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Education Act 1996

1996 CHAPTER 56

PART VI

SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

CHAPTER I

SCHOOL ADMISSIONS

Parental preferences

411 Parental preferences.

- (1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—
 - (a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions, and
 - (b) to give reasons for his preference.
- (2) Subject to subsection (3) and section 430(2) (co-ordinated admission arrangements), a local education authority and the governing body of a county or voluntary school shall comply with any preference expressed in accordance with arrangements made under subsection (1).
- (3) The duty imposed by subsection (2) does not apply—
 - (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources;
 - (b) if the preferred school is an aided or a special agreement school and compliance with the preference would be incompatible with any arrangements between the governing body and the local education authority made under section 413; or

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- (c) if the arrangements for admission to the preferred school are based wholly or partly on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under the arrangements.
- (4) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, a parent who makes such an application shall be regarded for the purposes of subsection (2) as having expressed a preference for that school in accordance with arrangements made under subsection (1).
- (5) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—
- (a) any application for the admission to a school maintained by a local education authority of a child who is not in the area of the authority, and
 - (b) any application made by a parent as mentioned in section 438(4) or 440(2) (application for a particular school to be specified in a school attendance order);
- and references in subsection (3) to a preference and a preferred school shall be construed accordingly.
- (6) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a county or voluntary school in a school year of a number of pupils in a relevant age group which does not exceed—
- (a) the relevant standard number, or
 - (b) the admission number fixed in accordance with section 416,
- whichever is the greater.
- (7) In this Chapter “the relevant standard number”, in relation to a county or voluntary school, a relevant age group and a school year, means the standard number applying under sections 417 to 420 to the school in relation to that age group and year.
- (8) In this section “child” includes a person who has not attained the age of 19.

VALID FROM 01/09/1997

[411A] ^{F1}No requirement to admit children permanently excluded from two or more schools.

- (1) The duty imposed by section 411(2) does not apply in the case of a child to whom subsection (2) applies.
- (2) Where a child has been permanently excluded from two or more schools, this subsection applies to him during the period of two years beginning with the date on which the latest of those exclusions took effect.
- (3) Subsection (2) applies to a child whatever the length of the period or periods elapsing between those exclusions and regardless of whether it has applied to him on a previous occasion.
- (4) However, a child shall not be regarded as permanently excluded from a school for the purposes of this section if—
 - (a) although so excluded he was reinstated as a pupil at the school following the giving of a direction to that effect to the head teacher of the school; or

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- (b) he was so excluded at a time when he had not attained compulsory school age.
- (5) In this section “school” means—
 - (a) a school maintained by a local education authority; or
 - (b) a grant-maintained or grant-maintained special school.
- (6) This section does not apply in relation to a child unless at least one of the two or more exclusions mentioned in subsection (2) took effect on or after the date of the coming into force of section 11 of the Education Act 1997.
- (7) For the purposes of this section the permanent exclusion of a child from a school shall be regarded as having taken effect on the school day as from which the head teacher decided that he should be permanently excluded.]

Textual Amendments

F1 S. 411A inserted (1.9.1997) by 1997 c. 44, s.11 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

Admission arrangements for county and voluntary schools

412 Consultation as to admission arrangements.

- (1) Where the governing body of a county or voluntary school are responsible for determining the arrangements for the admission of pupils to the school, they shall—
 - (a) consult the local education authority before determining, or varying, any of those arrangements, and
 - (b) at least once in every school year, consult the local education authority as to whether those arrangements are satisfactory.
- (2) Where the local education authority are responsible for determining the arrangements for the admission of pupils to a county or voluntary school, they shall—
 - (a) consult the governing body before determining, or varying, any of those arrangements, and
 - (b) at least once in every school year, consult the governing body as to whether those arrangements are satisfactory.

413 Admission arrangements to preserve character of aided or special agreement school.

- (1) If the governing body of an aided or special agreement school so request, the local education authority shall make with the governing body arrangements in respect of the admission of pupils to the school for preserving the character of the school; and, in default of agreement between the authority and the governing body, the terms of any such arrangements shall be determined by the Secretary of State.
- (2) If one of the parties to arrangements under subsection (1) proposes that the arrangements should be modified or replaced by substitute arrangements but the other party does not agree, the party making the proposal may refer the matter to the Secretary of State.

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- (3) On a reference under subsection (2), the Secretary of State may direct—
- (a) that the arrangements shall remain as they are;
 - (b) that they shall be modified or replaced as proposed; or
 - (c) that they shall be modified in such other manner, or replaced by such other substitute arrangements, as may be specified in the direction.
- (4) Where the Secretary of State directs as mentioned in subsection (3)(b) or (c), the modification or, as the case may be, the substitute arrangements shall have effect, from such date as may be specified in the direction, as if agreed between the parties.

Modifications etc. (not altering text)

C1 S. 413 continued to have effect (31.8.1999) by S.I. 1999/1016, art. 6, Sch. 4 para. 12 (as added by S.I. 1999/2484, art. 2(4))

[^{F2}413A Admission arrangements may provide for home-school partnership documents.

