



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART III

#### SCHOOL ADMISSIONS

### CHAPTER II

#### SELECTION OF PUPILS

##### *Partial selection*

#### **99 General restriction on selection by ability or aptitude.**

<sup>F1</sup>(1) .....

(2) The following are [<sup>F2</sup>for the purposes of section 39(1) of the Education and Inspections Act 2006] permitted forms of selection by ability—

- (a) any selection by ability authorised by section 100 (pre-existing arrangements);
- (b) any selection by ability authorised by section 101 (pupil banding); and
- (c) any selection by ability conducted in connection with the admission of pupils to the school for secondary education suitable to the requirements of pupils who are over compulsory school age.

(3) No admission arrangements for a maintained school may make provision for selection by aptitude unless they make provision for a permitted form of such selection.

(4) The following are permitted forms of selection by aptitude—

- (a) any selection by aptitude authorised by section 100 (pre-existing arrangements); and

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- (b) any selection by aptitude authorised by section 102 (aptitude for particular subjects).
- (5) For the purposes of this Chapter—
- (a) a school’s admission arrangements make provision for selection by ability or by aptitude if they make provision for all or any of the pupils who are to be admitted to the school in any relevant age group to be so admitted by reference to ability or to aptitude (as the case may be);
- (b) “ability” means either general ability or ability in any particular subject or subjects;
- (c) “admission arrangements” has the meaning given by section 88(2); and
- (d) “maintained school” means a community, foundation or voluntary school.

#### Textual Amendments

- F1** S. 99(1) repealed (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 39\(4\)\(a\)](#), [188\(3\)](#), [Sch. 18 Pt. 6](#); S.I. 2006/3400, [art. 6\(b\)\(g\)](#); S.I. 2008/1429, [art. 3\(1\)](#), [Sch. Pt. 1](#)
- F2** Words in s. 99(2) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 39\(4\)\(b\)](#), [188\(3\)](#); S.I. 2006/3400, [art. 6\(b\)](#); S.I. 2008/1429, [art. 3\(1\)](#), [Sch. Pt. 1](#)

#### Modifications etc. (not altering text)

- C1** S. 99 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), [reg. 8](#), [Sch. paras. 1\(c\)](#), [2-8](#).  
S. 99 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), [reg. 7](#), [Sch. paras. 1](#), [2-8](#).
- C2** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\)](#), [9](#), [Sch. para. 1\(b\)](#)
- C3** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), [regs. 1\(1\)](#), [9](#), [Sch.](#) (with [reg. 2\(2\)](#))
- C4** S. 99(5) modified (1.10.1998) (temp.) by [S.I. 1998/2230](#), [reg. 2](#)
- C5** S. 99(5) applied (29.7.2010) by [Academies Act 2010 \(c. 32\)](#), [ss. 6\(4\)](#), [19\(2\)](#); S.I. 2010/1937, [art. 2](#), [Sch. 1](#)

#### Commencement Information

- I1** S. 99 wholly in force at 1.4.1999; s. 99 not in force at Royal Assent see s. 145(3); s. 99(1)(2)(5) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#), [Sch. 2 Pt. I para. 3](#); s. 99 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)).

## 100 Permitted selection: pre-existing arrangements.

- (1) Where at the beginning of the 1997-98 school year the admission arrangements for a maintained school made provision for selection by ability or by aptitude (and they have at all times since that date continued to do so), the admission arrangements for the school may continue to make such provision [<sup>F3</sup>so long as—
- (a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and
- (b) there is no significant change in the basis of selection.]

[<sup>F4</sup>(1A) In subsection (1)(a), “the permitted proportion”, in relation to any relevant age group, means the lowest proportion of selective admissions provided for by the school’s admission arrangements at any time since the beginning of the 1997-1998 school year.]

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- (2) In relation to any time before the appointed day, the reference in subsection (1) to a maintained school is a reference to the school as a county, voluntary or grant-maintained school within the meaning of the <sup>M1</sup>Education Act 1996.
- (3) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to ability or to aptitude (as the case may be).
- (4) Nothing in this section applies to a school with selective admission arrangements (as defined by section 104(2)).

