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WELSH STATUTORY INSTRUMENTS

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**2003 No. 3118 (W.296)**

**EDUCATION, WALES**

**The LEA Budget, Schools Budget and Individual  
Schools Budget (Wales) Regulations 2003**

*Made* - - - - *2nd December 2003*

*Coming into force* - - *4th December 2003*

In exercise of the powers conferred on the Secretary of State by sections 45A 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 makes the following Regulations:

**Name, commencement and application**

1.—(1) These Regulations are called the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003 and come into force on 4th December 2003.

(2) They apply only to financial years beginning after 31st March 2004.

(3) They apply only to Wales.

**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; and

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

(2) In these Regulations “maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school or a community or foundation special school.

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(1) 1998 c. 31. For the meaning of “prescribed” and “regulations” see section 142(1). Section 45A was inserted by section 41 of the Education Act 2002 c. 32.

(2) See The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and section 211 of the Education Act 2002 c. 32.

(3) 1996 c. 56.

(4) 2000 c. 21.

(3) In these Regulations a reference (however framed) to a community, foundation or voluntary school or a community or foundation special school includes a new school which on implementation of proposals under any enactment will be such a school, and which has a temporary governing body.

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

(5) 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.

(6) 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 (2).

(7) In these Regulations, unless otherwise stated, references to expenditure are references to that expenditure net of —

- (a) all related specific grants;
- (b) all related fees, charges and income; and
- (c) funding received from the National Assembly in respect of PFI scheme unitary payment.

(8) In these Regulations, a reference to specific grant is to 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, but does not include —

- (a) any grant made by the National Council for Education and Training for Wales<sup>(5)</sup> in respect of sixth form funding; or
- (b) any specific grant which is used to support expenditure through the individual schools budget.

(9) In these Regulations, 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.

(10) In these Regulations, 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<sup>(6)</sup>.

(11) In these Regulations, a reference to a formula means a formula determined (after consultation) by the local education authority before the beginning of a financial year 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.

(12) In these Regulations, 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 —

- (a) which the authority are required to follow by virtue of any enactment; or
- (b) 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<sup>(7)</sup>.

(13) In these Regulations references to CERA are references to capital expenditure which an authority expect to charge to a revenue account of the authority as defined in section 41(2) of the Local Government and Housing Act 1989<sup>(8)</sup>.

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(5) The National Council for Education and Training for Wales was established under section 30 of the 2000 Act.

(6) S.I. 1997/319, as amended by S.I. 1998/371 and 1999/1852.

(7) These are the proper practices as referred to in section 66(4) of the Local Government and Housing Act 1989 (c. 42) and, at the date that these Regulations are made, they include the Code of Practice on Local Authority Accounting in Great Britain 2002, as updated (ISBN 0 85299 947 X).

(8) 1989 c. 42.

(14) In these Regulations, references to excepted expenditure are references to the following classes or descriptions of expenditure —

- (a) Capital expenditure other than CERA;
- (b) Expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984<sup>(9)</sup> (arrangements for patrolling school crossings); and
- (c) Expenditure incurred by the local education authority under section 51A of the 1998 Act<sup>(10)</sup> (expenditure incurred for community purposes).

### **Revocation**

**3.—**(1) Regulations 2, 3 and 5 of, and Schedule 2 to, the Financing of Maintained Schools Regulations 1999<sup>(11)</sup> are (to the extent to which they would have remained in force by virtue of the Interpretation Act 1978<sup>(12)</sup>) revoked on 1st April 2004.

(2) But those regulations and that Schedule shall continue to apply for the purpose of the financing of maintained schools in any financial year ending before 1st April 2004.

### **Schools budget**

**4.—**(1) The classes or descriptions of local education authority expenditure specified in paragraph (2) 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.

(2) The classes or descriptions of local education authority expenditure are —

- (a) expenditure on the provision and maintenance of maintained schools and maintained nursery schools and on the education of pupils registered at those schools;
- (b) expenditure on the education of pupils at independent schools, non-maintained special schools<sup>(13)</sup>, pupil referral units<sup>(14)</sup>, at home and 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; and
- (c) 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) or (b),

but only in so far as such expenditure —

- (a) does not fall within a class or description of expenditure prescribed by regulation 5 for the purposes of section 45A(1) of the 1998 Act and the determination of a local education authority's LEA budget, and
- (b) is not excepted expenditure.

### **LEA Budget**

**5.—**(1) 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, except in so far as such expenditure is excepted expenditure or falls within paragraph (2).

(2) Expenditure falls within this paragraph if it is expenditure which —

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<sup>(9)</sup> 1984 c. 27, amended by the Local Government Act 1985 (c. 51), Schedule 5, paragraph 4(10).

