs and the making, maintaining and reviewing of statements for such children).

3. Expenditure on monitoring the provision for pupils in schools (whether or not maintained by the authority) for the purposes of disseminating good practice in relation to, and improving the quality of educational provision for, children with special educational needs.

4. Expenditure on collaboration with other statutory and voluntary bodies to provide support for children with special educational needs.

5. Expenditure in connection with—

(a) the provision of parent partnership services(**a**) or other guidance and information to the parents of pupils with special educational needs which, in relation to pupils at a school maintained by the authority, is in addition to the information usually provided by the governing bodies of such schools; or

(b) arrangements made by the authority with a view to avoiding or resolving disagreements with the parents of children with special educational needs.

6. Expenditure incurred in preparing and reviewing a plan which sets out the arrangements made, or proposed to be made, by the authority in connection with the education of children with behavioural difficulties under section 527A of the 1996 Act(**b**).

7. Expenditure on carrying out the authority's functions under the Children Act 1989(**c**) and under section 175 of the 2002 Act and other functions relating to child protection.

8. Expenditure incurred in entering into, or subsequently incurred pursuant to, an arrangement under section 31 of the Health Act 1999(**d**).

9. Expenditure in providing special medical support for individual pupils in so far as such expenditure is not met by a Primary Care Trust(**e**), National Health Service Trust(**f**), NHS foundation trust(**g**) or Local Health Board(**h**).

School improvement

10. Expenditure incurred by the authority in respect of action to support the improvement of standards in the authority's schools, including, in particular—

(a) expenditure incurred in preparing, reviewing and implementing the authority's education development plan under sections 6 and 7 of the 1998 Act(**i**);

(b) expenditure incurred in connection with entering into a contract pursuant to a direction under section 63 of the 2002 Act (contracts to obtain services of an advisory nature in respect of schools with serious weaknesses or schools requiring special measures);

(**a**) Parent partnership services are the services provided for under section 332A of the Education Act 1996 to give advice and information to parents of children with special educational needs.

(**b**) Section 527A was inserted by section 9 of the Education Act 1997 (c. 44) and amended by paragraph 144 of Schedule 30 to the 1998 Act. It is prospectively repealed by Part 1 of Schedule 5 to the Children Act 2004 (c. 31). Plans made under section 527A are replaced by children and young people's plans made under section 17 of the 2004 Act.

(**c**) 1989 c. 41.

(**d**) 1999 c. 8.

(**e**) Primary Care Trusts were established under section 16A of the National Health Service Act 1977 (c. 49). Section 16A was inserted by section 2 of the Health Act 1999.

(**f**) National Health Service Trusts are created by order made under section 5 of the National Health Service and Community Care Act 1990 (c. 19).

(**g**) NHS foundation trusts are established under the Health and Social Care (Community Health and Standards) Act 2002 (c. 43).

(**h**) Local Health Boards are established by order made by the National Assembly for Wales under section 16BA of the National Health Service Act 1977 (c. 49) as inserted by section 6(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

(**i**) Sections 6 and 7 of the 1998 Act are prospectively repealed by Part 1 of Schedule 5 to the Children Act 2004 (c. 31). Plans made under these sections are replaced by children and young people's plans under section 17 of the 2004 Act.

(c) expenditure incurred in connection with the exercise of its functions under sections 14 to 17 of the 1998 Act (powers of intervention, of appointment of additional governors and of suspension of delegated budget in schools causing concern); and

(d) expenditure on the appointment and remuneration of interim executive members under section 16A of the 1998 Act(**a**).

Access to education

11. Expenditure in relation to the following matters—

(a) management of the authority's capital programme including preparation and review of an asset management plan and negotiation and management of private finance transactions;

(b) planning and managing the supply of school places, including the authority's functions—

(i) in relation to school organisation plans pursuant to section 26 of the 1998 Act,

(ii) in relation to the establishment, alteration or discontinuance of schools pursuant to Chapter II of Part II of the 1998 Act and section 70 of the 2002 Act, or section 113A of, and Schedule 7A to, the 2000 Act;

(c) the authority's functions in relation to the exclusion of pupils from schools or pupil referral units, excluding the making of any provision of education to such pupils, but including advice to the parents of an excluded pupil;

(d) school organisation committees;

(e) the authority's functions under section 509 and 509AA to 509AC(**b**) of the 1996 Act (home-to-school and home-to-college transport); and

(f) the authority's functions under sections 510 and 514 of the 1996 Act (provision and administration of clothing grants and boarding grants), and pursuant to regulations made under section 518(1)(c)(**c**) of the 1996 Act.

