STATUTORY INSTRUMENTS

2015 No. 2033

EDUCATION, ENGLAND

The School and Early Years Finance (England) Regulations 2015

Made - - - -	*9th December 2015*
Laid before Parliament	*16th December 2015*
Coming into force - -	*7th January 2016*

The Secretary of State for Education makes the following Regulations in exercise of powers conferred by sections 45A(**1**), 45AA(**2**), 47(**3**), 47ZA(**4**), 47A(4B) and (5)(**5**), 48(1) and (2)(**6**), 49(2) and (2A)(**7**), 138(7) of, and paragraph 2B(**8**) of Schedule 14 to, the School Standards and Framework Act 1998(**9**) and section 24(3) of the Education Act 2002(**10**).

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School and Early Years Finance (England) Regulations 2015 and come into force on 7th January 2016.

(2) These Regulations apply in relation to the financial year beginning on 1st April 2016.

(**1**) 1998 c.31. Section 45A was inserted by section 41(1) of the Education Act 2002 (c.32) ("the 2002 Act") and amended by section 101 of, and paragraph 3 of Schedule 16 to, the Education Act 2005 (c. 18) ("the 2005 Act").
(**2**) Section 45AA was inserted by section 101 of, and paragraph 4 of Schedule 16 to, the 2005 Act.
(**3**) Section 47 was amended by section 101 of, and paragraph 6 of Schedule 16 to, the 2005 Act.
(**4**) Section 47ZA was inserted by section 202 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) ("the 2009 Act").
(**5**) Section 47A was inserted by section 43 of the 2002 Act and amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2002 Act; section 57 of, and paragraph 2 of Schedule 5 to, the Education and Inspections Act2006 (c.40) ("the 2006 Act"); section 165 of the Education and Skills Act 2008 (c.25); and section 194 of the 2009 Act.
(**6**) Section 48 was amended by section 40 of, and paragraph 2 of Schedule 3 to, the 2002 Act; section 117 of, and paragraph 7 of Schedule 18 to, the 2005 Act; and section 57 of, and paragraph 3 of Schedule 5 to, the 2006 Act.
(**7**) Subsections (2) and (2A) were substituted for subsections (2) and (3), as originally enacted, by section 57 of, and paragraph 4 of Schedule 5 to, the 2006 Act.
(**8**) Paragraph 2B of Schedule 14 was substituted for paragraph 2, as originally enacted, by section 57 of, and paragraph 5 of Schedule 5 to, the 2006 Act.
(**9**) 1998 c.31. For the meaning of "prescribed" and "regulations", see section 142(1) of the 1998 Act.
(**10**) For the meaning of "prescribed" and "regulations", see section 212(1) of the 2002 Act.

(3) These Regulations apply in relation to England.

(4) In these Regulations—

"1989 Act" means the Children Act 1989(**11**);

"1996 Act" means the Education Act 1996(**12**);

"1998 Act" means the School Standards and Framework Act 1998;

"2002 Act" means the Education Act 2002;

"2003 Act" means the Local Government Act 2003(**13**);

"2005 Act" means the Education Act 2005(**14**);

"2006 Act" means the Education and Inspections Act 2006(**15**);

"2010 Act" means the Academies Act 2010(**16**);

"2014 Act" means the Children and Families Act 2014(**17**);

"2014 Regulations" means the School and Early Years Finance (England) Regulations 2014(**18**);

"2008 Document" means the document entitled "Statutory Framework for the Early Years Foundation Stage" published by the Secretary of State on 19th May 2008(**19**);

"2012 Document" means the document entitled "Statutory Framework for the Early Years Foundation Stage" published by the Secretary of State on 27th March 2012(**20**);

"2014 Document" means the document entitled "Statutory Framework for the Early Years Foundation Stage" published by the Secretary of State on 31st March 2014(**21**);

"2014 ARA" means the document entitled "2014 Key Stage 2 Assessment and Reporting Arrangements"(**22**) containing provisions made under Article 11 of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(**23**), made under section 87(3) of the 2002 Act;

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

"all-through schools" means those primary or secondary schools known by this title where pupils may join the school at an age of between three and five years and remain at the school until the age of between 16 and 19 years;

(**11**) 1989 c.41.
(**12**) 1996 c.56.
(**13**) 2003 c.26 .
(**14**) 2005 c.18.
(**15**) 2006 c.40.
(**16**) 2010 c.32 as amended by section 53(7) of the Education Act 2011 (c.21).
(**17**) 2014 c.6.
(**18**) S.I. 2014/3352.
(**19**) Available at: http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00261-2008. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.
(**20**) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271631/eyfs_statutory_framework_march_2012.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.
(**21**) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335504/EYFS_framework_from_1_September_2014__with_clarification_note.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.
(**22**) Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278150/2014_KS2_assessmentandreportingarrangementsARA_DIGITAL_HO.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.
(**23**) S.I. 2003/1038, amended by S.I. 2009/1585, 2010/290, 2011/2392, 2013/1513; there are other amending instruments but none is relevant.

