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WELSH STATUTORY INSTRUMENTS

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**2004 No. 2506 (W.224)**

**EDUCATION, WALES**

**The Schools Budget Shares (Wales) Regulations 2004**

*Made* - - - - 21 September 2004

*Coming into force* - - 30 September 2004

In exercise of the powers conferred on the Secretary of State by sections 47 and 138(7) and (8) of the School Standards and Framework Act 1998<sup>(1)</sup> and now vested in the National Assembly for Wales<sup>(2)</sup>, the National Assembly for Wales hereby makes the following Regulations:

**Name, commencement and application**

1.—(1) These Regulations are called the Schools Budget Shares (Wales) Regulations 2004 and come into force on 30 September 2004.

(2) These Regulations apply for the purpose of the financing of maintained schools in Wales in respect of any financial year beginning after 31 March 2005.

**Interpretation**

2.—(1) In these Regulations —

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996<sup>(3)</sup>;

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998;

“the 2000 Act” (“*Deddf 2000*”) means the Learning and Skills Act 2000<sup>(4)</sup>;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002<sup>(5)</sup>;

“the 1999 Regulations” (“*Rheoliadau 1999*”) mean the Financing of Maintained Schools Regulations 1999<sup>(6)</sup>;

“the 2003 Regulations” (“*Rheoliadau 2003*”) mean the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003<sup>(7)</sup>

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(1) 1998 c. 31; for the meaning of “prescribed” and “regulations” see section 142(1).

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(3) 1996 c. 56.

(4) 2000 c. 21.

(5) 2002 c. 32.

(6) S.I.1999/101 amended by S.I. 2000/911 (W.40), 2001/495 (W. 22), 2002/136(W.19) and 2003/538 (W.75).

(7) S.I.2003/3118(W.296).

“financial year in question” (“*blwyddyn ariannol o dan sylw*”) means the financial year in respect of which maintained schools' budget shares are being determined;

“maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school or a community or foundation special school or a maintained nursery school;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“the National Council” (“*y Cyngor Cenedlaethol*”) means the National Council for Education and Training for Wales<sup>(8)</sup>

“nursery class” (“*dosbarth meithrin*”) means a class undergoing full-time or part-time education wholly or mainly suitable for children who have not attained compulsory school age;

“preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year preceding the financial year in question.

(2) In these Regulations a reference (however framed) to a maintained nursery school, a community, foundation or voluntary school or a community or foundation special school includes a new school (within the meaning of section 72(3) of the 1998 Act) which on implementation of proposals for the establishment of the school under any enactment will be such a school and which has a temporary governing body.

(3) In these Regulations a reference to a governing body includes the temporary governing body of a new school falling within paragraph (2).

(4) In these Regulations a reference to a primary or secondary school means a primary or secondary school which is (or will be) a community, foundation or voluntary school.

(5) In these Regulations a reference (however framed) to schools maintained by a local education authority does not include schools which are not maintained schools as defined in paragraph (1).

(6) In these Regulations a reference to the permanent exclusion of a pupil is a reference to the pupil's permanent exclusion as defined from time to time for the purposes of section 494 of the 1996 Act<sup>(9)</sup>.

(7) Unless the context otherwise requires, words or expressions used in these Regulations set out below in this paragraph have the meanings given to them by the provisions specified —

budget share (*cyfran o'r gyllideb*):

section 47(1) of the 1998 Act;

delegated budget (*cyllideb ddirprwyedig*):

section 49(7) of the 1998 Act;

financial year (*blwyddyn ariannol*):

section 579(1) of the 1996 Act;

formula (*fformwla*):

regulation 7 of these Regulations;

individual schools budget (*cyllideb ysgolion unigol*):

section 45A(3) of the 1998 Act<sup>(10)</sup>;

key stage (*cyfnod allweddol*):

section 103 of the 2002 Act;

nursery school (*ysgol feithrin*):

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<sup>(8)</sup> The National Council was established by section 30 of the 2000 Act.

<sup>(9)</sup> Section 494 was substituted by paragraph 128 of Schedule 30 to the 1998 Act.