12. Expenditure on the Education Welfare Service(**d**) and other expenditure arising from the authority's functions under Chapter II of Part VI of the 1996 Act (school attendance).

13. Expenditure on the provision of support for students under section 1(1) of the Education Act 1962(**e**) and under section 22 of the Teaching and Higher Education Act 1998(**f**).

14. Expenditure on discretionary grants under section 1(6) or 2 of the Education Act 1962 (awards for designated and other courses).

15. Expenditure on the payment to persons over compulsory school age of allowances pursuant to regulations made under section 518(1)(b)(**g**) of the 1996 Act (educational maintenance allowances).

16. Expenditure on the provision of tuition in music or on other activities which provide opportunities for pupils to enhance their experience of music.

17. Expenditure incurred in enabling pupils to enhance their experience of the visual, creative and performing arts other than music.

18. Expenditure on outdoor education centres but not including centres wholly or mainly for the provision of organised games, swimming or athletics.

Further education and training for young persons and adults

19. Expenditure on the provision of education and training and of organised leisure time occupation and other provision under sections 15A and 15B of the 1996 Act(**h**).

20. Expenditure on the provision by the local education authority under sections 15A and 508 of the 1996 Act of recreation and social and physical training, and on the authority's provision of services under section 116 of the 2000 Act to encourage and enable the participation by young people in education and training.

(**a**) Section 16A was inserted by section 57 of the 2002 Act.
(**b**) Sections 509AA, 509AB and 509AC were inserted by section 199 of and Schedule 19 to the 2002 Act.
(**c**) Section 518 was substituted by section 129 of the 1998 Act.
(**d**) The functions of the Education Welfare Service and their role in reducing the levels of unauthorised absences from school are set out in DFEE Circular 11/99.
(**e**) 1962 c. 12.
(**f**) 1998 c. 30.
(**g**) Section 518 was substituted by section 129 of the 1998 Act.
(**h**) Section 15A was inserted by section 140(1) of and paragraph 63 of Schedule 30 to the 1998 Act, and section 15B by section 149 of and paragraphs 1 and 55 of Schedule 9 to the 2000 Act.

Strategic management

21. Expenditure in their capacity as a local education authority in relation to—

(a) the Chief Education Officer and his personal staff;

(b) planning for the education service as a whole, including expenditure on any single education plan;

(c) functions of the authority under Part I of the Local Government Act 1999(**a**) (Best Value) and the provision of advice to assist governing bodies in procuring goods and services with a view to securing continuous improvement in the way the functions of those governing bodies are exercised, having regard to a combination of economy, efficiency and effectiveness;

(d) revenue budget preparation; the preparation of information on income and expenditure relating to education, for incorporation into the authority's annual statement of accounts; and the external audit of grant claims and returns relating to education;

(e) administration of grants to the authority (including preparation of applications), functions imposed by or under Chapter IV of Part II of the 1998 Act and, where it is the authority's duty to do so, ensuring payments are made in respect of taxation, national insurance and superannuation contributions;

(f) authorisation and monitoring of—

(i) expenditure which is not met from schools' budget shares; and

(ii) expenditure in respect of schools which do not have delegated budgets,

and all financial administration relating thereto;

(g) the authority's functions under section 27 of the 2002 Act (provision of community facilities by governing bodies);

(h) internal audit and other tasks necessary for the discharge of the authority's chief finance officer's responsibilities under section 151 of the Local Government Act 1972(**b**);

(i) the authority's functions under regulations made under section 44 of the 2002 Act(**c**);

(j) recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools' budget shares and who are paid for services carried out in relation to those of the authority's functions and services which are referred to in paragraphs of this Schedule;

(k) investigations which the authority carry out of employees or potential employees of the authority or of governing bodies of schools, or of persons otherwise engaged or to be engaged with or without remuneration to work at or for schools;

(l) functions of the authority in relation to local government superannuation which it is not reasonably practicable for another person to carry out and functions of the authority in relation to the administration of teachers' pensions;

(m) retrospective membership of pension schemes and retrospective elections made in respect of pensions where it would not be appropriate to expect the governing body of a school to meet the cost from the school's budget share;

(n) advice, in accordance with the authority's statutory functions, to governing bodies in relation to staff paid, or to be paid, to work at a school, and advice in relation to the management of all such staff collectively at any individual school ("the school workforce"), including in particular advice with reference to alterations in remuneration, conditions of service and the collective composition and organisation of such school workforce;