"capital expenditure" means expenditure of a local authority which falls to be capitalised in accordance with proper accounting practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the 2003 Act(**24**);

"central expenditure" means, in respect of the funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 or, in respect of the previous funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 of the 2014 Regulations;

"CERA" means capital expenditure which a local authority expects to charge to its revenue account within the meaning of section 22 of the 2003 Act;

"community early years provision" means prescribed early years provision provided by the governing body of a maintained school under section 27(1) of the 2002 Act to children other than pupils at the school, where the local authority has chosen to fund such provision;

"the Early Years Foundation Stage Profile" has the meaning given in section 2 of the 2008 Document, the 2012 Document or the 2014 Document, as the context specifies more particularly;

"early years provision" has the meaning given in section 20 of the Childcare Act 2006(**25**);

"early years pupil premium" means funding supplied by the Department for Education for the purpose of early years provision to children who meet the criteria in regulation 16(11);

"EHC plan" has the meaning given in section 37(2) of the 2014 Act;

"eligibility for free school meals" means eligibility for free lunches under section 512ZB of the 1996 Act(**26**);

"excluded early years provision" means early years provision provided by a provider—

(i) which is an independent school (other than an Academy) which does not meet the standards prescribed under section 94 of the Education and Skills Act 2008(**27**) in relation to the spiritual, moral, social and cultural development of pupils at the school; or

(ii) which the local authority has reasonable grounds to believe—

(aa) does not actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or

(bb) promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations;

"exempt early years provider" means a provider of exempt early years provision;

"exempt early years provision" means early years provision which is not included in prescribed early years provision for the purposes of section 7(1) of the 2006 Act by virtue of regulation 2(2) of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014(**28**);

"expenditure on the schools specific contingency" is central expenditure deducted for the purpose of ensuring that monies are available to enable an increase in a school's budget share after it has been allocated and where it subsequently becomes apparent that a governing body

(**24**) Regulations made under this section in relation to England are the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146). Relevant amendments to those regulations are made by S.I. 2004/534, 2004/3055 and 2007/573.

(**25**) 2006 c.21.

(**26**) Section 512ZB was inserted by section 201(1) of the 2002 Act and amended by section 28 of, and paragraph 16(3) of Schedule 3 to, the Welfare Reform Act 2007 (c.5), section 26(1)(a) to (e) of the Child Poverty Act 2010 (c. 9) and section 31, and paragraph 39(a) and (b) of Schedule 2 to, the Welfare Reform Act 2012 (c.5).

(**27**) 2008 c.25.

(**28**) S.I. 2014/2147.

has incurred expenditure which it would be unreasonable to expect it to meet from the school's budget share, which may include expenditure in relation to—

(i) schools in financial difficulty;

(ii) the writing off of deficits of schools which are discontinued, excluding any associated costs and overheads;

(iii) new, amalgamating or closing schools; or

(iv) circumstances which were unforeseen when the school's budget share was initially determined;

"funding period" means the financial year beginning on 1st April 2016;

"home school" means, in respect of a pupil, a school which is the shortest distance in a straight line from the pupil's home and which admits pupils of the pupil's age and sex, other than—

(i) a selective school;

(ii) a special school; or

(iii) an independent school which is not an Academy;

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

"IDACI" means the Income Deprivation Affecting Children Index referred to in the document named "English Indices of Deprivation 2010" published by the Department for Communities and Local Government(**29**);

"IDACI score" means the score allocated to a child under IDACI;

"key stage" means the key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 84, 85 and 85A of the 2002 Act(**30**) and "key stage 1", "key stage 2", "key stage 3" and "key stage 4" mean, respectively, the first, second, third and fourth key stages referred to in those sections;

"learning difficulty assessment" has the meaning given in section 13(5) of the 1996 Act(**31**), and a reference to a person being subject to learning difficulty assessment has the meaning given in section 13(4) of the 1996 Act(**32**);

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

"middle school single sum formula" is

$$A\times(B/C)+D\times(E/C)$$

where—

(i) *A* is the amount allocated per school by the authority under paragraph 1(a) of Schedule 3 (primary single sum);

(ii) *B* is the number of primary-age year groups in the school;

(iii) *C* is the number of year groups in the school;

(**29**) Available at: www.gov.uk/government/publications/english-indices-of-deprivation-2010. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.
(**30**) Sections 85 and 85A were substituted for section 85, as originally enacted, by section 74(1) of the 2006 Act.
(**31**) Subsection (5) of section 13 was inserted by section 59 of, and paragraphs 1 and 2 of Schedule 2 to, the 2009 Act.
(**32**) Subsection (4) of section 13 was inserted by section 59 of, and paragraphs 1 and 2 of Schedule 2 to, the 2009 Act.

(iv) *D* is the amount allocated per school by the authority under paragraph 2(a) of Schedule 3 (secondary single sum); and

(v) *E* is the number of secondary-age year groups in the school;

"non-domestic rate" has the meaning given in section 54 of the Local Government Finance Act 1988(**33**);

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

"previous funding period" means the financial year beginning on 1st April 2015 and "previous funding periods" means such funding periods as the context specifies more particularly;

"proper accounting practices" means those accounting practices which a local authority is required to follow by virtue of any enactment, or which, so far as they are consistent with any such enactment, are generally regarded (whether by reference to any generally recognised published code or otherwise) as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned(**34**);

"provider", in relation to prescribed early years provision, includes a governing body of a maintained school or a relevant early years provider;

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

"pupil premium" means the amount allocated by a local authority from the pupil premium grant to a school under the terms and conditions of the grant;

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

"relevant early learning goals" means the early learning goals in the prime areas in section 1 of the 2014 Document (or, as the case may be, the 2012 Document) and also the early learning goals of reading; writing; numbers; and shape, space and measures in section 1 of that document;

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

"relevant early years provision" means prescribed early years provision provided by a relevant early years provider;

"school census" means the record of individual pupil information supplied by local authorities to the Secretary of State under section 537A of the 1996 Act(**35**);

"second closest school" means, in respect of a pupil, the school which is the second shortest distance in a straight line from the pupil's home and which admits pupils of the pupil's age and sex, other than—

(i) a selective school;

(ii) a special school; or

(iii) an independent school which is not an Academy;

"selective school" means a school where all the pupils in the school are selected by ability or by aptitude;

(**33**) 1988 c.41.

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

(**35**) Section 537A was inserted by section 140(1) of, and paragraph 153 of Schedule 30 to, the 1998 Act.