<sup>(10)</sup> Section 45A was inserted by section 41(1) of the 2002 Act (S.I. 2003/2961 (W.278)).

section 6(1) of the 1996 Act<sup>(11)</sup>;  
nursery education (*addysg feithrin*):  
section 117 of the 1998 Act;  
school year (*blwyddyn ysgol*):  
section 579(1) of the 1996 Act<sup>(12)</sup>;  
schools budget (*cyllideb ysgolion*):  
section 45A(2) of the 1998 Act;  
special educational needs (*anghenion addysgol arbennig*):  
section 312(1) of the 1996 Act.

(8) Unless the context otherwise requires, a reference in these Regulations to a numbered regulation is a reference to the regulation of these Regulations so numbered and a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

### **Revocation and transitional provisions**

3.—(1) Subject to paragraphs (2) and (3) and to the extent they apply in Wales, the 1999 Regulations (so far as not already revoked<sup>(13)</sup>), the Financing of Maintained Schools (Amendment) (Wales) Regulations 2000<sup>(14)</sup>, the Financing of Maintained Schools (Amendment) (Wales) Regulations 2001<sup>(15)</sup>, the Financing of Maintained Schools (Amendment) (Wales) Regulations 2002<sup>(16)</sup> and the Financing of Maintained Schools (Amendment) (Wales) Regulations 2003<sup>(17)</sup> are revoked from 1 April 2005.

(2) Notwithstanding paragraph (1), a school's budget share may be redetermined under the 1999 Regulations, in the financial year beginning on 1 April 2005, if such redetermination makes provision for —

- (a) pupils permanently excluded or admitted following permanent exclusion; or
- (b) the correction of errors, whether in calculation or data, under any of the provisions of the 1999 Regulations.

(3) Notwithstanding paragraph (1), Part IV (Schemes) and Schedule 5 to the 1999 Regulations remain in force.

### **Allocation of individual schools budget**

4. A local education authority must allocate in each financial year, in accordance with the following provisions of these Regulations, all of their individual schools budget for that financial year as the budget shares of schools which they maintain.

### **Timing of initial determination of budget shares**

5.—(1) The amount of a school's budget share for a financial year must be initially determined by the local education authority before the beginning of that financial year.

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<sup>(11)</sup> Section 6(1) is amended by section 156(1) of the 2002 Act.

<sup>(12)</sup> Inserted by the Education Act 1997 (c. 44), Schedule 7, paragraph 43.

<sup>(13)</sup> Regulations 2, 3 and 5 of, and Schedule 2, to the 1999 Regulations were revoked on 1 April 2004 by the 2003 Regulations.

<sup>(14)</sup> S.I. 2000/911 (W.40).

<sup>(15)</sup> S.I. 2001/495 (W.22).

<sup>(16)</sup> S.I. 2002/136 (W.19).

<sup>(17)</sup> S.I. 2003/538 (W.75).

(2) A local education authority need not initially allocate all of their individual schools budget in the form of budget shares at the beginning of a financial year, and may instead retain an amount for the purpose of redeterminations or the correction of errors but such amount must be used for that purpose or distributed to schools as required by regulation 18(4) before the end of that financial year.

### **Consultation**

6.—(1) In addition to consulting the schools forum for their area<sup>(18)</sup>, a local education authority must consult the governing body and head teacher of every school which they maintain about any proposed changes to the factors and criteria which were taken into account, or the methods, principles and rules which were adopted in their formula under the 1999 Regulations or these Regulations in the preceding financial year (including any new factors, criteria, methods, principles or rules).

(2) Paragraph (1) shall not apply to changes made pursuant to regulations 5(2), 15, 18(3) or 19.

(3) Consultation under this regulation must take place in sufficient time to allow the outcome to be taken into account in the determination of the authority's formula and in the initial determination of schools' budget shares before the beginning of the financial year in question.

(4) A local education authority must inform all those who were consulted of the outcome of the consultation.

(5) The requirement to consult in paragraph (1), in relation to changes proposed for the financial year beginning on 1 April 2005, may be satisfied by consultation which takes place during the financial year beginning on 1 April 2004 before the coming into force of these Regulations.