- (1) The admission arrangements for a county or voluntary school may include provisions—
- (a) setting out the terms of a partnership document for the school and the parental declaration to be used in connection with the document;
 - (b) making it a condition of the admission of every child to the school that his parent gives the admission authority a signed parental declaration either—
 - (i) at the time of applying for a place at the school for the child, or
 - (ii) if the child is allocated a conditional place, within such period as is specified in the arrangements; and
 - (c) authorising the admission authority to dispense with that condition to any extent in the case of a particular child where they are satisfied that there are special reasons for doing so.
- (2) For the purposes of this section and section 413B a “partnership document” is a statement specifying—
- (a) the school’s aims and values;
 - (b) the responsibilities which the school intends to discharge in connection with the education of children admitted to the school; and
 - (c) the parental responsibilities, that is the responsibilities which the parents of such children are expected to discharge in connection with the education of their children while they are registered pupils at the school;
- and “parental declaration” means a declaration to be signed by a parent seeking the admission of his child to the school by which he acknowledges and accepts the parental responsibilities specified in the partnership document.
- (3) In determining the provisions to be included in the admission arrangements for a school in pursuance of subsection (1), the admission authority shall have regard to any guidance given from time to time by the Secretary of State.
- (4) The Secretary of State may by order provide that any form of words specified in the order, or having such effect as is so specified, is not to be used in a partnership document or (as the case may be) in a parental declaration.

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- (5) An order under subsection (4) may apply to any school or description of school specified in the order.
- (6) Where a local education authority consult the governing body of a county or voluntary school under section 412(2)(a) or (b), the authority shall have particular regard to any representations by the governing body—
- (a) that the admission arrangements for the school should include the provisions authorised by subsection (1), or
 - (b) as to the terms of the partnership document or parental declaration to be included in the arrangements, or
 - (c) as to any variation of those terms as for the time being so included, as the case may be.
- (7) In this section and section 413B—
- “admission arrangements”, in relation to a school, means the arrangements for the admission of pupils to the school; and
- “conditional place”, in relation to a child, means a place which is conditional on the child’s parent giving the admission authority a signed parental declaration.]

Textual Amendments

F2 S. 413A inserted (*prosp.*) by 1997 c. 44, ss.13, 58(3) (with s. 57(3)).

[^{F3}413B Effect of home-school partnership document.

- (1) This section applies where the admission arrangements for a county or voluntary school include the provisions authorised by section 413A(1).
- (2) The admission authority for the school shall, in the case of each child on behalf of whom an application for admission is made, notify his parent of the following matters, namely—
- (a) the terms of the partnership document and the parental declaration, and
 - (b) the effect of the provisions of the admission arrangements authorised by section 413A(1)(b) and (c).
- (3) Where subsection (2) has been complied with in relation to a child’s parent but—
- (a) the parent has failed to comply with the condition referred to in section 413A(1)(b), and
 - (b) the admission authority are not satisfied that there are special reasons for dispensing with that condition to the required extent in the case of that child,
- section 411(2) shall not require the admission of the child to the school; and, if he has been allocated a conditional place, the allocation of that place may be cancelled.
- (4) In subsection (3) the reference to dispensing with the condition mentioned in that subsection “to the required extent”—
- (a) is, where the parent gives the admission authority a signed parental declaration in relation to some but not the remainder of the parental responsibilities, a reference to dispensing with that condition so far as the remainder of those responsibilities are concerned; but

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- (b) is otherwise a reference to wholly dispensing with that condition.
- (5) In performing any function under this section the admission authority shall have regard to any guidance given from time to time by the Secretary of State.
- (6) A partnership document shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.]

Textual Amendments

F3 S. 413B inserted (*prosp.*) by 1997 c. 44, ss.13, 58(3)(4) (with s. 57(3))

414 Information as to schools and admission arrangements.

- (1) A local education authority shall, for each school year, publish particulars of—
 - (a) the arrangements for the admission of pupils to schools maintained by the authority other than aided or special agreement schools,
 - (b) the authority’s arrangements for the provision of education at schools maintained by another local education authority or not maintained by a local education authority, and
 - (c) the arrangements made by the authority under sections 411(1) and 423(1) (admission appeals).
- (2) The governing body of an aided or a special agreement school shall, for each school year, publish particulars of—
 - (a) the arrangements for the admission of pupils to the school, and
 - (b) the arrangements made by them under section 423(2) (admission appeals).
- (3) The particulars to be published under subsections (1)(a) and (2)(a) shall include particulars of—
 - (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),
 - (b) the respective admission functions of the local education authority and the governing body,
 - (c) the policy followed in deciding admissions, and
 - (d) the arrangements made in respect of pupils not belonging to the area of the local education authority.
- (4) In subsection (3)(a) references to the admission number applicable in a school year in relation to an age group are to—
 - (a) the standard number applying under sections 417 to 420 to the school in question in relation to that age group and year, or
 - (b) the admission number fixed in relation to the school in accordance with section 416 for that age group and year,
 whichever is the greater.
- (5) The particulars to be published under subsection (1)(b) shall include particulars of—
 - (a) the criteria for offering places at schools not maintained by a local education authority, and