(o) determination of conditions of service for non-teaching staff and advice to schools on the grading of such staff;

(p) the authority's functions regarding the appointment or dismissal of employees;

(q) consultation and functions preparatory to consultation with or by governing bodies, pupils and persons employed at schools or their representatives, or with other interested bodies;

(r) compliance with the authority's duties under the Health and Safety at Work etc. Act 1974(**d**) and the relevant statutory provisions as defined in section 53(1) of that Act in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the performance of such tasks by governing bodies and where necessary the giving of advice to them;

(s) the investigation and resolution of complaints;

(t) legal services relating to the statutory functions of the authority;

(u) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies;

(**a**) 1999 c. 27.
(**b**) 1972 c. 70.
(**c**) The regulations currently in force under this provision are The Consistent Financial Reporting (England) (Amendment) Regulations 2004, S.I. 2004/393.
(**d**) 1974 c. 37.

(v) the preparation, modification and revision of an early years and childcare development plan for their area under sections 120 and 121 of the 1998 Act(**a**) and the provision of (but not the expenditure authorised by) an early years development and childcare partnership under section 119 of the 1998 Act(**b**);

(w) provision of information to or at the request of the Crown and the provision of other information which the authority are under a duty to make available;

(x) the authority's duties under article 4(2) and (5) of the Race Relations Act 1976 (Statutory Duties) Order 2001(**c**);

(y) the remittance of fees payable to the General Teaching Council for England by virtue of section 4(4) of the Teaching and Higher Education Act 1998 and the provision of information required by the Council pursuant to regulations(**d**) made under section 12 of that Act;

(z) the authority's functions pursuant to regulations made under section 12 of the 2002 Act (supervising authorities of companies formed by governing bodies); and

(aa) the authority's functions under the Disability Discrimination Act 1995(**e**) in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the performance of such tasks by governing bodies and where necessary the giving of advice to them.

22. Expenditure in pursuance of a binding agreement, where the other party is a local authority, or the other parties include one or more local authorities, in relation to the operation of a facility provided partly but not solely for the use of schools.

23. Expenditure on establishing and maintaining those electronic computer systems, including data storage, which are intended primarily to maintain linkage between the authority and its schools.

24. Expenditure on monitoring National Curriculum assessment arrangements required by orders made under section 87 of the 2002 Act.

25. Expenditure in connection with the authority's functions in relation to the standing advisory council on religious education constituted by the authority under section 390 of the 1996 Act or in the reconsideration and preparation of an agreed syllabus of religious education in accordance with Schedule 31 to the 1996 Act.

26. Expenditure in respect of the dismissal or premature retirement of, or for the purpose of securing the resignation of, or in respect of acts of discrimination against, any person except to the extent that these are chargeable to schools' budget shares.

27. Expenditure in respect of a teacher's emoluments under section 19(9) of the Teaching and Higher Education Act 1998.

28. Expenditure in respect of the functions of an appropriate body under regulations pursuant to section 19(2)(g) of the Teaching and Higher Education Act 1998(**f**).

29. Expenditure on the appointment of governors, the making of instruments of government, the payment of expenses to which governors are entitled and which are not payable from a school's budget share and the provision of information to governors.

30. Expenditure on making pension payments other than in respect of schools.

31. Any expenditure on insurance other than for liability arising in connection with schools or school premises.

(**a**) Sections 120 and 121 were amended by section 150 of the 2002 Act, and are prospectively repealed by Part 1 of Schedule 5 to the Children Act 2004 (c. 31). Early years and childcare development plans are replaced by children and young people's plans under section 17 of the 2004 Act.
(**b**) Section 119 was amended by section 150 of the 2002 Act.
(**c**) S.I. 2001/3458.
(**d**) The regulations currently in force under this provision are the General Teaching Council for England (Deduction of Fees) Regulations 2001 (S.I. 2001/3993), as amended by S.I. 2003/985.
(**e**) 1995 c. 50.
(**f**) The regulations currently in force under this provision are the Education (Induction Arrangements for School Teachers) (Consolidation) (England) Regulations 2001 (S.I. 2001/2897), as amended by S.I. 2001/3938, S.I. 2002/2063, S.I. 2003/106 and S.I. 2003/2148.