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

7.—(1) A local education authority must determine before the beginning of a financial year, and after the consultation referred to in regulation 6, the formula which they will use to determine schools' budget shares in that financial year having regard to the factors, criteria and requirements set out in these Regulations.

(2) A local education authority must have regard to the desirability of such a formula being simple, objective, measurable, predictable in effect and clearly expressed.

(3) A local education authority may not use factors or criteria in their formula which make an allowance, in whole or in part, for any amount allocated to the school from any grant paid to the authority by the National Assembly or the National Council.

(4) Subject to regulation 22 (additional arrangements approved by the National Assembly) a local education authority must use the formula determined under paragraph (1) in all determinations and redeterminations of budget shares in respect of that financial year.

### **Pupil numbers**

8.—(1) In determining budget shares for primary and secondary schools and nursery schools, a local education authority must take into account in their formula the number of registered pupils at those schools on such date or dates as may be determined by the authority, weighted if the authority consider it appropriate in accordance with paragraph (8).

(2) For the purposes of paragraph (1), the number of registered pupils does not include—

- (a) pupils in respect of whom grant is payable to the authority by the National Council under section 36 of the 2000 Act;

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<sup>(18)</sup> The schools forums were established by regulation 2 of the Schools Forums (Wales) Regulations 2003 (S.I. 2003/2909 (W.275)).

- (b) pupils in places which the authority recognise as reserved for children with special educational needs or (except where the local education authority chooses not to exercise their discretion under regulation 10 in respect of children in nursery classes) for children in nursery classes.
- (3) Where the authority determine only one date for the purposes of paragraph (1) it must be a date which falls —
- (a) before 1 April in the financial year in question; and
  - (b) in the school year in which 1 April in the financial year in question falls.
- (4) Where the authority determine more than one date for the purposes of paragraph (1) then —
- (a) one of those dates must satisfy paragraph (3);
  - (b) as respects the other date or dates —
    - (i) no date may be earlier than the beginning of the school year in which 1 April in the financial year in question falls, and
    - (ii) the authority may determine a date or dates which are in the future and estimate the number of registered pupils at the school on that date or those dates.
- (5) Paragraphs (4) and (5) do not apply in relation to pupils in nursery or reception classes whom the authority take into account under paragraph (1).
- (6) An authority may, in determining budget shares for special schools, or for primary or secondary schools with places which the authority recognise as reserved for children with special educational needs or for children in nursery classes, take into account in their formula —
- (a) the number of registered pupils at those special schools; or
  - (b) the number of pupils in those reserved places at primary or secondary schools,
- on such date or dates as may be determined by the authority (weighted if the authority consider it appropriate in accordance with paragraph (8)).
- (7) If the authority estimate the number of registered pupils at a school in accordance with paragraph (4)(b) they must consult the head teacher of the school.
- (8) A local education authority may weight pupil numbers according to any or all of the following factors —
- (a) age, including weighting according to key stage or year group;
  - (b) whether a pupil is provided with nursery education by a school;
  - (c) in the case of pupils aged under five, their exact age when admitted to the school;
  - (d) in the case of pupils aged under five, hours of attendance;
  - (e) special educational needs;
  - (f) whether a pupil at a school is also attending an institution within the further education sector; and
  - (g) whether a pupil is being educated through the medium of Welsh.
- (9) A local education authority must include provision in their formula enabling them to adjust the number of registered pupils used to determine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly, the permanent exclusion of a pupil from the school or the admission of a pupil following that pupil's permanent exclusion from another school maintained by a local education authority.

### **Pupil Numbers: Dual Registration**

9. Where a pupil is, in accordance with regulations made under section 434 of the 1996 Act<sup>(19)</sup>, a registered pupil at more than one school then that pupil must be treated as being a full-time pupil at each such school unless the authority expressly provide otherwise in their formula.

### **Places**

10. In determining budget shares for —

- (a) special schools;
- (b) primary or secondary schools with places which the authority recognise as reserved for children with special educational needs;
- (c) primary schools with places which the authority recognise as reserved for children in a nursery class; or
- (d) maintained nursery schools,

a local education authority may take into account in their formula the number of places which they wish to fund at those special schools, in the case of paragraph (a), or the number of places for children with special educational needs in the case of paragraphs (b), (c) and (d) and in all cases may take account of the special educational needs in question.