#### Textual Amendments

- F3** Words in s. 100(1) substituted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(2\)](#), 188(3); [S.I. 2006/3400](#), art. 6(e); [S.I. 2008/1429](#), art. 3(1), Sch. Pt. 1
- F4** S. 100(1A) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(3\)](#), 188(3); [S.I. 2006/3400](#), art. 6(e); [S.I. 2008/1429](#), art. 3(1), Sch. Pt. 1

#### Commencement Information

- I2** S. 100 wholly in force at 1.4.1999; s. 100 not in force at Royal Assent see s. 145(3); s. 100 in force at 1.10.1998 to the extent that it relates to s. 99(2)(a) by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); s. 100 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

#### Marginal Citations

- M1** 1996 c. 56.

## 101 Permitted selection: pupil banding.

- (1) Subject to [<sup>F5</sup>subsections (2) and (2A)], the admission arrangements for a maintained school [<sup>F6</sup>in England or Wales] may make provision for selection by ability to the extent that the arrangements are designed to secure—
- that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among applicants for admission to the school in that age group, and
  - that no level of ability is substantially over-represented or substantially under-represented.
- [<sup>F7</sup>(1A) Subject to subsections (2) and (2A), the admission authority for a maintained school in England may make provision for selection by ability to the extent that the arrangements are designed to secure—
- that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among such one of the following groups as the admission arrangements may specify (“the reference group”)—
    - children who are applicants for admission in that age group to any of two or more schools (including the school in question) in the area of the [<sup>F8</sup>local authority],
    - children in that age group who live in the area of the [<sup>F8</sup>local authority], or
    - children in that age group who live in England, and

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- (b) that no level of ability is substantially over-represented or substantially under-represented by comparison with its representation in the reference group.]
- (2) [<sup>F9</sup>Subsection (1) or (1A)] does not apply if the arrangements have the effect that, where an applicant for admission has been allocated to a particular range of ability by means of some process of selection by reference to ability, some further such process is required or authorised to be carried out in relation to him for the purpose of determining whether or not he is to be admitted to the school.
- [<sup>F10</sup>(2A) If the admission authority for a maintained school in England is the [<sup>F8</sup>local authority], the authority may only introduce such provision for selection by ability as is mentioned in subsection (1) or (1A) with the consent of the governing body of the school.]
- <sup>F11</sup>(3) . . . . .
- (4) [<sup>F12</sup>In the case of a school in Wales, admission arrangements to which subsection (1) applies are not authorised] by this section unless proposals for the school to have such arrangements have been published[<sup>F13</sup>, and fallen to be implemented, under any enactment].
- (5) Where the admission arrangements for a school make both such provision for selection by ability as is mentioned in [<sup>F14</sup>subsection (1) or (1A)] above and such provision for selection by aptitude as is mentioned in section 102(1), nothing in this section shall be taken to prevent those arrangements—
- (a) from authorising or requiring a process of selection to be carried out at any stage for the purpose of establishing that an applicant for admission has a relevant aptitude; or
- (b) from having the effect of giving priority to such an applicant with a relevant aptitude irrespective of his level of ability.

#### Textual Amendments

- F5** Words in s. 101(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(i), 188(3); S.I. 2006/3400, art. 3(e)
- F6** Words in s. 101(1) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(ii), 188(3); S.I. 2006/3400, art. 3(e)
- F7** S. 101(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(b), 188(3); S.I. 2006/3400, art. 3(e)
- F8** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))
- F9** Words in s. 101(2) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(c), 188(3); S.I. 2006/3400, art. 3(e)
- F10** S. 101(2A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(d), 188(3); S.I. 2006/3400, art. 3(e)
- F11** S. 101(3) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(9); S.I. 2013/1800, art. 3(j)
- F12** Words in s. 101(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(f), 188(3); S.I. 2006/3400, art. 3(e)
- F13** Words in s. 101(4) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 109 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F14** Words in s. 101(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(g), 188(3); S.I. 2006/3400, art. 3(e)

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#### Modifications etc. (not altering text)

