Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER II

ADMISSION OF PUPILS TO COUNTY AND VOLUNTARY SCHOOLS

26 Admissions to county and voluntary schools

(1) The authority responsible for determining the arrangements for the admission of pupils to any county or voluntary school shall not fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which is less than the relevant standard number.

(2) Where any number fixed for the purposes of any such arrangements subsisting when subsection (1) above comes into force as the number of pupils in any such age group it is intended to admit to the school concerned in any school year is less than the relevant standard number, the arrangements shall have effect (subject to the following provisions of this section) as if the number so fixed were a number equal to the relevant standard number.

(3) Notwithstanding any provision of the articles of government of the school, but subject to section 33 of the 1986 Act (consultations about admissions between authorities concerned), the authority responsible for determining the arrangements for the admission of pupils to any such school may fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which exceeds the relevant standard number.

(4) A proposal may be made in accordance with the following provisions of this section for fixing as the number of pupils in any such age group it is intended to admit to any such school in any school year a number which exceeds both—

(a) the relevant standard number; and

(b) any number fixed or proposed to be fixed for that purpose by the authority responsible for determining the arrangements for admission of pupils to the school.

(5) The proposal may be made—

(a) where the authority responsible for determining those arrangements is the local education authority, by the governing body of the school; and

(b) where that authority is the governing body of the school, by the local education authority.

(6) Any such proposal—

(a) shall be made in writing;

(b) may relate to one or more relevant age groups; and

(c) may relate to a particular school year or to each school year falling within any period specified in the proposal.

(7) If the authority to whom such a proposal is made do not give the proposing authority notice in writing rejecting the proposal before the end of the period of two months beginning with the day next following that on which the proposal was received it shall be the duty of the former authority to give effect to the proposal in the admission arrangements.

(8) Where the authority to whom such a proposal is made give such notice before the end of that period, the proposing authority may within twenty-eight days of receiving that notice make an application to the Secretary of State for an order under section 27(5) of this Act increasing the relevant standard number.

(9) For the purposes of section 6(3)(a) of the 1980 Act (which excludes the duty to comply with a parent's preference as to the school at which education is to be provided for his child if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources), no such prejudice shall be taken to arise from the admission to a school in any school year of a number of pupils in any relevant age group which does not exceed—

(a) the relevant standard number; or

(b) the number fixed in accordance with this section as the number of pupils in that age group it is intended to admit to the school in that school year;

whichever is the greater.

(10) Any reference in this section to the relevant standard number is a reference, in relation to any school and in relation to any relevant age group and school year, to the standard number applying under section 27 of this Act to the school in relation to that year and age group.

27 Standard numbers for admissions

(1) Subject to subsections (3), (4) and (5) below, if pupils in any age group were admitted to any county or voluntary school in the school year immediately preceding the commencement year, the standard number applying to the school for that age group in the commencement year and any subsequent school year shall be—

(a) the appropriate pre-commencement number; or

(b) the number of pupils in that age group admitted in the school year immediately preceding the commencement year;

whichever is the greater.

(2) In this Chapter "the commencement year" means the school year beginning next after section 26(1) of this Act comes into force; and the reference in subsection (1)(a) above to the appropriate pre-commencement number is a reference—

(a) in the case of a secondary school, to the standard number applying to the school under section 15 of the 1980 Act in relation to the age group in question in the school year immediately preceding the commencement year; and

(b) in the case of a primary school, to the number applicable in relation to the school and in relation to the age group in question in accordance with section 29 of this Act.

(3) Subject to subsections (4) and (5) below, if proposals under section 12 or 13 of the 1980 Act (which impose certain requirements in relation to the establishment and alteration of schools) have fallen to be implemented in relation to any county or voluntary school, the number stated in the proposals in accordance with subsection (2) of section 12 (or that subsection as applied by section 13) for any school year and age group shall be the standard number applying to the school for that age group—

(a) in any school year to which this subsection applies in relation to which the proposals have been wholly implemented; and

(b) subject to any variation made by the Secretary of State, in any such school year in relation to which they have been partly implemented.

This subsection applies to the commencement year and any subsequent school year.

(4) The Secretary of State may by order applying to county or voluntary schools of any class or description vary any standard number that would otherwise apply by virtue of the preceding provisions of this section.

(5) Subject to subsections (6) and (7) below, the Secretary of State may by order vary any standard number that would otherwise apply to an individual school by virtue of the preceding provisions of this section or any order made under subsection (4) above.

(6) An order under subsection (5) above reducing a standard number may only be made on the application of the authority responsible for determining the arrangements for the admission of pupils to the school, and is subject to the procedure under section 28 of this Act.

(7) An order under subsection (5) above increasing a standard number may be made on the application of that authority or on an application made by any other authority in accordance with section 26(8) of this Act; and on any such application the Secretary of State may—

(a) refuse to make such an order;

(b) make an order increasing the standard number to the number proposed; or

(c) after consultation with both the local education authority and the governing body of the school, make an order increasing the standard number to such number (less than the number proposed) as he thinks desirable.