### **Schools of a particular description**

11. Where a local education authority deduct from their schools budget planned expenditure which relates to maintained schools of a particular description, they must include factors or criteria in their formula in respect of that planned expenditure, in relation to maintained schools which do not fall within that description.

### **Differential funding**

12. A local education authority must not use in their formula any factors or criteria which discriminate between schools by reference to their category under the 1998 Act except where differences in the functions of the governing bodies of schools of different categories justifies such discrimination.

### **Additional factors or criteria**

13.—(1) Subject to regulations 11 and 12, a local education authority may, in determining budget shares for schools which they maintain, take into account in their formula, as they consider appropriate, any or all of the factors or criteria set out in the Schedule, as provided for in the Schedule.

(2) A local education authority must, in determining budget shares for both primary and secondary schools which they maintain, take into account in their formula a factor or factors based on the incidence of social deprivation among pupils registered at all such schools.

(3) A factor included in an authority's formula pursuant to paragraph 19 of the Schedule is not, for the purpose of paragraph (2), a factor based on the incidence of social deprivation among pupils registered at a school.

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<sup>(19)</sup> The relevant Regulations, as at the date these Regulations are made, are the Education (Pupil Registration) Regulations 1995 (S.I. 1995/2089) which remain in force by virtue of paragraph 1 of Schedule 39 to the 1996 Act. Amending instruments are S.I. 1997/2624 and S.I. 2001/1109.

### **Funding for pupils over compulsory school age**

14.—(1) Subject to regulation 16 (Budget share adjustments) the budget share for a financial year for a secondary school or special school that provides education suitable for the requirements of persons over compulsory school age must include an amount ('the Amount') in respect of that school's pupils above compulsory school age.

(2) The Amount must include, on a net basis —

- (a) an allocation by the local education authority in respect of that school's provision for pupils over compulsory school age for the financial year in question in accordance with the conditions of grant payable to the local education authority by the National Council under s36 of the 2000 Act ("the Grant");
- (b) any amount which the local education authority provides for education of pupils over compulsory school age.

(3) To the extent the Amount is not subject to the conditions in the Grant, a local education authority must, in determining budget shares use a factor which allocates funding in respect of pupils over compulsory school age.

### **Revision of National Council Grant**

15. A secondary school's or special school's budget share for the financial year in question must be redetermined by the end of that financial year pursuant to written notification from the National Council of a revision in the grant previously determined for that financial year.

### **Budget share adjustments**

16.—(1) To the extent that a school's budget share for the preceding financial year was —

- (a) determined by reference to an estimate of the number of registered pupils at the school on a particular date or dates; and
- (b) differences between the estimated number of pupils on that date or those dates and the actual number of pupils at the school on that date or those dates were not taken into account in a redetermination of the school's budget share for the preceding financial year,

the local education authority must determine that school's budget share for the financial year in question so as to take into account those differences.

(2) A local education authority may determine a school's budget share for the financial year in question so as to take into account any other change during the course of the preceding financial year in the data by reference to which the school's budget share for that year was determined, if those changes were not taken into account in a redetermination of the school's budget share for the preceding financial year.

(3) A local education authority may adjust the number of registered pupils used to determine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly —

- (a) any reduction or increase in the school's budget share for the preceding financial year arising from the permanent exclusion of a pupil from the school or the admission to the school of a pupil permanently excluded from another maintained school; or
- (b) any increase in the school's budget share for the preceding financial year arising from increases in pupil numbers during the course of the preceding financial year.

(4) A local education authority must include factors or criteria in their formula which satisfy the requirements of this regulation.

