Draft Order laid before Parliament under section 4(2) of the Regulatory Reform Act 2001 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

EDUCATION, ENGLAND
REGULATORY REFORM, ENGLAND

The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002

Made - - - -	*2002*
Coming into force - -	*2002*

Whereas:

(a) the Secretary of State for Education and Skills ("the Secretary of State") is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;

(b) this Order creates burdens affecting persons in the carrying on of certain activities, and the Secretary of State is of the opinion that the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burdens being created, and that the extent to which this Order removes or reduces burdens or has other beneficial effects for persons affected by the burdens imposed by the existing law makes it desirable for this Order to be made;

(c) the Secretary of State has consulted such organisations as appear to the Secretary of State to be representative of interests substantially affected by the proposals for this Order or of statutory bodies whose functions relate to the proposals and such other persons as the Secretary of State considers appropriate;

(d) it appears to the Secretary of State that it is appropriate, following that consultation, to proceed with the making of this Order;

(e) a document setting out the Secretary of State's proposals has been laid before Parliament as required by section 6 of the Regulatory Reform Act 2001(**1**) and the period for Parliamentary consideration under section 8 of the 2001 Act has expired;

(f) the Secretary of State has had regard to the representations made during that period;

(g) a draft of this Order has been laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State's proposals in the light of them; and

(**1**) 2001 c. 6.

(h) a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Education and Skills, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order:

Citation, commencement, and interpretation

1.—(1) This Order may be cited as the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 and shall come into force on 1st April following the date on which this Order is made.

(2) In this Order:

"the 1998 Act" means the School Standards and Framework Act 1998(**2**);

"the 2001 Act" means the Regulatory Reform Act 2001;

"the commencement date" means the date on which this Order comes into force.

Application

2. This Order applies only in relation to England.

Amendment to Section 22 of the 1998 Act

3. In section 22(5)(a) of the 1998 Act for "expenses that by virtue of paragraph 3 of Schedule 3 are payable" there shall be substituted "expenditure that by virtue of paragraph 3 of Schedule 3 is to be met".

Amendment to Section 49(6)(b) of the 1998 Act

4. In section 49(6)(b) of the 1998 Act for "expenses payable by the governing body under paragraph 3(1) or (2) of Schedule 3" there shall be substituted "expenditure payable by the governing body under paragraph 3(1) of Schedule 3".

New paragraph 3 of Schedule 3 to the 1998 Act

5. For Paragraph 3 of Schedule 3 to the 1998 Act there shall be substituted the following paragraph—

"**3.**—(1) In the case of a voluntary aided school, the governing body of the school are responsible for meeting all capital expenditure in relation to the school premises subject to sub-paragraph (2) below.

(2) The duty in sub-paragraph (1) does not extend—

(a) to capital expenditure in relation to playing fields or any building or other structure erected thereon in connection with the use of playing fields, but does extend to capital expenditure in relation to boundary walls and fences;

(b) to capital expenditure necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school;

(**2**) 1998 c. 31.

(c) to capital expenditure on the provision of any new site which the local education authority is to provide by virtue of paragraph 4 of this Schedule.

(3) For the purposes of this Schedule "capital expenditure" has the meaning given by Article 13 of The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002, as it has effect from time to time.".

Additional Amendments to Schedule 3 to the 1998 Act

6. In paragraph 4(7) of Schedule 3 to the 1998 Act for "school buildings" there shall be substituted "school premises".

7. In paragraph 5 of that Schedule—

(a) in sub-paragraph (1)(a) and (b) for "qualifying expenditure incurred" there shall be substituted "capital expenditure incurred or to be incurred";

(b) sub-paragraph (2) shall be omitted;

(c) for sub-paragraph (3)(a) there shall be substituted—

"(a) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, and";

(d) for sub-paragraph (5) there shall be substituted—

"(5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this paragraph to make grants in respect of expenditure on school premises, give priority to paying grants in respect of expenditure which is necessary to make such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542 of the Education Act 1996(**3**) or as may be required for the purpose of securing that the school premises conform to standards specified by or under any other enactment relating to health and safety; and the amount of any grant paid in the exercise of that power in respect of such expenditure on school premises shall be at least 90 per cent of the expenditure.";

(e) in sub-paragraph (12) the definition of "repair" shall be omitted.

8. In paragraph 6 of that Schedule—

(a) in sub-paragraph (1) after "incurred" in each place where it occurs there shall be inserted "or to be incurred";

(b) in sub-paragraph (2) after "incurred" there shall be inserted "or to be incurred";

(c) in sub-paragraph (2) for "school buildings" there shall be substituted "used for the purposes of the school";

(d) in sub-paragraph (4)(a) for "school buildings" there shall be substituted "used for the purposes of the school";

(e) for sub-paragraph (5) there shall be substituted—

"(5) A grant under sub-paragraph (1) or (2) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, in respect of which it is paid.".

9. In the cross-heading preceding paragraph 7 of that Schedule, for "expenses" there shall be substituted "expenditure".

(**3**) 1996 c. 56.

10. In paragraph 7 of that Schedule—

(a) in sub-paragraph (1)(a) for "initial expenses" there shall be substituted "initial expenditure";

(b) in sub-paragraph (1)(b) for "expenditure" there shall be substituted "capital expenditure";

(c) in sub-paragraph (3) for ""initial expenses" are expenses" there shall be substituted ""initial expenditure" is expenditure", and for "expenses" there shall be substituted "expenditure";

(d) in sub-paragraph (3)(a) and (b) the word "school" shall be omitted in the first place where it occurs;

(e) in sub-paragraph (4)—

(i) for "initial expenses" there shall be substituted "initial expenditure"; and

(ii) for "expenses" there shall be substituted "expenditure";

(f) in sub-paragraph (5) for "expenses" there shall be substituted "expenditure" in each place where it occurs.

Amendments to Schedule 6 to the 1998 Act

11. In paragraph 14 of Schedule 6 to the 1998 Act—

(a) in sub-paragraphs (2) and (3) for "relevant premises" there shall be substituted "playing fields";

(b) sub-paragraph (4) shall be omitted;

(c) in sub-paragraph (5) for "such premises" there shall be substituted "such playing fields"; and

(d) in sub-paragraph (5)(b) for "those premises" there shall be substituted "those playing fields —".

Amendments to Schedule 22 to the 1998 Act

12. After paragraph 10 of Schedule 22 to the 1998 Act there shall be inserted—

"PART IV

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE LOCAL EDUCATION AUTHORITY

11.—(1) In this paragraph—

(a) "capital expenditure" has the meaning given by Article 13 of the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002, as it has effect from time to time;

(b) "commencement date" means the date on which that Order comes into force;

(c) "relevant body" means—

(i) the governing body of a voluntary aided school; or

(ii) if the school has been discontinued and the governing body dissolved, the trustees;

(d) "relevant land" means—

(i) any caretaker's dwelling; or