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- (b) the names of, and number of places at, any such schools in respect of which the authority have standing arrangements.
- (6) The governing body of a school maintained by a local education authority—
 - (a) shall publish such information as respects that school as may be required by regulations; and
 - (b) may publish such other information with respect to the school as they think fit.
- (7) For the purposes of this section information about the continuing education of pupils leaving a school, or the employment or training taken up by such pupils on leaving, is to be treated as information about the school.
- (8) A local education authority may, with the agreement of the governing body of any school maintained by the authority, publish on behalf of the governing body the particulars or information referred to in subsection (2) or (6) above.
- (9) References in this section to publication are references to publication at such time or times and in such manner as may be required by regulations.

Modifications etc. (not altering text)

- C2 S. 414 continued to have effect (31.8.1999) by S.I. 1999/1016, art. 6, Sch. 4, para. 12 (as inserted 31.8.1999) by S.I. 1999/2484, art. 2(4))

Admission numbers for county and voluntary schools

415 Meaning of “the admission authority”.

In this Chapter “the admission authority”, in relation to a county or voluntary school, means—

- (a) the local education authority, where they are responsible for determining the arrangements for the admission of pupils to the school, or
- (b) the governing body, where they are responsible for determining those arrangements.

416 Fixing admission numbers.

- (1) The admission authority for a county or voluntary school shall not fix as the admission number for any relevant age group and any school year a number which is less than the relevant standard number.
- (2) Despite any provision of the articles of government of the school (but subject to section 412), the admission authority may fix as the admission number for any relevant age group and any school year a number which exceeds the relevant standard number.
- (3) A proposal may be made to the admission authority in accordance with subsections (4) and (5) for fixing as the admission number for any relevant age group and any school year a number which exceeds both—
 - (a) the relevant standard number, and
 - (b) any admission number fixed, or proposed to be fixed, for that age group and year by the admission authority.

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- (4) The proposal may be made—
- (a) where the local education authority are the admission authority, by the governing body, or
 - (b) where the governing body are the admission authority, by the local education authority.
- (5) 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.
- (6) If the admission authority do not give the authority making the proposal notice in writing rejecting the proposal within the period of two months beginning with the day after that on which the proposal was received by the admission authority, the admission authority shall give effect to the proposal.
- (7) Where the admission authority give such notice within that period, the authority making the proposal may, within 28 days of receiving the notice, make an application to the Secretary of State for an order under section 420(2) increasing the relevant standard number.
- (8) In this section references, in relation to a school, to the “admission number” for any relevant age group and any school year are references to the number of pupils in that age group it is intended to admit to the school in that school year.

Modifications etc. (not altering text)

- C3** Power to restrict s. 416(1) conferred (24.7.1998) by 1998 c. 31, s. 144, **Sch. 32 Pt. II para. 6(1)(a)** (with ss. 138(9), 144(6)).

417 Standard numbers for admissions to secondary schools.

- (1) Subject to subsection (2), if pupils in any age group were admitted to a county or voluntary secondary school in the school year beginning in 1989, the standard number applying to the school for that age group in any subsequent school year shall be—
- (a) the standard number applying to the school under section 15 of the ^{M1}Education Act 1980 (“the 1980 Act”) for that age group in the school year beginning in 1989, or
 - (b) the number of pupils in that age group admitted in the school year beginning in 1989,
- whichever is the greater.
- (2) If proposals under section 35 or 41 above or section 12 or 13 of the 1980 Act (proposals for the establishment or alteration of a school) have fallen to be implemented in relation to a county or voluntary secondary school, the number stated in the proposals for any school year and age group shall constitute the standard number applying to the school for that age group—
- (a) in any school year beginning after 1989 in relation to which the proposals have been wholly implemented, and

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- (b) subject to any variation made by the Secretary of State, in any school year beginning after 1989 in relation to which they have been partly implemented.
- (3) In subsection (2) “the number stated in the proposals” means the number so stated in accordance with section 35(3)(b) or 41(5)(b) above (or, as the case may be, section 12(2) of the 1980 Act or section 12(2) as applied by section 13(2) of that Act).
- (4) Any standard number applying under subsection (2) is without prejudice to the application under that subsection of a new standard number if further proposals under section 35 or 41 above fall to be implemented.
- (5) References in this section to proposals under section 35 or 41 above or section 12 or 13 of the 1980 Act are to the proposals with any modifications made by the Secretary of State under section 37, 40, 43 or 45 above or, as the case may be, under section 12 or 13 of the 1980 Act.

Marginal Citations

M1 1980 c. 20.