- C6** S. 101 modified (1.10.1998) (*temp.*) by S.I. 1998/2230, **reg.3**
- C7** S. 101 applied (with modifications) (18.10.1999) by S.I. 1999/2666, **reg. 8, Sch. paras. 1(c), 2-8.**  
S. 101 applied (with modifications) (1.9.1999) by S.I. 1999/2800, **reg. 7, Sch. paras. 1, 2-8.**
- C8** S. 101 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), **regs. 1(1), 9, Sch. para. 1(b)**
- C9** S. 101 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), **regs. 1(1), 9, Sch. (with reg. 2(2))**

#### Commencement Information

- I3** S. 101 wholly in force at 1.4.1999; s. 101 not in force at Royal Assent see s. 145(3); s. 101(1)-(4) in force at 1.10.1998 by S.I. 1998/2212, **art. 2, Sch. 1 Pt. I, Sch. 2 Pt. I para. 3(b)**; s. 101 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, **art. 2(1)** (with arts. 3-6, Sch. 4).

### 102 Permitted selection [<sup>F15</sup>in maintained schools in England]: aptitude for particular subjects.

- (1) Subject to subsection (2), the admission arrangements for a maintained school [<sup>F16</sup>in England] may make provision for the selection of pupils for admission to the school by reference to their aptitude for one or more prescribed subjects where—
- the admission authority for the school are satisfied that the school has a specialism in the subject or subjects in question; and
  - the proportion of selective admissions in any relevant age group does not exceed 10 per cent.
- (2) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit any aptitude of his other than for the subject or subjects in question.
- (3) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in [<sup>F17</sup>section 101(1) or (1A)], the reference in subsection (2) above to a test of ability does not include any such test for which provision may be made under that section.
- (4) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the subject or subjects in question.
- (5) In this section “test” includes assessment and examination.

#### Textual Amendments

- F15** Words in s. 102 heading inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), **reg. 1(3), Sch. 2 para. 4(7)(a)**
- F16** Words in s. 102(1) inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), **reg. 1(3), Sch. 2 para. 4(7)(b)**

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**F17** Words in s. 102(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(2), 188(3)**; S.I. 2006/3400, art. 3(e)

**Modifications etc. (not altering text)**

**C10** S. 102 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.

S. 102 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.

**C11** S. 102 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**

**C12** S. 102 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

**Commencement Information**

**I4** S. 102 wholly in force at 1.4.1999; s. 102 not in force at Royal Assent see s. 145(3); S. 102(1)(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; s. 102 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4).

**[<sup>F18</sup>102A Permitted selection in maintained schools in Wales: aptitude for particular areas of learning and experience etc.**

- (1) The admission arrangements for a maintained school in Wales may make provision for the selection of pupils for admission to the school by reference to their aptitude for—
  - (a) one or more prescribed areas of learning and experience, or
  - (b) one or more prescribed elements within one or more areas of learning and experience.
- (2) But the admission arrangements may make such provision only where—
  - (a) the admission authority for the school are satisfied that the school has a specialism in the area or areas, or element or elements, in question, and
  - (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.
- (3) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit the applicant’s aptitude other than for the area or areas, or element or elements, in question.
- (4) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in section 101(1), the reference in subsection (3) to a test of ability does not include any such test for which provision may be made under that section.
- (5) In this section, “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the area or areas, or element or elements, in question.
- (6) In this section—
 

“area of learning and experience” has the same meaning as in the Curriculum and Assessment (Wales) Act 2021;

“test” includes assessment and examination.]

