WELSH STATUTORY INSTRUMENTS

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(**1**) and now vested in the National Assembly for Wales(**2**), 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(**3**);

"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(**4**);

"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.

(**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(**5**) 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(**6**).

(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(**7**).

(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(**8**).

(**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(**9**) (arrangements for patrolling school crossings); and

(c) Expenditure incurred by the local education authority under section 51A of the 1998 Act(**10**) (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(**11**) are (to the extent to which they would have remained in force by virtue of the Interpretation Act 1978(**12**)) 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(**13**), pupil referral units(**14**), 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 —

(**9**) 1984 c. 27, amended by the Local Government Act 1985 (c. 51), Schedule 5, paragraph 4(10).
(**10**) Inserted by section 40 of, and paragraph 4 of Schedule 3 to, the 2002 Act.
(**11**) S.I. 1999/101.
(**12**) 1978 c. 30.
(**13**) Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act.
(**14**) Pupil referral units are established under section 19 of the 1996 Act.

(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**).

D. Elis-Thomas
2nd December 2003 The Presiding Officer of the National Assembly

(**15**) 1998 c. 38.

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.

(**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).