418 Standard numbers for admissions to primary schools.

- (1) Subject to subsection (2), if pupils in any age group were admitted to a county or voluntary primary school in the school year beginning in 1991, the standard number applying to the school for that age group in any subsequent year shall be—
 - (a) the number applicable in relation to the school and in relation to that age group in accordance with section 419, or
 - (b) the number of pupils in that age group admitted in the school year beginning in 1991,whichever is the greater.
- (2) If proposals published under section 35 or 41 above or section 12 or 13 of the ^{M2}Education Act 1980 (proposals for the establishment or alteration of a school) have fallen to be implemented in relation to a county or voluntary primary school, the number stated in the proposals for any school year and age group shall constitute the standard number applying to the school for that age group—
 - (a) in any school year beginning after 1991 in relation to which the proposals have been wholly implemented, and
 - (b) subject to any variation made by the Secretary of State, in any school year beginning after 1991 in relation to which they have been partly implemented.
- (3) Section 417(3) to (5) shall apply for the purposes of subsection (2) of this section as they apply for the purposes of section 417(2).

Marginal Citations

M2 1980 c. 20.

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419 Special provisions supplementary to section 418.

- (1) In this section “the 1980 standard number”, in relation to any school and age group, means the standard number applying to the school under section 15 of the Education Act 1980 (“the 1980 Act”) in relation to that age group in the school year beginning in 1991.
- (2) In the case of a primary school to which section 418(1) 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 section 15(5) 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 section 15(6) of that Act 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 provision), the recalculated post-1979 admission number; and
 - (c) if the 1980 standard number for that age group is a number applicable by virtue of section 15(7) of that Act which has not been varied by the Secretary of State, the aggregate of the number so applicable and the additional admission number.
- (3) In subsection (2)(a) “the recalculated 1979 admission number”, in relation to any school and age group, means the number of pupils admitted to the school in that age group in the school year beginning in 1979 (as determined in accordance with section 436, which relates to children admitted for nursery education).
- (4) In subsection (2)(b) “the recalculated post-1979 admission number”, in relation to any school and age group, means 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 (as determined in accordance with section 436).
- (5) In subsection (2)(c) “the additional admission number”, in relation to any school and age group, means 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 were admitted otherwise than for nursery education and were under 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.

420 Variation of standard numbers.

- (1) 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 section 417 or 418.
- (2) Subject to subsections (3) to (5), the Secretary of State may by order vary any standard number that would otherwise apply to an individual school by virtue of section 417 or 418 or by virtue of any order made under subsection (1).

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- (3) An order under subsection (2) reducing a standard number may only be made on the application of the admission authority for the school, and is subject to the procedure provided for in Schedule 32.
- (4) An order under subsection (2) increasing a standard number may be made on the application of the admission authority for the school or on an application made by the governing body or local education authority in accordance with section 416(7).
- (5) On an application for an order under subsection (2) increasing a standard number, the Secretary of State may—
 - (a) make an order under subsection (2) increasing the standard number to the number proposed,
 - (b) after consultation with both the local education authority and the governing body of the school, make an order under subsection (2) increasing the standard number to such number (less than the number proposed) as he thinks desirable, or
 - (c) refuse to make an order increasing the standard number.

421 Review of standard numbers.

- (1) The admission authority for a county or voluntary school shall keep under review any standard numbers applying to the school under sections 417 to 420, 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 in which those standard numbers first applied (whether by virtue of section 15 of the ^{M3}Education Act 1980, section 27 of the ^{M4}Education Reform Act 1988 or sections 417 to 420 above).
- (2) For the purposes of this section 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 542 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), less accommodation or, in a case within paragraph (b), a reduction in the number there mentioned.

Modifications etc. (not altering text)

C4 S. 421 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para.2.

Marginal Citations

M3 1980 c. 20.

M4 1988 c. 40.

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VALID FROM 01/09/1998

[^{F4}421A

- (1) The admission authority for a county or voluntary school containing any infant class shall keep under review any standard number applicable to admissions to an infant class, having regard to—
 - (a) the school’s capacity to accommodate pupils, and
 - (b) the need to secure that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would not cause prejudice of the kind referred to in section 411(3) (a) by reason of any qualifying measures.
- (2) The admission authority for any such school shall in particular carry out a review under subsection (1) as soon as reasonably practicable following the coming into force of regulations under section 1 of the School Standards and Framework Act 1998 by virtue of which any limit on class sizes is to apply in relation to any such class at the school.
- (3) Where, as a result of a review under subsection (1), the authority consider that any standard number at the school should be varied in order to enable the objective referred to in subsection (1)(b) to be achieved, they shall make an application for an order under section 420(2) varying the standard number.
- (4) For the purposes of subsection (1) a school’s capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.
- (5) In this Chapter, “infant class” has the meaning given in section 4 of the School Standards and Framework Act 1998.]

Textual Amendments

F4 S. 421A inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 2(1)(2)

New county and voluntary schools

422 Admission of pupils to new schools.

- (1) The initial arrangements for the admission of pupils to a new school shall be made—
 - (a) where the school will be a county or controlled school, by the local education authority; or
 - (b) where it will be an aided school, by the temporary governing body or by the promoters if—
 - (i) that body have not been constituted, and
 - (ii) the promoters consider that it is expedient for the arrangements to be determined without delay.
- (2) Any body or persons making any initial arrangements under this section shall have regard to the arrangements in force for the admission of pupils to comparable schools in the area of the local education authority.