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### Textual Amendments

- F18** S. 102A inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), **Sch. 2 para. 4(8)**

## 103 Permitted selection: introduction, variation or abandonment of provision for such selection.

- (1) In connection with the determination of a maintained school's admission arrangements for a particular school year, sections [F19 88C to 88K or, as the case may be,] 89 and 90 shall, except to the specified extent, apply in relation to the making or abandonment by those arrangements of provision for any permitted form of selection by ability or aptitude as they apply in relation to the making or abandonment by those arrangements of provision for other matters.
- (2) In subsection (1) “the specified extent” means the extent to which those admission arrangements would effect an alteration in the provision made by the school's admission arrangements as respects any such form of selection (whether by introducing, varying or abandoning any such form of selection) which [F20 constitutes—
- (a) in relation to England, a prescribed alteration for the purposes of section 18 of the Education and Inspections Act 2006, and
  - (b) in relation to Wales, a [F21 regulated alteration within the meaning of Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013]].
- (3) Any admission arrangements to which [F22 section 101(1) or (1A)] applies (whether authorised by section 100 or section 101) may be varied if (and only if) the arrangements as varied are designed to secure [F23 the objectives mentioned in section 101(1)(a) and (b), section 101(1A)(a)(i) and (b), section 101(1A)(a)(ii) and (b) or section 101(1A)(a)(iii) and (b)].

### Textual Amendments

- F19** Words in s. 103(1) inserted (2.12.2008) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 69**; S.I. 2008/3077, art. 2(d)
- F20** Words in s. 103(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(a)**, 188(3); S.I. 2007/935, art. 7(l)
- F21** Words in s. 103(2)(b) substituted (W.) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 19(10)**; S.I. 2013/1800, art. 3(j)
- F22** Words in s. 103(3) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(b)(i)**, 188(3); S.I. 2006/3400, art. 3(e)
- F23** Words in s. 103(3) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(b)(ii)**, 188(3); S.I. 2006/3400, art. 3(e)

### Modifications etc. (not altering text)

- C13** S. 103 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, **reg.8**.
- C14** S. 103(3) applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.  
S. 103(3) applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.
- C15** S. 103(3) applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**

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**C16** S. 103(3) applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))

#### Commencement Information

**I5** S. 103 wholly in force at 1.4.1999; s. 103 not in force at Royal Assent see s. 145(3); S. 103(3) in force at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); s. 103 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

### Grammar schools

#### 104 Designation of grammar schools.

- (1) Where the Secretary of State is satisfied that a maintained school had selective admission arrangements at the beginning of the 1997-98 school year, he may by order designate the school as a grammar school for the purposes of this Chapter.
- (2) A school has selective admission arrangements for the purposes of this Chapter if its admission arrangements make provision for all (or substantially all) of its pupils to be selected by reference to general ability, with a view to admitting only pupils with high ability.
- (3) For the purpose of deciding whether a school's admission arrangements fall within subsection (2), any such additional criteria as are mentioned in section 86(9) shall be disregarded.
- (4) Where a maintained school is a grammar school—
  - (a) sections 105 to 109 have effect for prescribing procedures for altering the school's admission arrangements so that it no longer has selective admission arrangements; and
  - (b) its admission arrangements shall not be so altered except in accordance with those sections.
- (5) Regulations may make provision—
  - (a) for enabling the Secretary of State to make an order designating as a grammar school for the purposes of this Chapter a maintained school established in substitution for one or more discontinued schools each of which either has been or could have been so designated under this section (whether by virtue of subsection (1) or by virtue of the regulations); and
  - (b) for any provisions of this Chapter, or any regulations made under it, to have effect in relation to any such school with such modifications as may be prescribed.
- (6) In this section “maintained school” includes, in relation to any time before the appointed day—
  - (a) a county or voluntary school, or
  - (b) a grant-maintained school,
 within the meaning of the <sup>M2</sup>Education Act 1996; and in the application of subsection (1) to a maintained school on or after the appointed day the reference to the school shall be read, in connection with determining the nature of its admission arrangements at the beginning of the 1997-98 school year, as a reference to it as a school within paragraph (a) or (b) above.



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- (7) In this Chapter “grammar school” means a school for the time being designated under this section.

#### Commencement Information

- I6** S. 104 wholly in force at 1.9.1999; s. 104 not in force at Royal Assent see s. 145(3); s. 104(1)-(3) and (5)-(7) in force at 1.9.1998 by [S.I. 1998/2048, art. 3](#); s. 104(4)(a) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); s. 104 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

#### Marginal Citations

- M2** 1996 c. 56.