### School re-organisation

17.—(1) In the case of a maintained school which is —

- (a) a new school referred to in regulation 2(2);
- (b) a school (other than a new school) proposals for the establishment of which under any enactment have not been fully implemented;
- (c) a school which is the subject of proposals for a prescribed alteration under Chapter II of Part II of the 1998 Act or section 113A of the 2000 Act<sup>(20)</sup>;
- (d) a school which is the subject of a significant change of character, a significant enlargement of its premises or a transfer to a new site under the 1996 Act; or
- (e) a maintained nursery school which is to be discontinued in the financial year in question,

the local education authority must include factors or criteria in their formula which enable them to determine the school's budget share so as to take into account the particular needs of the school; and in particular may, in any financial year preceding the financial year in which a school first admits pupils, determine the amount of the budget share as zero.

(2) For the purposes of these Regulations, proposals for the establishment of a school have been fully implemented when the number of pupils admitted to the school in each age group has, in the opinion of the local education authority, reached —

- (a) that number of pupils indicated, when proposals for the establishment of the school were published, as the number of pupils to be admitted to each age group when the proposals were fully implemented; or
- (b) if no such number was indicated, such number as the authority may determine.

### Redetermination of budget shares

18.—(1) A local education authority must include factors or criteria in their formula which enable them to redetermine a school's budget share during the course of a financial year if they so wish to take account (wholly or partly) of —

- (a) changes during that financial year in the number or estimates of the number of registered pupils (including the substitution of actual numbers for estimates) at the school by reference to which the budget share was determined in accordance with regulation 8(1) or (3) other than in cases where pupil numbers were weighted according to special educational needs;
- (b) other changes during that financial year in the data by reference to which the budget share was determined; and
- (c) changes during that financial year in the amount of the authority's individual schools budget.

(2) A local education authority must set out in their formula the factors or criteria that they will use in redetermining schools' budget shares in accordance with paragraph (1), to allocate the planned expenditure referred to in paragraph 30 of Schedule 2 to the 2003 Regulations<sup>(21)</sup>.

(3) A local education authority must include factors or criteria in their formula which enable them to adjust the number of registered pupils used to determine or redetermine a school's budget share where it is appropriate to do so in order to take into account, wholly or partly —

- (a) any reduction or increase in the school's budget share in accordance with regulation 19 (Pupils excluded or admitted following an exclusion); or

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<sup>(20)</sup> Section 113A was inserted by section 72(1) of the 2002 Act.

<sup>(21)</sup> S.I.2003/3118(W.296).

(b) any increase in the school's budget share under this regulation in respect of significant increases in pupil numbers funded by the planned expenditure referred to in paragraph 30 of Schedule 2 to the 2003 Regulations.

(4) Where a local education authority propose to retain part of their individual schools budget pursuant to regulation 5(2) for the purpose of redeterminations or the correction of errors they must include factors or criteria in their formula which require them to redetermine schools' budget shares before the end of the financial year in question so as to distribute to schools the unallocated balance of any such retained amount on the basis of pupil numbers in accordance with regulation 8(1) or (6).

### **Pupils excluded or admitted following an exclusion**

**19.—**(1) Where, in the financial year in question, a pupil is permanently excluded from a school maintained by a local education authority, the authority must redetermine the school's budget share for that financial year in accordance with paragraph (2).

(2) The school's budget share is to be reduced by the amount  $A \times (B/52)$  where —

A is the amount, in the financial year in which the permanent exclusion takes effect (as defined from time to time for the purposes of section 494 of the 1996 Act<sup>(22)</sup> ("the relevant date")), determined by the authority, in accordance with these Regulations to be attributable for the full financial year to a registered pupil of the same age and characteristics as the pupil in question at primary or secondary schools maintained by the authority:

For the purposes of this definition the amount attributable to a registered pupil is the sum of the amounts determined in accordance with the authority's formula or regulation 22 by reference to pupil numbers rather than by reference to the number of places at the school or any other factor or criterion not dependent on pupil numbers; and

B is the number of complete weeks remaining in the financial year calculated from the relevant date:

EXCEPT that where the permanent exclusion takes effect on or after 1 April in a school year at the end of which pupils of the same age or age group as the pupil in question normally leave that school prior to being admitted to another school with a different pupil age range, B is the number of complete weeks remaining in that school year calculated from the relevant date.