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- (3) Before making any such initial arrangements for a new school which will be a county school, the authority shall consult the temporary governing body unless—
 - (a) that body have not been constituted, and
 - (b) the authority consider that it is expedient for the initial arrangements to be determined without delay.
- (4) Before making any such arrangements for a new school which will be a controlled school the authority shall consult—
 - (a) the temporary governing body; or
 - (b) where that body have not been constituted, the promoters.
- (5) Before making any such initial arrangements for a new school which will be an aided school the temporary governing body or (as the case may be) the promoters shall consult the authority.
- (6) Sections 411, 413, 414 and 423 shall have effect in relation to a new school as if the references to the governing body included references to the person responsible for the admission of pupils under the initial arrangements for the school.
- (7) In this section “new school” and “temporary governing body” have the meaning given by section 181(1) and (3) respectively; and “the promoters” means the persons making the relevant proposals (as defined by section 181(2)).

Admissions appeals relating to county and voluntary schools

423 Appeal arrangements.

- (1) A local education authority shall make arrangements for enabling the parent of a child to appeal against—
 - (a) any decision made by or on behalf of the authority as to the school at which education is to be provided for the child in the exercise of the authority’s functions, other than a decision leading to or embodied in a direction under section 431 (directions for admission), and
 - (b) any decision made by or on behalf of the governing body of a county or controlled school maintained by the authority refusing the child admission to the school.
- (2) The governing body of an aided or a special agreement school shall make arrangements for enabling the parent of a child to appeal against any decision made by or on behalf of the governing body refusing the child admission to the school.
- (3) Joint arrangements may be made under subsection (2) by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Schedule 33 has effect in relation to the making and hearing of appeals pursuant to arrangements made under this section.
- (5) The decision of an appeal committee on such an appeal shall be binding—
 - (a) on the local education authority or governing body by or on whose behalf the decision under appeal was made, and

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- (b) in the case of a decision made by or on behalf of a local education authority, on the governing body of any county or controlled school at which the appeal committee determines that a place should be offered to the child in question.
- (6) In this section and Schedule 33 “child” includes a person who has not attained the age of 19.

VALID FROM 01/09/1997

[423A ^{F5} Appeals relating to children to whom section 411A(2) applies.

- (1) Nothing in section 423(1) or (2) requires any arrangements to be made for enabling the parent of a child to appeal against a decision—
- (a) made by or on behalf of the admission authority for a county or voluntary school, and
 - (b) refusing the child admission to the school,
- in a case where, at the time when the decision is made, section 411A(2) applies to the child.
- (2) Where a local education authority are the admission authority for a county or controlled school, the authority shall make arrangements for enabling the governing body of the school to appeal against any decision made by or on behalf of the authority to admit to the school a child to whom, at the time when the decision is made, section 411A(2) applies.
- (3) Schedule 33A shall have effect in relation to the making and hearing of appeals pursuant to arrangements made under subsection (2).
- (4) The decision of an appeal committee on an appeal made pursuant to arrangements under subsection (2) shall be binding—
- (a) on the local education authority by or on whose behalf the decision under appeal was made, and
 - (b) on the governing body of any county or controlled school at which the appeal committee determines that a place should be offered to the child in question.]

Textual Amendments

F5 S. 423A inserted (1.9.1997) by 1997 c. 44, s. 12(1) (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II.

Nursery and special schools, etc.

424 Admission of pupils to nursery schools and special schools, etc.

- (1) Subject to subsection (2), nothing in section 411, 413, 414 or 423 applies in relation to—
- (a) nursery schools, or
 - (b) children who will be under the age of five at the time of their proposed admission.

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- (2) 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 be under the age of five at the time of their proposed admission, those sections shall apply in relation to the admission of such pupils to the school otherwise than for nursery education.
- (3) None of the provisions of sections 411, 413, 414 and 423, apart from section 414(6) to (9), apply in relation to—
 - (a) special schools, or
 - (b) children for whom statements of special educational needs are maintained under section 324.

Admission arrangements for grant-maintained schools

425 Admission arrangements and information about them.

Paragraph 5 of Schedule 23 has effect—

- (a) for making the governing body of a grant-maintained school responsible for determining the arrangements for admitting pupils to the school; and
- (b) for requiring the governing body of such a school to publish particulars of such arrangements and of the procedures applicable in relation to the admission of pupils to the school.

[425A ^{F6}Restrictions on admissions to grant-maintained schools.

Schedule 33B to this Act, which provides for restrictions on admissions to grant-maintained schools in connection with—

- (a) home-school partnership documents,
 - (b) partially-selective schools, and
 - (c) persons permanently excluded from two or more schools,
- shall have effect.]

Textual Amendments

F6 S. 425A inserted (*prosp.*) by 1997 c. 44, ss. 14(1), 58(3) (with ss. 57(3)).

Modifications etc. (not altering text)

C5 S. 425A modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, Sch. para.3.

VALID FROM 01/09/1998

[^{F7}425B

- (1) An application for the admission of a child to a grant-maintained school may be refused on the grounds that his admission would prejudice the provision of efficient education or the efficient use of resources at the school.
- (2) For the purposes of subsection (1) prejudice of the kind referred to in that provision may arise by reason of any qualifying measures.