SCHEDULE 2

Regulation 6

MAXIMUM INCREASE IN CENTRAL EXPENDITURE

1. Subject to paragraphs 2 and 3, the total amount to be deducted from an authority's schools budget (the "central expenditure") in accordance with regulation 6 of these Regulations in order to arrive at their individual schools budget, shall not exceed (A − B) (or 0 if that is greater) + (C × D/E) where—

(a) A is the total amount of the schools budget for the financial year beginning on 1st April 2005 less the total amount of the schools budget for the financial year beginning on 1st April 2004;

(b) B is the schools block in the education element of the formula spending share for the authority for the financial year beginning on 1st April 2005 less the schools block in the education element of the formula spending share for the authority for the financial year beginning on 1st April 2004(**a**);

(c) C is the total amount initially deducted from the authority's schools budget in accordance with regulation 5 of the 2003 Regulations, excepting any amount deducted in accordance with paragraphs 1 to 3 of Schedule 3 to those Regulations;

(d) D is the total amount of the individual schools budget as initially determined in accordance with regulation 6 of these Regulations; and

(e) E is the total amount of the individual schools budget for the financial year beginning on 1st April 2004 as initially determined in accordance with regulation 5 of the 2003 Regulations,

save that any grant paid by the Learning and Skills Council for England to the authority under section 7 of the 2000 Act shall be excluded from all of these calculations.

2. Where any maintained school in the authority's area is due to be discontinued and re-open as an Academy in the financial year beginning on 1st April 2005, an amount equal to F x (G/12) shall be deducted from E, where—

(a) F is the number of months during the financial year beginning on 1st April 2005 in which the school is not to be maintained by the authority; and

(b) G is the total budget share of that school for the financial year beginning on 1st April 2004.

3. In calculating the limit on central expenditure imposed by paragraph 1, expenditure deducted in accordance with—

(a) paragraphs 1, 2, 3 and 4 of Schedule 3 to these Regulations,

(b) paragraph 26 of Schedule 3 to these Regulations, to the extent that this exceeds expenditure deducted in accordance with paragraph 25 of Schedule 3 to the 2003 Regulations, and

(c) paragraph 33 of Schedule 3 to these Regulations,

shall be disregarded.

SCHEDULE 3

Regulation 6

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE WHICH MAY BE DEDUCTED FROM THE SCHOOLS BUDGET OF A LOCAL EDUCATION AUTHORITY

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.

Expenditure to support grants

1.—(1) Expenditure (other than expenditure incurred in connection with any other paragraph of this Schedule or any paragraph of Schedule 1) which the authority is obliged to incur as a condition of a specific grant paid to the authority and which is taken into account in determining the amount of such specific grant.

(2) Any amount which the authority is obliged to make available as a condition of grant paid under section 14 of the 2002 Act and which is taken into account in determining the amount of such grant, decisions regarding the expenditure of which are delegated to the governing body of a maintained school.

Excellence in Cities

2. Expenditure pursuant to a partnership agreement (under the Excellence in Cities and Excellence Clusters programmes) made between the authority, the Secretary of State and one or more of the authority's schools.

(**a**) A formula spending share is calculated for each local education authority in accordance with the Local Government Finance Report (England) 2004/2005 made under section 78A of the Local Government Finance Act 1988 on 29 January 2004. (ISBN.0102927243)

Performance Reward Grant

3. Expenditure, not falling within any other paragraph of this Schedule or any paragraph of Schedule 1, which the authority propose to meet from grant made under section 31 of the Local Government Act 2003 to reward local authorities for improvements in local services.

Threshold and Performance Pay Grants

4. Expenditure on school teachers' salaries which the local authority propose to meet from a Threshold and Performance Pay Grant paid under section 14 of the 2002 Act.

Special educational provision

5. Subject to paragraphs 6 and 7, expenditure in making the provision specified in a pupil's statement of special educational needs except where the pupil is—

(a) a registered pupil at a special school maintained by the authority; or

(b) a registered pupil at a primary or secondary school maintained by the authority who occupies one of a number of places at that school which are recognised by the authority as being reserved for children with special educational needs.

6. Where a pupil falls within paragraph 5(a) or (b) and the cost of the provision specified in the pupil's statement of special educational needs is significantly greater than that for the generality of pupils at the special school, or the cost of pupils in places at the primary or secondary school in question, the amount by which the expenditure incurred in making the provision specified in his statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

7. Expenditure in making the provision specified in a pupil's statement of special educational needs where the pupil falls within paragraph 5(b) but the places which are recognised by the authority as being reserved for children with special educational needs are for such pupils with visual, hearing, speech or language impairments or other communication disorder.