**19.—**(3) Where in a financial year a pupil is admitted to a school maintained by a local education authority ("the admitting school") who has been permanently excluded from another maintained school in that financial year the authority must redetermine the admitting school's budget share in accordance with paragraph (4).

(4) The school's budget share is to be increased by an amount which may not be less than the amount  $D \times (E/F)$  where —

D is the amount by which the authority reduce the budget share of the school from which the pupil was permanently excluded or would have reduced it had that school been maintained by the authority;

E is the number of complete weeks remaining in the financial year during which the pupil is a registered pupil at the admitting school;

F is the number of complete weeks remaining in the financial year calculated from the relevant date.

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<sup>(22)</sup> Section 494 is substituted by paragraph 128 of Schedule 30 to the 1998 Act. The relevant Regulations are the Education (Amount to follow Permanently Excluded Pupil) Regulations 1999, S.I. 1999/495 as amended by the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003, S.I. 2003/3227 (W.308).

### **Percentage of “pupil-led” funding**

**20.**—(1) Subject to paragraph (2), in determining and redetermining budget shares for primary and secondary schools a local education authority must ensure that their formula provides that at least 70 per cent. of the amount which is their individual schools budget is allocated in one or more of the following manners —

- (a) in accordance with regulation 8(1) or (6);
- (b) in accordance with any other factors or criteria using pupil numbers which provide for the same funding for pupils of the same age irrespective of the nature of the school which they attend;
- (c) to places in primary schools which the authority recognise as reserved for children in nursery classes;
- (d) for children with special educational needs who do not have statements of special educational needs but only up to 5 per cent. of the total amount allocated by the authority to primary and secondary schools from their individual schools budget;
- (e) to places in primary or secondary schools which the authority recognise as reserved for children with special educational needs;
- (f) for pupils with statements of special educational needs where funding in respect of such pupils forms part of schools' delegated budgets.

(2) For the purposes of this regulation, the budget shares of schools providing education for pupils over compulsory school age, of special schools and any part of the individual schools budget retained pursuant to regulation 5(2) for the purpose of redeterminations or the correction of errors must be excluded from the local education authority's individual schools budget.

### **Correction of errors**

**21.** A local education authority may at any time during the financial year redetermine a school's budget share for that financial year in order to correct an error in a determination or redetermination under these Regulations, whether arising from a mistake as to the number of registered pupils at the school or otherwise.

### **Additional arrangements approved by the National Assembly**

**22.** The National Assembly may, where it appears to it to be expedient to do so, authorise a local education authority to determine or redetermine budget shares, to such extent as it may specify, in accordance with arrangements approved by it in place of the arrangements provided for elsewhere in these Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(23)

21 September 2004

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly  
for Wales.

## SCHEDULE

Regulation 13

### ADDITIONAL FACTORS OR CRITERIA WHICH MAY BE TAKEN INTO ACCOUNT IN A LOCAL EDUCATION AUTHORITY'S FORMULA UNDER REGULATION 13

Except where otherwise stated the factors or criteria set out below in this Schedule may be taken into account by a local education authority in their formula on the basis of actual or estimated cost.

Where in a financial year a local education authority take factors or criteria into account in their formula which are additional to or different from factors or criteria taken into account in the preceding financial year, they may make such transitional provision as they consider reasonable.

1. Special educational needs of pupils determined in a manner that the authority consider appropriate as a means of assessing such needs.

2. Pupils for whom English or Welsh is not their first language.

3. Turnover of pupils other than as part of the general admissions process at a school.

4. The extent to which the authority meet the cost of admission arrangements at a school other than from the school's delegated budget.

5. The size and condition of a school's buildings and grounds relative to those of other schools maintained by the authority: the funding must be in accordance with scales published by the authority which reflect (so far as appropriate) the statutory duties of governing bodies in relation to school premises and their eligibility for grant from the National Assembly or any government department.

6. A school which has a split site: the funding must be in accordance with criteria published by the authority.

7. Facilities, for the education of pupils, found at some schools only.

8. Rates payable in respect of the premises of each school (including actual or estimated cost).

9. Charges for water and sewerage (including actual or estimated cost).

10. Use of energy by schools.

11. Rent payable in respect of school premises or payments in respect of the use by a school of facilities not exclusively occupied by that school (including actual or estimated cost).