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- (3) No prejudice shall, however, be taken to arise from the admission of a child to the school if, were he to be admitted to the school, the number of pupils within the relevant age group to which he would be admitted in the school year in which he would be admitted would not exceed the number of pupils intended to be admitted to the school in that age group in that year.]

Textual Amendments

F7 S. 425B inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 3

Admission numbers for grant-maintained schools

426 Minimum number for admission.

- (1) The governing body of a grant-maintained 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 approved admission number for that age group.
- (2) Subject to subsections (3) and (4) and sections 427 and 428, the approved admission number for any relevant age group is the number specified in the relevant proposals as the number of pupils intended to be admitted to the school in that age group in the first school year beginning on or after the date of implementation of the proposals.

For this purpose “the relevant proposals” means the proposals published under section 193, 211 or 212 above (or, as the case may be, under section 32, 48 or 49 of the ^{M5}Education Act 1993 or section 62 of the ^{M6}Education Reform Act 1988).

- (3) Where proposals for a significant change in the character, or significant enlargement of the premises, of a grant-maintained school or for the transfer of such a school to a new site have been approved or adopted under section 261 above (or, as the case may be, under section 98 of the ^{M7}Education Act 1993 or section 89 of the Education Reform Act 1988), the approved admission number for any relevant age group for any school year for which the proposals have been wholly or partly implemented is—
- (a) the number specified in the proposals as the number of pupils proposed to be admitted to the school in that age group in the first school year in relation to which the proposals have been wholly implemented, or
 - (b) if for any school year in relation to which the proposals have been partly implemented the Secretary of State directs the substitution of a different number, that number.
- (4) The approved admission number in relation to any relevant age group may be varied in the case of any such school with the approval of the Secretary of State.

Modifications etc. (not altering text)

- C6 S. 426 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, Sch. para.4.
 S. 426 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, Sch. para.5.
- C7 Power to restrict s. 426(1) conferred (24.7.1998) by 1998 c. 31, s. 144, Sch. 32 Pt. II para. 6(1)(a) (with ss. 138(9), 144(6)).

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Marginal Citations

- M5** 1993 c. 35.
M6 1988 c. 40.
M7 1993 c. 35.

VALID FROM 01/09/1998

[^{F8}426A

- (1) The governing body of a grant-maintained school containing any infant class shall keep under review any approved admission number applicable to admissions to an infant class, having regard to
- the school's capacity to accommodate pupils, and
 - the need to secure that the admission to the school in any school year of a number of children in any relevant age group equal to the approved admission number would not result in prejudice to the provision of efficient education or the efficient use of resources by reason of qualifying measures.
- (2) The governing body of any such school shall in particular carry out a review under subsection (1) as soon as reasonably practicable following the coming into force of regulations under section 1 of the School Standards and Framework Act 1998 by virtue of which any limit on class sizes is to apply in relation to any such class at the school.
- (3) Where, as a result of a review under subsection (1), the governing body consider that any approved admission number at the school should be varied in order to enable the objective referred to in subsection (1)(b) to be achieved, they shall seek approval to the variation of that number in accordance with section 426(4).
- (4) For the purposes of subsection (1) a school's capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.]

Textual Amendments

- F8** S. 426A inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 5(1)(2)

427 Alteration of minimum number by Secretary of State.

- This section applies in relation to any grant-maintained school unless the funding authority have the function under section 428 in relation to that school.
- The Secretary of State may by order increase the approved admission number for any relevant age group to such number as may be specified in the order for any school year specified in the order beginning after the date of the order.
- No order may be made under subsection (2) which would have the effect of requiring such an increase in the number of pupils to be admitted to the school as would—
 - constitute a significant change in the character of the school, or
 - involve any alteration of the premises of the school.

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Section 311(4) shall apply for the purposes of this subsection.

428 Alteration of minimum number by funding authority.

- (1) If an order under section 27(1) (allocation of responsibility for providing sufficient school places) applies to the area of a local education authority, the funding authority may give a direction under subsection (2) to the governing body of a grant-maintained school in the area.
- (2) A direction under this subsection—
 - (a) may increase the approved admission number for any relevant age group to such number as may be specified in the direction for any school year specified in the direction beginning after the date of the direction, and
 - (b) if any alteration would be required to the premises of the school in consequence of any increase in any approved admission number made by the direction, shall give particulars of the alteration.
- (3) No direction may be given under subsection (2) which would have the effect of requiring such an increase in the number of pupils to be admitted to the school as would—
 - (a) constitute a significant change in the character of the school, or
 - (b) involve a significant enlargement of the premises of the school.

Section 311(4) shall apply for the purposes of this subsection.