8. Expenditure in respect of specialist support provided to assist the governing bodies of schools in meeting the particular needs of pupils with statements of special educational needs or who are within the scope of School Action Plus as described in the Code of Practice(**a**) issued under section 313 of the 1996 Act (being expenditure that it would be inappropriate to expect to be met from the school's budget share).

9. Expenditure for purposes connected with the encouragement of—

(a) collaboration between special schools and primary and secondary schools to enable children with special educational needs to engage in activities at primary and secondary schools;

(b) the education of children with special educational needs at primary and secondary schools; and

(c) the engagement of children with special educational needs at primary and secondary schools in activities at the school with children who do not have special educational needs (being expenditure that it would be inappropriate to expect to be met from the school's budget share).

10. Expenditure in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit as defined in that section.

11. Expenditure (other than expenditure incurred under Schedule 1 or any other paragraph of this Schedule) incurred on services required to implement a plan setting out the arrangements made, or proposed to be made, by the authority in connection with the education of children with behavioural difficulties under section 527A of the 1996 Act(**b**) and on other activities for the purpose of avoiding the exclusion of pupils from schools.

12. Expenditure on the payment of fees in respect of pupils with special educational needs—

(a) at independent schools or at special schools which are not maintained by a local education authority under section 348 of the 1996 Act; or

(b) at an institution outside England and Wales under section 320 of the 1996 Act.

13. Expenditure on payments to another local education authority pursuant to section 493 or 494 of the 1996 Act or section 207 of the 2002 Act (recoupment between authorities).

(**a**) The Special Educational Needs Code of Practice (ISBN 1 84185 5294).

(**b**) Section 527A is prospectively repealed by Part 1 of Schedule 5 to the Children Act 2004 (c. 31). Plans under this section are replaced by a children and young people's plan under section 17 of the 2004 Act.

Access to education

14. Expenditure on the administration of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 89(2) of the 1998 Act and in establishing, maintaining and consulting representative bodies for the purposes of admissions) and in relation to appeals, provided that, except where the governing body have agreed with the authority that this proviso should not apply to them or where the authority are satisfied that factors or criteria in their formula already make suitable provision, the authority shall—

(a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act, an amount determined by the authority as that reasonably required by the governing body to meet expenditure incurred in connection with the system of admissions of pupils to the school and any appeals, taking into account any factors or criteria in their formula which relate to such arrangements, and

(b) allow the governing body to determine how such amount should be spent for that purpose.

15. Expenditure incurred in connection with the authority's functions under section 85A of the 1998 Act (the establishment and maintenance of, and consultation with, admission forums).

16. Expenditure on milk, meals and other refreshment pursuant to section 512, 512ZA, 512ZB or 513 of the 1996 Act falling within the following categories—

(a) expenditure in respect of meals at any primary or special school which is not a former grant-maintained or grant-maintained special school, unless the governing body have elected to receive funding for meals as part of their school's budget share;

(b) expenditure in respect of meals at any former grant-maintained primary or special school where the governing body have elected not to receive funding for meals as part of their school's budget share;

(c) expenditure in respect of milk at any school which is not a former grant-maintained or grant-maintained special school;

(d) expenditure in respect of milk at any former grant-maintained or grant-maintained special school where the provision of that milk attracts a subsidy from the European Union; and

(e) expenditure in respect of milk or meals at any pupil referral unit.

17. Expenditure on the repair and maintenance of a school kitchen where expenditure on meals in relation to the school concerned is deducted from the authority's schools budget pursuant to paragraph 16.

18. Expenditure on determining the eligibility of a pupil for free school meals.

19. Expenditure pursuant to section 18 of the 1996 Act in making any grant or other payment in respect of fees or expenses (of whatever nature) which are payable in connection with the attendance of pupils at a school which is not maintained by any local education authority.

Staff

20. Expenditure in making payments to, or in providing a temporary replacement for, a woman on maternity leave or to a person on adoption leave.

21. Expenditure in making payments to, or in providing a temporary replacement for, persons—

(a) carrying out trade union duties or undergoing training under section 168 of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**);

(b) taking part in trade union activities under section 170 of the Trade Union and Labour Relations (Consolidation) Act 1992;

(c) performing public duties under section 50 of the Employment Rights Act 1996(**b**);

(d) undertaking jury service;

(e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977(**c**);

(f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(**d**);

(g) who are employee representatives for the purposes of Chapter II of Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 as defined in section 196 of that Act or regulations 10 and 11 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as defined in regulation 11A of those Regulations(**e**);

(h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;

(**a**) 1992 c. 52.
(**b**) 1996 c. 18.
(**c**) S.I. 1977/500, amended by S.I. 1996/1513 and 1999/860.
(**d**) S.I. 1996/1513.
(**e**) S.I. 1981/1794; regulation 11A was inserted by S.I. 1995/2587 and amended by S.I. 1999/1925.