<sup>(10)</sup> Inserted by section 40 of, and paragraph 4 of Schedule 3 to, the 2002 Act.

<sup>(11)</sup> S.I. 1999/101.

<sup>(12)</sup> 1978 c. 30.

<sup>(13)</sup> Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act.

<sup>(14)</sup> Pupil referral units are established under section 19 of the 1996 Act.

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- (a) by virtue of the authority's scheme (within the meaning of section 48(5) of the 1998 Act) or any enactment, falls to be met from a school's budget share; or
- (b) falls within sub-paragraph (b) of paragraph 1 of Schedule 2.

### **Individual schools budget**

**6.** A local education authority may deduct from their schools budget any or all of the classes or descriptions of planned expenditure set out in Schedule 2, in whole or in part, in order to arrive at their individual schools budget for the financial year.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(15).

2nd December 2003

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

## SCHEDULE 1

regulation 5

### 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.

#### Provision of a specialised nature

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(16) 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(17).
7. Expenditure on carrying out the authority's functions under the Children Act 1989(18) and under section 175(19) 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(20).
9. Expenditure in providing special medical support for individual pupils in so far as such expenditure is not met by a National Health Service Trust(21) or Local Health Board(22) or the National Assembly.

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(16) 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.

(17) 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.

(18) 1989 c. 41.

(19) Section 175 will be brought into force on a day to be appointed.

(20) 1999 c. 81.

(21) National Health Service Trusts are defined in section 5 of the National Health Service and Community Care Act 1990 c. 19.

(22) 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).

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## 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;
- (b) expenditure incurred in connection with the exercise of their functions under section 197 of the 2002 Act;
- (c) 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);
- (d) expenditure incurred in connection with the exercise of their functions under section 14 to 17 of the 1998 Act (powers of intervention, of appointment of additional governors and of suspension of delegated budgets in schools causing concern); and
- (e) expenditure on the appointment and remuneration of interim executive members under section 16A of the 1998 Act<sup>(23)</sup>.

## 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 or section 113A of, and Schedule 7A to, the 2000 Act<sup>(24)</sup>;
- (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) administering the system for admissions of pupils to schools (including admissions appeals and carrying out consultations under section 89(2) of the 1998 Act);
- (e) expenditure incurred in connection with the authority's functions under section 85A of the 1998 Act<sup>(25)</sup> (which provides for the establishment, and maintenance of admission forums);
- (f) the authority's functions under section 509 and 509AA to 509AC<sup>(26)</sup> of the 1996 Act (home-to-school and home-to-college transport);
- (g) 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)<sup>(27)</sup> of the 1996 Act.

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

<sup>(23)</sup> Section 16A is to be inserted by section 57 of the 2002 Act on a day to be appointed.

<sup>(24)</sup> Section 113A and Schedule 7A are to be inserted by section 72 of, and Schedule 9 to, the 2002 Act on a day to be appointed.

<sup>(25)</sup> Section 85A of the 1998 Act is to be inserted by section 46 of the 2002 Act on a day to be appointed.

<sup>(26)</sup> Sections 509AA, 509AB and 509AC were inserted by section 199 of and Schedule 19 to the 2002 Act.

<sup>(27)</sup> Section 518 was substituted by section 129 of the 1998 Act.

13. Expenditure on the provision of support for students under section 1(1) of the Education Act 1962~~(28)~~ and under section 22 of the Teaching and Higher Education Act 1998~~(29)~~.

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)~~(30)~~ of the 1996 Act.

16. Expenditure on the payment to persons over compulsory school age of allowances in connection with education or training prescribed pursuant to regulations made under section 181(1) of the 2002 Act.

### **Further education and training for young persons and adults**

17. Expenditure on the provision of education and training and of organised leisure time occupation and other provision under section 15A and 15B of the 1996 Act~~(31)~~.

18. 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 123 of the 2000 Act to encourage and enable the participation by young people in education and training.

### **Strategic management**

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

- (a) the Chief Education Officer and his or her personal staff;
- (b) planning for the education service as a whole including responding to policy statements and consultation papers;
- (c) functions of the authority under Part I of the Local Government Act 1999~~(32)~~ (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; the external audit of grant claims and returns relating to education and functions of the authority under section 44 of the 2002 Act~~(33)~~;
- (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 related financial administration;

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~~(28)~~ 1962 c. 12.

~~(29)~~ 1998 c. 30.

~~(30)~~ Section 518 was substituted by section 129 of the 1998 Act.

~~(31)~~ Section 15A was inserted by section 140(1) and paragraph 63 of Schedule 30 to the 1998 Act, and section 15B by section 149 and paragraphs 1 and 55 of Schedule 9 to the 2000 Act.

~~(32)~~ 1999 c. 27.