- (4) Before deciding to give a direction under subsection (2) the funding authority shall consult the governing body about the proposed content of the direction.
- (5) Before giving a direction under subsection (2) the funding authority shall serve a draft of the proposed direction on the governing body.
- (6) A governing body on which a draft is served under subsection (5) may, within the period of 15 days beginning with the day on which it was served, refer the matter to the Secretary of State and, if they do so, shall inform the funding authority.
- (7) On a reference under subsection (6) the Secretary of State may—
 - (a) require the funding authority not to give any direction in the terms of the draft, or
 - (b) authorise the funding authority to give a direction in those terms, or in those terms as required to be modified by the Secretary of State;
 and any direction given by the funding authority shall be in the terms authorised under paragraph (b).
- (8) Where the funding authority give a direction under this section, then—
 - (a) if any particulars are specified in pursuance of subsection (2)(b), the governing body shall secure the alteration of the school premises in accordance with the particulars, and
 - (b) the funding authority shall make to them a grant of an amount equal to the reasonable expenses incurred or to be incurred in doing so.

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Admissions appeals relating to grant-maintained schools

429 Appeal arrangements.

Paragraph 6 of Schedule 23 has effect for requiring the governing body of a grant-maintained school—

- (a) to make arrangements for appeals to an appeal committee against decisions or action taken in relation to admissions of pupils to the school; and
- (b) to publish particulars of such arrangements.

Co-ordinated arrangements for admissions

430 Co-ordinated arrangements for admissions.

- (1) In this section “co-ordinated arrangements for admissions”, in relation to any two or more maintained or grant-maintained schools, means arrangements under an agreement to which this section applies for the purpose of co-ordinating arrangements for admitting pupils to the schools concerned.
- (2) Co-ordinated arrangements for admissions, if—
 - (a) contained in an agreement approved by the Secretary of State under this section, or
 - (b) made in pursuance of a scheme under this section,and any provision contained in any other arrangements for admitting pupils to any maintained or grant-maintained school in pursuance of a scheme under this section, shall have effect in the case of any school to which they relate despite anything in section 411(2) or in the instrument or articles of government for the school.
- (3) This section applies to an agreement made in relation to any two or more maintained or grant-maintained schools to which each authority responsible for determining the arrangements for admitting pupils to any of the schools is a party, whether or not any local education authority for any area in which any of the schools is situated is also a party.
- (4) The Secretary of State may make a scheme under this section for the purpose of co-ordinating arrangements, or assisting in the co-ordination of arrangements, for admitting pupils to any maintained or grant-maintained schools to which the scheme applies.
- (5) A scheme under this section may in particular require each authority responsible for determining the arrangements for admitting pupils to any of the schools to which the scheme applies—
 - (a) to include in their arrangements for admitting pupils such provisions as may be required by the scheme;
 - (b) to secure the making in accordance with the scheme of an agreement for the purpose of co-ordinating arrangements for admitting pupils to the schools to which the scheme applies; or
 - (c) to secure the modification in accordance with the scheme of any such agreement to which they are a party.

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- (6) Before making a scheme under this section the Secretary of State shall, in respect of each school which appears to him to be a school to which the scheme will apply, consult—
 - (a) the governing body, and
 - (b) in the case of a maintained school, the local education authority.
- (7) A scheme under this section may apply—
 - (a) to all schools which for the time being are maintained or grant-maintained schools;
 - (b) to all schools which for the time being are maintained or grant-maintained schools falling within any category of such schools specified in the scheme; or
 - (c) to any maintained or grant-maintained school so specified.
- (8) Section 570 (revocation and variation) applies to a scheme under this section as it applies to an order made by the Secretary of State.
- (9) In this section “maintained school” means a county or voluntary school or a maintained special school which is not established in a hospital.

Power to direct admission of child to school

431 Direction to admit child to specified school.

- (1) The appropriate authority may give a direction under this section if, in the case of any child in the area of a local education authority, either (or both) of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is—
 - (a) he has been refused admission to the school, or
 - (b) he is permanently excluded from the school.
- (2) A direction under this section shall specify a school—
 - (a) which is a reasonable distance from the child’s home, and
 - (b) from which the child is not permanently excluded.
- (3) A direction under this section shall, unless it is given on the determination of the Secretary of State under section 432(4) or by the funding authority, specify a school in the area referred to in subsection (1).
- (4) Where a school is specified in a direction under this section, the governing body (and, if the school is a county or voluntary school and the local education authority are not the appropriate authority, the local education authority) shall admit the child to the school.
- (5) Subsection (4) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (6) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (7) In this section and section 432—
 - (a) references to the appropriate authority are (subject to subsection (8)) references to the local education authority; and

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- (b) references to schools are references to county, voluntary and grant-maintained schools.
- (8) Where the education which is suitable education for the child is also education of a kind to which there relates an order made under section 27(1)(b) in respect of the area referred to in subsection (1) above, references in this section and section 432 to the appropriate authority are to be read in relation to—
- (a) that child, and
 - (b) any county, voluntary or grant-maintained school in that area, and any such school in any other area to which an order under section 27(1)(b) applies which provides education which is relevant education in relation to that order, as references to the funding authority.

Modifications etc. (not altering text)

C8 S. 431 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para.6.