(8) The authority responsible for determining the arrangements for the admission of pupils to any such school shall keep under review any standard numbers applying under this section to the school, having regard to any change in the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year

to which those standard numbers first applied (whether in accordance with this section or section 15 of the 1980 Act).

(9) References in subsection (3) above to proposals under section 12 or 13 of the 1980 Act are references to the proposals with any modifications made by the Secretary of State under either of those sections; and any standard number applying under that subsection is without prejudice to the application under that subsection of a new standard number if further proposals fall to be implemented under those sections.

28 Procedure for reduction of standard number

(1) Where the authority responsible for determining the arrangements for the admission of pupils to any county or voluntary school intend to apply to the Secretary of State for an order under subsection (5) of section 27 of this Act reducing any standard number applying to the school under that section, they shall publish their proposals with respect to the reduction in such manner as may be required by regulations made by the Secretary of State and submit to him a copy of the published proposals together with their application.

(2) The published proposals shall be accompanied by a statement which explains the effect of—

(a) subsections (3) and (4) below, where the proposals are published by a local education authority; or

(b) subsection (5) below, where the proposals are published by the governing body of the school.

(3) In the case of proposals published by a local education authority, any of the following may, before the end of the period of two months beginning with the date of publication of the proposals, submit objections to the proposals to that authority—

(a) any ten or more local government electors for the area of that authority;

(b) the governing body of any school affected by the proposals; and

(c) any other local education authority concerned.

(4) A local education authority by whom any such proposals are published shall within one month after the end of the period allowed for objections under subsection (3) above transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) in that period, together with their observations on the objections.

(5) In the case of proposals made by the governing body of a school, any of the following may, before the end of the period of two months beginning with the date of publication of the proposals, submit objections to the proposals to the Secretary of State—

(a) any ten or more local government electors for the area of the local education authority by whom the school is maintained;

(b) the governing body of any school affected by the proposals; and

(c) any local education authority concerned.

(6) Subject to subsection (7) below, where an application is made to the Secretary of State under this section for an order reducing any standard number applying to a school for any age group in any year, the Secretary of State may—

(a) refuse to make such an order;

(b) make an order reducing the standard number to the number proposed; or

(c) after consultation with both the local education authority and the governing body of the school, make an order reducing the standard number to such number (greater than the number proposed) as he thinks desirable.

(7) The Secretary of State shall not make an order reducing any standard number applying to a school for any age group in any year unless he is satisfied that the reduction is necessary, having regard to any reduction in the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year to which the current standard number first applied in relation to that age group (whether in accordance with section 27 of this Act or section 15 of the 1980 Act).

(8) A local education authority shall not make an application under this section for an order reducing any standard number applying to a school without first consulting the governing body of the school; and the governing body of a school shall not make such an application without first consulting the local education authority.

29 Special provisions in relation to admissions to primary schools

(1) In the case of a primary school to which section 27(1) of this Act applies, the number applicable in relation to the school and in relation to any age group there mentioned is—

(a) if the 1980 standard number for that age group is a number determined under subsection (5) of section 15 of the 1980 Act by reference to the number of pupils in that age group admitted to the school in the school year beginning in 1979, the recalculated 1979 admission number;

(b) if the 1980 standard number for that age group is a number determined under subsection (6) of section 15 by reference to the number of pupils in that age group admitted to the school in any school year beginning after 1979 (and not varied by the Secretary of State under that subsection), the recalculated post-1979 admission number; and

(c) if the 1980 standard number for that age group is a number applicable by virtue of subsection (7) of section 15 (number stated in proposals under section 12 of that Act as proposed admission number) which has not been varied by the Secretary of State, the aggregate of the number so applicable and the additional admission number.

(2) In subsection (1)(a) above, "the recalculated 1979 admission number" means, in relation to any school and age group, the number of pupils admitted to the school in that age group in the school year beginning in 1979, determined in accordance with subsection (5) below.

(3) In subsection (1)(b) above, "the recalculated post-1979 admission number" means, in relation to any school and age group, the number of pupils admitted to the school in that age group in the school year by reference to which the 1980 standard number for that school and age group was determined, determined in accordance with subsection (5) below.

(4) In subsection (1)(c) above, "the additional admission number" means, in relation to any school and age group, the aggregate of—

(a) the number of pupils admitted to the school in that age group in the first school year in relation to which the proposals in question had been wholly implemented who—

(i) were admitted otherwise than for nursery education; and

(ii) had not attained the age of four years and six months on the date of their admission; and

(b) the number of pupils already admitted to the school for nursery education transferred in that year to a reception class at the school.

(5) For the purposes of—

(a) the application in relation to any school of subsection (2) or (3) above; and

(b) the aplication in relation to a primary school of any other provision of this Chapter (other than subsection (1) or (4) above) referring to the number of pupils admitted or intended to be admitted to a school in any school year;

children admitted to the school for nursery education shall be disregarded and children so admitted who are subsequently transferred to a reception class at the school shall be treated as admitted to the school on their transfer.

(6) Subsection (5) above applies also for the purpose of determining for the purposes of any provision of this Chapter what is a relevant age group in relation to a primary school.