(i) undertaking duties as members of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996(**a**);

(j) suspended from working at a school;

(k) who are members of the General Teaching Council for England or a committee thereof; or

(l) who are appointed learning representatives of trade unions, in order for them to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

22. Expenditure on Advanced Skills Teachers undertaking outreach work in schools other than that in which they are normally based.

23. Expenditure in making payments to, or in providing a temporary replacement for, a person who is seconded on a full-time basis for a period of three months or more other than to a local education authority or the governing body of a school.

24. Expenditure in making payments to, or in providing a temporary replacement for, persons who have been continuously absent from work because of illness for 21 days or more.

25. Expenditure, not falling within Schedule 1, in relation to the recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools' budget shares.

Other Expenditure

26. Expenditure in connection with the provision of nursery education except where such provision is made at a maintained school.

27. Expenditure on insurance in respect of liability arising in connection with schools and school premises except to the extent that governing bodies have elected to receive funding for insurance as part of their schools' budget shares.

28. Expenditure on services to schools provided by museums and galleries.

29. Expenditure on library services for primary and special schools, other than for schools which received funding for library services as part of their budget shares for the financial year beginning on 1st April 1999 to the extent that their governing bodies have elected to receive funding for those same library services as part of their schools' budget shares for the financial year beginning on 1st April 2004, and provided that the authority—

(a) notify the governing body of each school, which does not receive funding for library services in its budget share, of the share of the amount retained by the authority in respect of library services which is attributable to that school; and

(b) allow the governing body to determine whether expenditure retained by the authority in respect of their school is to be spent by the authority in providing library services to the school themselves or in procuring that library services are provided to the school by another local authority.

30. Expenditure on licence fees or subscriptions paid on behalf of schools.

31. Expenditure incurred in connection with the authority's functions under section 47A(**b**) of the 1998 Act (the establishment and maintenance of, and consultation with, schools forums).

32. Expenditure without which the education of pupils at a school would be seriously prejudiced and which because of either—

(a) its size and unexpectedness; or

(b) its size and unavoidability,

it would not be reasonable to expect the governing body to meet from the school's budget share.

33.—(1) Expenditure on allocations to the governing body of a school in financial difficulty provided that the authority—

(a) consult the schools forum on their arrangements for the implementation of such support;

(b) make allocations to schools which are either—

(i) expected to have a revenue deficit by 31st March 2006 or 31st March 2007 without such support; or

(ii) are otherwise in financial difficulty in the years beginning 1st April 2004 or 1st April 2005

provided that no allocations are made under (ii) unless the local education authority believes that it has taken reasonable steps to allocate funds under (i) to the extent required;

(**a**) 1996 c. 14.

(**b**) Section 47A was inserted by section 43 of the 2002 Act.

(c) make provision to monitor the use of the increase and the governing body's progress towards a balanced budget; and

(d) distribute to schools the unallocated balance of any such retained amount on the basis of pupil numbers in accordance with the arrangements put in place under regulation 8(1) or (3) of the Financing of Maintained Schools Regulations 2004(**a**).

(2) For the purposes of paragraph (1), a school is in financial difficulty if, in the opinion of the authority, its expenditure has exceeded, or is likely to exceed, the resources available to the governing body.

34. Expenditure on increases to a school's budget share to which the school is entitled by virtue of the authority's formula or the determination of budget shares under the authority of the Secretary of State or expenditure on the correction of errors.

35. Expenditure for purposes not falling within any other paragraph of this Schedule, provided that the expenditure does not amount in total to more than 0.1 per cent of the authority's schools budget.

36. Expenditure for purposes falling within regulation 3(c).

37. CERA incurred for purposes not falling within any other paragraph of this Schedule or Schedule 1.

(**a**) S.I. 2004/3130.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the expenditure which makes up a local education authority's "LEA budget" and "schools budget" for the financial year beginning on 1st April 2005.

The classes or descriptions of planned expenditure which comprise the LEA budget are described in regulation 4 and in Schedule 1. The schools budget is described in regulation 3.

Schedule 2 provides for a limit on the expenditure which may be deducted by the authority from the schools budget.

Schedule 3 specifies the nature of the planned expenditure which an authority may deduct from the schools budget in order to arrive at their individual schools budget for that financial year.

STATUTORY INSTRUMENTS

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