### 105 Procedure for deciding whether grammar schools should retain selective admission arrangements.

- (1) The Secretary of State may by regulations make provision for ballots of parents to be held, at their request, for determining whether the grammar schools to which such ballots relate should retain selective admission arrangements.
- (2) Ballot regulations may provide for a ballot under this section to relate—
- to all grammar schools within the area of a prescribed [<sup>F8</sup>local authority] or within such other area as may be prescribed,
  - to a prescribed group of grammar schools, or
  - to any grammar school not falling within paragraph (a) or (b).
- (3) Ballot regulations may make provision—
- requiring a request for a ballot under this section to be made by means of a petition signed by parents eligible to request the ballot;
  - prescribing the form of any such petition and other requirements (whether as to the procedure to be followed or otherwise) which are to be complied with in relation to any such petition;
  - prescribing the body (“the designated body”) to which any such petition is to be sent and which, under arrangements made by the Secretary of State, is to—
    - make the arrangements for the holding of ballots under this section, and
    - discharge such other functions with respect to such petitions and the holding of such ballots as may be prescribed (which may include the determination of any question arising as to the validity of any request for a ballot or as to a person’s eligibility to request or vote in a ballot);
  - requiring prescribed bodies or persons, or bodies or persons falling within any prescribed category—
    - to provide the designated body or any other person with any prescribed information requested by that body or person, or
    - to publish prescribed information in such manner as may be prescribed;
  - authorising any such bodies or persons to charge a fee (not exceeding the cost of supply) for documents supplied by them in pursuance of regulations made by virtue of paragraph (d)(i);

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- (f) prescribing the terms of the question on which a ballot under this section is to be held and the manner in which such a ballot is to be conducted;
  - (g) enabling the Secretary of State, in any prescribed circumstances, to declare a previous ballot under this section void and require the holding of a fresh ballot;
  - (h) requiring anything falling to be done under the regulations to be done within such period as may be specified in or determined in accordance with the regulations.
- (4) Ballot regulations may provide—
- (a) for parents of any prescribed description to register with the designated body, in such manner and at such time as may be prescribed, in order to be eligible to request or vote in a ballot;
  - (b) that for all or any prescribed purposes of the regulations references to parents are to be read as excluding those who are not individuals.
- (5) Ballot regulations may provide for a request for a ballot under this section to be made, in any prescribed circumstances, by means of two or more petitions.
- (6) The information required to be provided in pursuance of subsection (3)(d) may include the names and addresses of parents of any prescribed description.
- (7) Ballot regulations may provide for sections 496 and 497 of the <sup>M3</sup>Education Act 1996 (default powers of Secretary of State) to apply to proprietors of independent schools in relation to a duty imposed by or under the regulations.
- (8) Where—
- (a) a ballot has been held under this section, and
  - (b) the result of the ballot was to the effect that the schools or school in question should retain selective admission arrangements,
- no further ballot relating to the schools or school shall be held under this section within such period as is specified in ballot regulations.
- (9) The Secretary of State may make (or arrange for the making of) payments in respect of any expenses incurred by—
- (a) the governing body of a school maintained by a [<sup>F8</sup>local authority],
  - (b) the proprietor of an independent school, or
  - (c) a [<sup>F8</sup>local authority],
- in complying with any obligations which may be imposed by regulations made under subsection (3)(d)(i) or (ii).
- Payments under this subsection may be made on such terms as the Secretary of State may determine.
- (10) For the purposes of this section and sections 106 and 107, in their application in relation to any time falling before the appointed day, a grant-maintained school or a grant-maintained special school within the meaning of the <sup>M4</sup>Education Act 1996 shall be taken—
- (a) to be a school maintained by a [<sup>F8</sup>local authority], and
  - (b) to be maintained by the authority in whose area it is situated.
- (11) In this section and section 106 “ballot regulations” means regulations made under this section.

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### Textual Amendments

- F8** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

### Modifications etc. (not altering text)

- C17** S. 105 applied (3.12.1998) by S.I. 1998/2876, art. 11(1).

### Marginal Citations

- M3** 1996 c. 56.  
**M4** 1996 c. 56.