12. Cleaning of school premises.

13. Transport to and from activities outside the school premises which form part of the school's curriculum (including actual or estimated cost).

14. Hire of facilities outside school premises (including actual or estimated cost).

15. In cases where an amount in respect of insurance is to be included in the school's budget shares —

(a) where the authority insure, the appropriate proportion of the authority's planned expenditure on insurance; or,

(b) where the authority do not insure, the appropriate proportion of the amount that the authority would have spent had they insured,

to be determined on a basis decided by the authority which must have regard to the number of registered pupils at the school.

16. Payments in relation to a private finance transaction as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997<sup>(24)</sup> (including actual or estimated cost).

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(24) S.I. 1997/319; amended by S.I. 1998/371 and S.I. 1999/1852.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**17.** Amounts payable to a school which is, as the result of the discontinuance of one or more maintained schools, either established or, pursuant to Chapter II of Part II of the 1998 Act, the subject of prescribed alterations, to reflect the extent to which a school which has been discontinued has spent more than or has not spent all of its budget share (within the meaning of the 1996 or the 1998 Act) in any financial year. Any such factor or criteria must provide that any amount deducted must not exceed the amount which the school receives during the financial year as part of its budget share by virtue of being a new school.

**18.** Whether the school is to be discontinued in the financial year in question.

**19.** School milk, meals and other refreshment: the authority may not treat any element of this expenditure as having a negative value.

**20.** Salaries at a school (including actual or estimated cost): the funding must be in accordance with a scale published by the authority.

**21.** Safeguarding of salaries in accordance with orders made from time to time under section 122 of the 2002 Act<sup>(25)</sup> or safeguarding other salaries.

**22.** Social priority allowances in accordance with a School Teachers' Pay and Conditions Document having effect in accordance with an order under section 122 of the 2002 Act<sup>(26)</sup> (including actual or estimated cost).

**23.** The need for single payments to be allocated to primary, secondary or special schools, or any combination of such schools, regardless of size.

**24.** The need for payments to be allocated to schools, of a size and satisfying other conditions, specified by the authority.

**25.** Schools whose budget shares would otherwise be reduced year-on-year by more than 5 per cent: the funding must be in accordance with a scale published by the authority.

**26.** Contracts to which the governing body of a school are bound by virtue of a provision in the authority's scheme (including actual or estimated cost).

**27.** Payroll administration costs: the funding must be based on the number of staff at the school, unless factors permitted elsewhere in these Regulations are used.

**28.** Any other factors or criteria not otherwise falling within this Schedule provided that the total amount allocated in accordance with the authority's formula, having regard to such factors or criteria, does not exceed 1 per cent of the authority's schools budget.

**29.** Effect of taxation on schools.

**30.** Incidence of pupils from ethnic minorities having below average levels of academic achievement in relation to other pupils in the authority's area, to be determined on a basis decided by the authority.

**31.** Incidence of nursery classes and places recognised by the authority as reserved for children with special educational needs.

**32.** Incidence of Newly Qualified Teachers.

**33.** Housing development or armed forces' movements leading to an increase or reduction in numbers on roll at a school of at least 20% within the financial year in question.

**34.** Prior attainment of pupils entering a school.

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<sup>(25)</sup> As at the date these Regulations are made the relevant order is [S.I. 2002/2169](#).

<sup>(26)</sup> As at the date these Regulations are made the relevant document is the School Teachers' Pay and Conditions Document 2003 (ISBN 0 11 271146-4). That document was given effect in the Education (School Teachers' Pay and Conditions) No 2 Order 2003 (S.I. [2003/2169](#)) and amendments to it were given effect in S.I. [2003/2640](#) and [2004/658](#).

**35.** Infant class sizes limited by Regulations made under section 1 of the 1998 Ac(27): the authority may include a sum which reflects any increase in expenditure incurred as a direct result of those Regulations.

