

NATIONAL ASSEMBLY FOR WALES**LEGISLATION COMMITTEE REPORT****The Education (Education Standards Grants) (Wales) Regulations 2000****Background**

Section 484 of the Education Act 1996 empowers the Assembly to pay grants to local education authorities in respect of expenditure of a class or description specified in regulations made by the Assembly. Such expenditure has to be expenditure for or in connection with educational purposes and to appear to the Assembly to be expenditure that local education authorities should be encouraged to incur.

There is, in section 484 and also in section 489, further provision as to the matters which may be provided for in the regulations.

The present regulations accordingly provide for the manner in which grants under section 484 of the 1996 Act may be paid, and specify areas of expenditure in respect of which grant is to be payable.

Except to the extent indicated in the final paragraph of the explanatory note, these regulations are in the same form as those which they replace. The earlier regulations were, in their turn, in much the same form as preceding regulations which had been in force for some years.

Standing Order 11.5

No matters have been identified as issues to which the Committee would need to invite the Assembly to pay special attention.

General Observations

There are a number of small drafting points, and some points of explanation, which it may be helpful to identify.

Footnotes

To avoid difficulties with the word processor, these are presently at the end of the instrument. They will need to be allocated to their appropriate pages and put in dual column, in the printed version.

Definitions in Regulation 2(1)

"education strategic plan". This term has been used for "education development plan" because this is how education development plans are generally referred to in Wales.

"mentor". The word "pennaeth" has been used in the Welsh text instead of the more familiar "prifathro". This is to avoid the longer drafting which would result from the need to use the masculine and feminine forms "prifathro" and "prifathrawes".

"named person". This refers to persons named by the education authority after having regard to any criteria set out in a Code of Practice. Whilst a statutory instrument cannot incorporate a document in variable form (ie any incorporated document must be a specifically existing document), this is not an incorporation of a document but a requirement that a "named person" must be appointed in accordance with the statutory provisions relating to such appointments. Thus the present provision is quite in order.

"qualified teacher". It is to be noted that the regulations in force in Wales cover teachers qualified under the corresponding England regulations (paragraph 1(1)(c) of Schedule 3 to SI 1999 W.18).

Regulation 3

To note that this meets the requirement imposed by section 484(3).

Regulation 6(5)(b)

The reference to expenditure approved "for the purposes of section 484 of the 1996 Act" contrasts with regulation 3 which refers to such expenditure as approved "for the purposes of these Regulations". But this is because the wording in regulation 6(5)(b) is to go in the auditor's certificate.

Regulation 10

On the face of it this appears to confer a wide power to reclaim. It seems clear, however, that the Courts would regard this as a power which could only be exercised where there were valid reasons for requiring repayment.

Schedule

Some paragraphs contain the wording "support for". Given that the Schedule is listing activities which will be carried out by education authorities (for which the grants will provide support), such wording may not be entirely appropriate in all cases. See, for example, paragraphs 7(f) and 9. The activities in question seem to be activities carried out by the education authority direct, not activities carried out by the education authority as "support" activities.

M. GERMAN OBE AM

Chair, Legislation Committee

Ref: LAD 01-01-052

8th February 2000