## 106 Ballot regulations: eligibility of parents to request or vote in ballot.

- (1) In relation to a ballot under section 105(2)(a), ballot regulations shall provide that, subject to such exceptions as may be prescribed, the parents eligible to request or vote in the ballot are—
- (a) registered parents of registered pupils at the following schools, namely—
    - (i) where the ballot relates to all grammar schools within the area of a prescribed [<sup>F8</sup>local authority], all schools maintained by that authority; or
    - (ii) where the ballot relates to all grammar schools within a prescribed area, all schools maintained by a [<sup>F8</sup>local authority] which are situated in such area as may be prescribed, together with (if the regulations so provide) all schools maintained by such [<sup>F8</sup>local authority] as may be prescribed;
  - (b) registered parents of registered pupils at independent schools where—
    - (i) such parents are resident, and
    - (ii) the schools are situated, within the area of the prescribed [<sup>F8</sup>local authority] or (as the case may be) the prescribed area; and
  - (c) parents of children of a prescribed description where such parents—
    - (i) are resident within the area of the prescribed [<sup>F8</sup>local authority] or (as the case may be) the prescribed area, and
    - (ii) have registered with the designated body in accordance with section 105(4)(a).
- (2) In relation to a ballot under section 105(2)(b) or (c), ballot regulations shall provide that, subject to such exceptions as may be prescribed, the parents eligible to request or vote in the ballot are registered parents of registered pupils at any school from which a prescribed number of pupils have transferred to the grammar school or schools in question—
- (a) at such age or ages, and
  - (b) during such period,
- as may be determined in accordance with the regulations; and such regulations may provide that where, within that period, any such grammar school has been established in substitution for another school, the schools are to be treated as a single school for the purposes of determining eligibility.

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- (3) Ballot regulations shall provide—
- (a) in relation to a ballot under section 105(2)(a), that a request for such a ballot must be made by a number of eligible parents equal to at least 20 per cent. of all parents falling within subsection (1)(a) or (b) above; and
  - (b) in relation to a ballot under section 105(2)(b) or (c), that a request for such a ballot must be made by at least 20 per cent. of all parents falling within subsection (2) above.
- (4) Ballot regulations may provide for a parent’s eligibility for the purposes of—
- (a) making a request for a ballot,
  - (b) voting in a ballot, or
  - (c) determining the number of parents required to make a request by virtue of subsection (3),
- to be determined by reference to such different times as may be determined in accordance with the regulations.
- (5) Ballot regulations may make provision for determining whether parents are resident in an area for the purposes of subsection (1)(b) or (c).

#### Textual Amendments

- F8** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

### 107 Restriction on publication of material etc. relating to ballots.

- (1) An authority or body to whom this section applies shall not incur any expenditure for the purpose of—
- (a) publishing any material which, in whole or in part, appears designed to influence—
    - (i) eligible parents in deciding whether or not to request a ballot under section 105, or
    - (ii) the outcome of such a ballot; or
  - (b) assisting any person to publish any such material; or
  - (c) influencing, or assisting any person to influence, by any other means—
    - (i) eligible parents in deciding whether or not to request such a ballot, or
    - (ii) the outcome of such a ballot.
- (2) This section applies to—
- (a) any [<sup>F8</sup>local authority], and
  - (b) the governing body of any school maintained by a [<sup>F8</sup>local authority].
- (3) Nothing in subsection (1) shall be taken to prevent an authority or body to whom this section applies from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so)—
- (a) any factual information so far as it is presented fairly; or
  - (b) a fair and reasonable assessment by the authority or body of the likely consequences of the result of a ballot under section 105 being in favour

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- of the schools or school in question ceasing to have selective admission arrangements; or
- (c) an accurate statement by the authority or body of their intentions or proposals in the event of such a result.
- (4) In determining for the purposes of subsection (3) whether—
- (a) any information is presented fairly, or
- (b) an assessment is fair and reasonable,
- regard shall be had to any guidance given from time to time by the Secretary of State.
- (5) In this section any reference to expenditure—
- (a) in relation to the governing body of a school which has a delegated budget within the meaning of Part II of this Act (or, in relation to any time before the appointed day, Part II of the <sup>M5</sup>Education Act 1996), is a reference to expenditure out of the school's budget share; or
- (b) in relation to the governing body of a grant-maintained or grant-maintained special school within the meaning of that Act (where this section applies to such a school by virtue of section 105(10)), is a reference to expenditure out of maintenance grants paid under Chapter VI of Part III of that Act.