432 Procedure for giving direction under section 431.

- (1) Before deciding to give a direction under section 431, the appropriate authority shall consult—
- (a) the parent of the child,
 - (b) the governing body of the school they propose to specify in the direction, and
 - (c) (if different) the authority which have a duty to maintain the school or to pay maintenance grant to the governing body (“the maintaining authority”).
- (2) Where the appropriate authority decide to give such a direction specifying any school they shall, before doing so, serve a notice in writing of their decision on—
- (a) the governing body and head teacher of the school, and
 - (b) (if subsection (1)(c) applies) the maintaining authority,
- and shall not give the direction until the period for referring the matter to the Secretary of State under subsection (3) has expired and, if it is so referred, the Secretary of State has made his determination.
- (3) Any body or authority on whom a notice is served under subsection (2) may, within the period of 15 days beginning with the day on which the notice was served, refer the matter to the Secretary of State and, if they do so, shall inform the appropriate authority.
- (4) On a reference under subsection (3) the Secretary of State may determine which school is to be required to admit the child and, if he does so, that school shall be specified in the direction.
- (5) Where the appropriate authority give such a direction specifying a school, they shall give notice in writing of that fact to—
- (a) the governing body and head teacher of the school, and
 - (b) (if subsection (1)(c) applies) the maintaining authority.

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Modifications etc. (not altering text)

C9 S. 432 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para.7.

Time for admission of pupils

433 Time for admission of pupils.

- (1) Section 14 (which requires a local education authority to secure that sufficient schools for providing primary and secondary education are available for their area) shall not be construed as imposing any obligation on the proprietor of a school to admit children as pupils otherwise than at the beginning of a school term.
- (2) Where, however, a child was prevented from entering a school at the beginning of a term—
 - (a) by his being ill or by other circumstances beyond his parent’s control, or
 - (b) by his parent’s having been then resident at a place from which the school was not accessible with reasonable facility,
 the school’s proprietor is not entitled by virtue of subsection (1) to refuse to admit him as a pupil during the currency of the term.
- (3) In cases where subsection (2) does not apply, the governing body of a school maintained by a local education authority shall comply with any general directions given by the authority as to the time of admission of children as pupils.
- (4) General directions given by a local education authority as respects the time of admission of children as pupils shall not prevent the admission to a school of children in respect of whose education grants may be made under arrangements which have been made under section 1 of the ^{M8}Nursery Education and Grant-Maintained Schools Act 1996.
- (5) Despite section 7 (duty of parent of child of compulsory school age to cause him to receive full-time education), a parent is not under a duty to cause a child to receive full-time education during any period during which, having regard to subsections (1) and (2), it is not practicable for the parent to arrange for him to be admitted as a pupil at a school.

Marginal Citations

M8 1996 c. 50.

Registration of pupils

434 Registration of pupils.

- (1) The proprietor of a school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars in respect of all persons who are pupils at the school.

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- (2) Without prejudice to the generality of subsection (1), the prescribed particulars shall include particulars of the name and address of every person known to the proprietor to be a parent of a pupil at the school.
- (3) The regulations shall prescribe the grounds on which names are to be deleted from a register kept under this section; and the name of a person entered in such a register as a pupil at a school—
 - (a) shall, when any of the prescribed grounds is applicable, be deleted from the register on that ground; and
 - (b) shall not be deleted from the register otherwise than on any such ground.
- (4) The regulations may make provision—
 - (a) for enabling registers kept under this section to be inspected;
 - (b) for enabling extracts from such registers to be taken for the purposes of this Act by persons authorised to do so under the regulations; and
 - (c) for requiring the person by whom any such register is required to be kept to make to—
 - (i) the Secretary of State,
 - (ii) the funding authorities, and
 - (iii) local education authorities,such periodical or other returns as to the contents of the register as may be prescribed.
- (5) In this Act—

“registered pupil”, in relation to a school, means a person registered as a pupil at the school in the register kept under this section; and

“registered”, in relation to the parents of pupils at a school or in relation to the names or addresses of such parents or pupils, means shown in that register.
- (6) A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Withdrawal of pupils from primary school for secondary education

435 Withdrawal of pupils from a primary school for secondary education.

A local education authority may make arrangements in respect of a primary school maintained by them (other than one that is for the time being organised for the provision of both primary and secondary education) under which any registered pupils who are under the age of 12 but have attained the age of 10 years and six months may be required to be withdrawn from the school for the purpose of receiving secondary education.

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Supplementary

436 Effect of admission for nursery education.

- (1) Children admitted to a school for nursery education and subsequently transferred to a reception class at the school shall be regarded for the purposes of this Chapter as admitted to the school (otherwise than for nursery education) on being so transferred.
- (2) The admission of children to a school for nursery education shall be disregarded for the purpose of—
 - (a) applying in relation to a primary school any provision of sections 416 to 421 (apart from section 419) which refers to the number of pupils admitted or intended to be admitted to a school in any school year, or
 - (b) applying section 419(3) or (4) in relation to a primary school, or
 - (c) determining for the purposes of any provision of sections 416 to 421 what is a relevant age group in relation to a primary school,and for the purposes of sections 426 to 428.

Status:

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Changes to legislation:

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