~~(33)~~ Section 44 will be brought into force on a day to be appointed.

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- (g) the authority's functions under section 28 of the 2002 Act (provision of community facilities by governing bodies);
- (h) tasks necessary for the discharge of the authority's chief finance officer's responsibilities under section 151 of the Local Government Act 1972<sup>(34)</sup>;
- (i) 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 this Schedule;
- (j) 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;
- (k) functions of the authority in relation to superannuation, including the administration of teachers' pensions, other than functions which have been delegated to the governing bodies of schools;
- (l) 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;
- (m) 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;
- (n) determination of conditions of service for non-teaching staff and advice to schools on the grading of such staff;
- (o) the authority's functions relating to the appointment or dismissal of employees;
- (p) 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;
- (q) compliance with the authority's duties under the Health and Safety at Work etc. Act 1974<sup>(35)</sup> 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;
- (r) the investigation and resolution of complaints including action taken to assist a governing body in handling a complaint;
- (s) legal services relating to the statutory functions of the authority;
- (t) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies;
- (u) 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<sup>(36)</sup> and the provision of (but not the expenditure authorised by) an early years development and childcare partnership under section 119 of the 1998 Act<sup>(37)</sup>;

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<sup>(34)</sup> 1972 c. 70.

<sup>(35)</sup> 1974 c. 37.

<sup>(36)</sup> Sections 120 and 121 were amended by section 150 of the 2002 Act.

<sup>(37)</sup> Section 119 was amended by section 150 of the 2002 Act.



- (v) provision of information to or at the request of the National Assembly, a government department or any body exercising functions on behalf of the Crown and the provision of other information which the authority are under a duty to make available;
- (w) the authority's duties under Article 4(2) and (5) of the Race Relations Act 1976 (Statutory Duties) Order 2001(38);
- (x) the remittance of fees payable to the General Teaching Council for Wales by virtue of sections 4(4) and 9(1) of the Teaching and Higher Education Act 1998 and the provision of information required by the Council pursuant to regulations(39) made under section 12 of that Act;
- (y) expenditure incurred in connection with the authority's functions pursuant to regulations made under section 12 of the 2002 Act (supervising by authorities of companies formed by governing bodies); and
- (z) expenditure incurred in connection with the authority's functions under the Disability Discrimination Act 1995(40) 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.

20. Expenditure on establishing and maintaining electronic computer systems, including data storage, in so far as they link, or facilitate the linkage of, the authority to schools which they maintain, such schools to each other or such schools to other persons or institutions.

21. Expenditure on monitoring National Curriculum assessment arrangements required by orders made under section 356 of the 1996 Act and under section 108 of the 2002 Act(41).

22. 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.

23. 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.

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

25. 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(42).

26. 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.

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

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(38) S.I. 2001/3458.

(39) The regulations currently in force under this provision are the General Teaching Council for Wales (Fees) Regulations 2002 (S.I. 2002/326 (W.39)).

(40) 1995 c. 50.

(41) At the time these Regulations are made the relevant Orders are the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 1) (Wales) Order 2002 (S.I. 2002/45); the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 2) (Wales) Order 1997 (S.I. 1997/2009 as amended by S.I. 1998/1977) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (Wales) Order 1997 (S.I. 1997/2010) as amended by S.I. 2001/1889 (W.40).

(42) The regulations currently in force under this provision are the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003 (S.I. 2003/543 (W.77)).

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**28.** Expenditure incurred in connection with the authority's functions under section 47A(43) of the 1998 Act (the establishment and maintenance of, and consultation with, schools forums).

## SCHEDULE 2

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

- (a) (a) 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.
- (b) Any amount which the authority is obliged to make available as a condition of grant paid under section 14 of the 2002 Act or under section 484 of the 1998 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.

#### Provision of a specialised nature

**2.** Subject to paragraphs 3 and 4, 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.

**3.** Where a pupil falls within paragraph 2(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 occupying the places at the primary or secondary school in question, the amount by which the expenditure incurred in making the provision specified in his or her statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

**4.** Expenditure in making the provision specified in a pupil's statement of special educational needs where the pupil falls within paragraph 2(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.

**5.** 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(44) 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).

**6.** Expenditure for purposes connected with the encouragement of —

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

(44) The Special Educational Needs Code of Practice for Wales (ISBN 0 7504 2757 4).

- (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).

7. 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.

8. 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<sup>(45)</sup> and on other activities for the purpose of avoiding the exclusion of pupils from schools.

9. 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.

10. Expenditure on payments to another local education authority pursuant to section 493 or 494 of the 1996 Act<sup>(46)</sup> or section 207 of the 2002 Act<sup>(47)</sup> (recoupment between local education authorities).

11. Expenditure on the provision of tuition in musical instruments or choral instruction (either to individuals or groups).