#### Textual Amendments

- F8** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

#### Modifications etc. (not altering text)

- C18** S. 107(5) modified (20.11.1998) by S.I. 1998/2670, reg. 4

#### Marginal Citations

- M5** 1996 c. 56.

## 108 Implementation of decision that school should cease to have selective admission arrangements.

- (1) Subsection (2) applies where the result of a ballot held under section 105 shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of the grammar school or schools to which the ballot related ceasing to have selective admission arrangements.
- (2) The admission authority for a grammar school to which the ballot related shall secure that their admission arrangements are revised (in accordance with sections [F24]88C to 88K or, as the case may be,] 89 and 90) so that, as from the beginning of such school year as may be prescribed, the school no longer has selective admission arrangements.
- (3) Where the Secretary of State is satisfied that, in pursuance of subsection (2), a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.

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### Textual Amendments

**F24** Words in s. 108(2) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 70**; S.I. 2008/3077, art. 2(d)

## 109 Proposals by governing body of grammar school to end selective admission arrangements.

- (1) This section has effect for enabling the admission arrangements of a grammar school to be revised (otherwise than in circumstances where section 108(2) applies) so that the school no longer has selective admission arrangements and its admission arrangements instead either—
  - (a) make no provision for selection by ability, or
  - (b) make provision for one or more of the following, namely—
    - (i) any selection by ability authorised by section 101,
    - (ii) any selection by aptitude authorised by section 102, and
    - (iii) any selection by ability such as is mentioned in section 99(2)(c).
- (2) Any such revision of the admission arrangements of a grammar school shall be one of the alterations to a maintained school which are prescribed [<sup>F25</sup>under section 18 of the 2006 Act]; but any proposals for any such revision of the admission arrangements of a grammar school which is a community school shall be published under [<sup>F26</sup>section 19 of the 2006 Act] by the governing body and not by the [<sup>F8</sup>local authority].
- (3) Regulations may provide—
  - (a) that, in their application to any proposals for any such revision of the admission arrangements of a grammar school, any provision of [<sup>F27</sup>sections 19 to 24 of the 2006 Act or regulations under those sections] shall have effect with such modifications as may be prescribed;
  - (b) that, in any prescribed circumstances following the making of a request for a ballot to be held under section 105, any such proposals under [<sup>F28</sup>section 19 of the 2006 Act] shall be of no effect.
- (4) Regulations made under section 105 may make provision, in relation to cases where any such proposals under [<sup>F29</sup>section 19 of the 2006 Act] have fallen to be implemented under [<sup>F30</sup>regulations under section 24 of that Act], for requiring the school to which the proposals relate to be disregarded for the purposes of any regulations made under section 105(2).
- (5) Where the Secretary of State is satisfied that, by reason of the implementation of any such proposals, a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.

[<sup>F31</sup>(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.]

### Textual Amendments

**F8** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

**F25** Words in s. 109(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(2)(a)**; S.I. 2007/935, art. 7(o)

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- F26** Words in s. 109(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(2)(b)**; S.I. 2007/935, art. 7(o)
- F27** Words in s. 109(3)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(3)(a)**; S.I. 2007/935, art. 7(o)
- F28** Words in s. 109(3)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(3)(b)**; S.I. 2007/935, art. 7(o)
- F29** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(a)**; S.I. 2007/935, art. 7(o)
- F30** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(b)**; S.I. 2007/935, art. 7(o)
- F31** S. 109(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(5)**; S.I. 2007/935, art. 7(o)

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#### Commencement Information

- I7** S. 109 wholly in force at 1.9.1999; s. 109 not in force at Royal Assent see s. 145(3); s. 109(3)(4) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**; s. 109 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)