**36.** Junior class sizes limited to a maximum of 30 pupils: the authority may include a sum which reflects any increase in expenditure incurred as a direct result of conditions contained in any special grant made in accordance with section 88A of the Local Government Finance Act 1988(28) or any arrangements for financial assistance provided in accordance with section 14 of the 2002 Act which requires an improvement of school standards by reducing class sizes.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

A local education authority's individual schools budget is to be divided between the schools which they maintain in the form of budget shares for each school. These Regulations provide the basis on which, for any financial year beginning after 31 March 2005, a local education authority may determine the amount from their individual schools budget to be allocated to each school as its budget share for a financial year.

Subject to transitional provisions in regulation 3, these Regulations revoke on 1 April 2005 the Financing of Maintained Schools Regulations 1999 (to the extent not previously revoked) as amended by the Financing of Maintained Schools (Amendment) (Wales) Regulations 2000; the Financing of Maintained Schools (Amendment) (Wales) Regulations 2001; the Financing of Maintained Schools (Amendment) (Wales) Regulations 2002 and the Financing of Maintained Schools (Amendment) (Wales) Regulations 2003.

Regulation 4 requires a local education authority to allocate all of its individual schools budget for a financial year as the budget shares of schools which they maintain.

Regulation 5 requires the initial determination of a school's budget share to take place before the beginning of the financial year in which it will apply. A local education authority is permitted to retain an amount of the individual schools budget for redetermination or correction of errors.

Regulation 6 indicates when and who the local education authority must consult about any proposed changes to the factors and criteria or the methods, principles and rules which were adopted in their formula.

Regulation 7 requires the local education authority to determine the formula to be used in determining schools' budget shares in the financial year having regard to the factors, criteria and requirements in the Regulations.

Regulation 8 describes the circumstances in which a local education authority must take into account in their formula the numbers of registered pupils at the schools. The requirement does not include pupils over compulsory school age or children in places reserved for special educational needs.

Regulation 9 makes provision for pupils registered at more than one school.

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(27) The relevant Regulations as at the date these Regulations are made are the Education (Infant Class Size Reduction) (Wales) Regulations 1998 (S.I. 1998/1943).

(28) 1988 c. 41.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 10 enables a local education authority to make provisions in their formula in relation to determining budget shares for special schools and schools with places reserved for children with special educational needs.

Regulation 11 requires a local education authority to include factors or criteria in their formula in respect of deductions from their schools budget of planned expenditure relating to schools of a particular description.

Regulation 12 precludes a local education authority from making provision in their formula which discriminate between schools by reference to their category except where it is justified by differences in the functions of the governing bodies of schools of different categories.

Regulation 13 enables a local education authority in specified circumstances to take into account the factors or criteria set out in the Schedule to these Regulations in determining budget shares for schools. A local education authority is also required to take account in their formula in determining budget shares a factor or factors based on the incidence of social deprivation among pupils.

Regulation 14 makes provision for the funding of pupils over compulsory school age. In providing budget shares the local education authority is required to include a sum allocated in accordance with the conditions of grant payable by the National Council under s36 of the Learning and Skills Act 2000.

Regulation 15 requires the local education authority to redetermine a secondary school's budget share where the National Council notifies a revision in the grant previously determined.

Regulation 16 requires the local education authority to make budget share adjustments to take account of changes to numbers of registered pupils and change to other data in the preceding financial year. The local education authority must include factors or requirements in their formula to satisfy the requirements of the regulation.

Regulation 17 requires the local education authority to include factors or criteria in their formula to enable them to determine a school's budget share where specified reorganisation of the school has occurred or will take place.

Regulation 18 requires the local education authority to include factors or criteria in their formula to redetermine a school's budget share if they wish to take account of specified changes to pupil numbers and other changes.

Regulation 19 provides formulae to be used to redetermine a school's budget share where a pupil is permanently excluded from a school.

Regulation 20 requires the local education authority to ensure that in determining budget shares their formula provides that at least 70 per cent of the amount which is their individual schools budget is allocated in one or more of the specified manners.

Regulation 21 enables a local education authority to redetermine a school's budget share for that financial year to correct an error.

Regulation 22 enables the National Assembly to authorise the local education authority to determine or redetermine budget shares in accordance with approved arrangement that supersede the requirements of the Regulations.