(7) For the purposes of this section "the 1980 standard number" means, in relation to any school and age group, the standard number applying to the school under section 15 of the 1980 Act in relation to that age group in the school year immediately preceding the commencement year.

30 Special arrangements in respect of admissions to aided or special agreement schools

(1) Section 6 of the 1980 Act shall be amended as follows.

(2) In subsection (3)(b) (which excludes the duty to comply with a parent's preference for an aided or special agreement school if compliance with the preference would be incompatible with arrangements between the governors and the local education authority), for the words "in respect of the admission of pupils to the school" there shall be substituted the words "made under subsection (6) below".

(3) After subsection (5) there shall be inserted the following subsection—

"(6) A local education authority shall, if so requested by the governors of an aided or special agreement school maintained by the authority, make arrangements with the governors in respect of the admission of pupils to the school for preserving the character of the school; and the terms of any such arrangements shall, in default of agreement between the authority and the governors, be determined by the Secretary of State."

31 Consequential provisions

(1) Section 15 of the 1980 Act (which is superseded by the preceding provisions of this Chapter) shall cease to have effect, and in section 16 of that Act—

(a) in subsection (1), for "15" there shall be substituted "14";

(b) in subsection (3), for "sections 12 and 15" there shall be substituted "section 12"; and

(c) in subsection (3A) (inserted in that section by paragraph 81 of Schedule 12 to this Act), for "13 or 15" there shall be substituted "or 13".

(2) In section 8(3) of that Act (particulars of admission arrangements required to be published under that section)—

(a) for paragraph (a) there shall be substituted the following paragraph—

"(a) in the case of each school to which the arrangements relate, the admission number applicable in each school year in relation to the age group in which pupils are normally admitted or, if there is more than one such group, the admission number so applicable in relation to each such group;"; and

(b) at the end there shall be added the following—

"In paragraph (a) above, "admission number" means, in relation to any school year and age group, the standard number applying under section 27 of the Education Reform Act 1988 to the school in question in relation to that year and age group or the number fixed in accordance with section 26 of that Act as the number of pupils in that age group it is intended to admit to the school in that school year, whichever is the greater."

(3) In section 9 of that Act (provisions of sections 6, 7 and 8 of that Act, which relate to parental preferences and admission arrangements, excluded from applying in relation to nursery or special schools, etc.)—

(a) in subsection (1), at the beginning there shall be inserted the words "Subject to subsection (1A) below", and the words from "except" to the end shall be omitted; and

(b) after that subsection there shall be inserted the following subsection—

"(1A) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for the admission to the school of children who will not have attained the age of five years at the time of their proposed admission—

(a) those sections shall have effect in relation to the admission of such pupils to the school otherwise than for nursery education; and

(b) the transfer to a reception class at the school of children previously admitted to the school for nursery education shall be treated for the purposes of those sections as the admission of pupils to the school."

(4) In section 12 of that Act (establishment, discontinuance and alteration of schools by local education authorities)—

(a) in subsection (2) the words from "excluding" to the end shall be omitted; and

(b) after that subsection there shall be inserted the following subsection—

"(2A) For the purposes of subsection (2) above—

(a) pupils intended to be admitted to the school for nursery education shall be disregarded; and

(b) pupils already so admitted intended to be transferred to a reception class at the school shall be treated as intended to be admitted to the school on their transfer."

(5) In section 13 of that Act (establishment and alteration of voluntary schools)—

(a) for the words "Subsection (2)" there shall be substituted the words "Subsections (2) and (2A)";

(b) for the words "it applies" there shall be substituted the words "they apply"; and

(c) after the word "reference" there shall be inserted the words "in subsection (2)".

(6) In section 38 of that Act, after subsection (5) there shall be inserted the following subsection—

"(5A) For the purposes of this Act—

(a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and

(b) "reception class" means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under or over that age whom it is expedient to educate together with pupils of that age."

32 Interpretation of Chapter II

(1) For the purposes of this Chapter, a school's capacity to accommodate pupils is changed if—

(a) as a result of changes in the availability or use of accommodation at the school, there is any change in the amount of accommodation available for use by pupils at the school; or

(b) as a result of changes in the requirements applicable to the school under regulations made under section 10 of the 1944 Act (requirements as to school premises), there is any change in the number of pupils for whom accommodation may lawfully be provided at the school;

and a school's capacity to accommodate pupils is reduced if the result of the changes is, in a case within paragraph (a) above, less accommodation or, in a case within paragraph (b) above, a reduction in the number there mentioned.

(2) Any reference in this Chapter to a relevant age group, in relation to a school, is a reference to an age group in which pupils are normally admitted to the school.

(3) In this Chapter "the commencement year" has the meaning given by section 27(2).

(4) If by virtue of any orders made under section 236 of this Act subsection (1) of section 26 of this Act comes into force on different dates in relation to schools of different categories, the reference to the coming into force of that subsection—

(a) in subsection (2) of that section; and

(b) in subsection (2) of section 27 of this Act;

shall be read, for the purposes of the application of those sections in relation to schools of any category, as a reference to its coming into force in relation to schools of that category.