12. Expenditure on supporting travelling theatres so far as such expenditure is not covered by specific grants.

13. Expenditure in connection with the provision of Welsh language teaching by teachers who are employed to work otherwise than at a single school so far as such expenditure is not covered by specific grants.

14. Expenditure on the provision to schools of premises and facilities for sporting activities and outdoor activities (including premises provided on the site of a school for the benefit of the community at large).

15. Expenditure pursuant to section 512, 512ZA, 512ZB or 513 of the 1996 Act<sup>(48)</sup> which in relation to secondary schools relates to the provision of milk and in relation to any other school relates to the provision of milk or meals and other refreshment.

16. 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 15.

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

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<sup>(45)</sup> 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.

<sup>(46)</sup> Section 493 is to be amended by section 208(1) of the 2002 Act on a day to be appointed.

<sup>(47)</sup> Section 207 is to be brought into force on a day to be appointed.

<sup>(48)</sup> Section 512 was substituted and sections 512ZA and 512ZB inserted by section 201 of the 2002 Act.

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**18.** 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**

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

**20.** 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**(49)**;
- (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**(50)**;
- (d) undertaking jury service;
- (e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977**(51)**;
- (f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996**(52)**;
- (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**(53)**;
- (h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;
- (i) undertaking duties as members of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996**(54)**;
- (j) suspended from working at a school;
- (k) who are members of the General Teaching Council for Wales 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.

**21.** 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.

**22.** 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.

**23.** 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.

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**(49)** 1992 c. 52.

**(50)** 1996 c. 18.

**(51)** S.I. 1977/500, amended by S.I. 1996/1513 and 1999/860.

**(52)** S.I. 1996/1513.

**(53)** S.I. 1981/1794; regulation 11A was inserted by S.I. 1995/2587 and amended by S.I. 1999/1925.

**(54)** 1996 c. 14.

## **Other expenditure**

**24.** Expenditure in connection with the provision of nursery education except where such provision is made at a maintained school or a maintained nursery school which has a budget share under section 45(1A) of the 1998 Act<sup>(55)</sup>.

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

**26.** Expenditure on licence fees or subscriptions paid on behalf of schools provided that the expenditure does not amount in total to more than 0.2 per cent of the authority's schools budget.

**27.** Expenditure incurred in responding to a report of an inspection under section 10 of the School Inspections Act 1996<sup>(56)</sup>.

**28.** Expenditure on library services and museum services for schools.

**29.** 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 unavailability,

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

**30.** Expenditure on increases to a school's budget share to which the school is entitled by virtue of the authority's formula or the re-determination of budget shares under the authority of the National Assembly or expenditure on the correction of errors.

**31.** 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.

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

**33.** Expenditure incurred pursuant to paragraph 7 of Schedule 11 to the 1998 Act or section 22 of the Education Act 2002<sup>(57)</sup> in the training of governors to enable the effective discharge of their functions in so far as this is not provided by specific grants.

**34.** Expenditure incurred in relation to the training of clerks to the governing bodies to enable the effective discharge of their functions.

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<sup>(55)</sup> Section 45(1A) is to be brought into force on a day to be appointed.

<sup>(56)</sup> 1996 c. 57.

<sup>(57)</sup> Section 22 is to be brought into force on a day to be appointed.

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

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## EXPLANATORY NOTE

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

Before the new provisions contained in the Education Act 2002 came into force local education authorities were required to allocate expenditure to 2 budgets — (section 46 of the School Standards and Framework Act 1998):

- local schools budget (LSB)
- individual schools budget (ISB)

Part 2 of and Schedule 2 to the Financing of Maintained Schools Regulations 1999 (the 1999 Regulations) defines the LSB and the ISB.

Section 45A of the 1998 Act as inserted by section 41(1) of the Education Act 2002 (which replaces the old section 46 which is revoked by the 2002 Act) now requires local education authorities to allocate expenditure to 3 budgets:

- LEA budget
- Schools budget
- Individual schools budget

The make up of the new LEA, schools budget and individual schools budget categories is specified in these regulations and replaces Part II of and Schedule 2 to the 1999 Regulations.

These Regulations prescribe the expenditure which makes up a local education authority's LEA budget and schools budget for financial years beginning on and after 1st April 2004.

The classes or descriptions of planned expenditure which comprise the LEA budget are described in regulation 5 and in Schedule 1. The schools budget is described in regulation 4.

Schedule 2 specifies the nature of the planned expenditure which a local education authority may deduct from their schools budget in a financial year in order to arrive at their individual schools budget for that financial year. An authority's individual schools budget is the amount which is divided between the schools which they maintain in the form of budget shares for each school.

Regulation 3 revokes the relevant parts of the 1999 Regulations.