



# Education Act 2002

## 2002 CHAPTER 32

### PART 3

#### MAINTAINED SCHOOLS

### CHAPTER 3

#### ADMISSIONS, EXCLUSIONS AND ATTENDANCE

#### *Admission arrangements*

#### **46 Admission forums**

After section 85 of the School Standards and Framework Act 1998 there is inserted—

#### *“Admission forums*

#### **85A Admission forums**

- (1) A local education authority shall in accordance with regulations establish for their area a body, to be known as an admission forum, for the purpose of—
  - (a) advising the authority on such matters connected with the exercise of the authority’s functions under this Chapter as may be prescribed, and
  - (b) advising the admission authorities for maintained schools in the area for which the forum is established on—
    - (i) such matters connected with the determination of admission arrangements, and
    - (ii) such other matters connected with the admission of pupils, as may be prescribed.
- (2) The authority may establish sub-committees of the forum.

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- (3) Regulations may make provision—
- (a) as to the constitution, meetings and proceedings of an admission forum and of any such sub-committee,
  - (b) as to the manner in which advice is to be given by a forum, and
  - (c) as to the establishment by local education authorities of joint admission forums.
- (4) The bodies mentioned in paragraphs (a) and (b) of subsection (1) shall have regard, in carrying out their functions, to any relevant advice given to them by an admission forum under that subsection.
- (5) The local education authority shall make arrangements for the forum (and any sub-committee established under subsection (2)) to be provided with accommodation and with such services as the authority consider appropriate.”

#### Commencement Information

- I1** S. 46 in force at 20.1.2003 except in relation to W. by [S.I. 2002/2952](#), **art. 2**
- I2** S. 46 in force at 1.12.2003 for W. by [S.I. 2003/2961](#), **art. 4**, **Sch. Pt. I**

## 47 Admission numbers

- (1) For section 86(5) of the School Standards and Framework Act 1998 (c. 31) (no prejudice for the purposes of subsection (3)(a) to be taken to arise from the admission of a number of pupils not exceeding the relevant standard number or the admission number, whichever is greater) there is substituted—

“(5) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a maintained school in a school year of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year; but this subsection does not apply if the conditions set out in subsection (5A) are met in relation to the school and the school year.

- (5A) Those conditions are—
- (a) that the school is one at which boarding accommodation is provided for pupils; and
  - (b) that the determination under section 89 by the admission authority of the admission arrangements which are to apply for that year includes the determinations mentioned in paragraphs (a) and (b) of section 89A(2).
- (5B) Where the conditions set out in subsection (5A) are met in relation to a maintained school and a school year, no prejudice shall be taken to arise for the purposes of subsection (3)(a) from either of the following—
- (a) the admission to the school in that year as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year as boarders;
  - (b) the admission to the school in that year otherwise than as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section 89 as the number of pupils in

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that age group that it is intended to admit to the school in that year otherwise than as boarders.”

(2) After section 89 of that Act there is inserted—

#### “89A Determination of admission numbers

- (1) A determination under section 89 by the admission authority for a maintained school of the admission arrangements which are to apply for a school year shall include a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year.
- (2) Such a determination under section 89 may also, if the school is one at which boarding accommodation is provided for pupils, include—
  - (a) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year as boarders, and
  - (b) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year otherwise than as boarders.
- (3) Regulations may make provision about the making of any determination required by subsection (1), and may in particular require the admission authority for a maintained school to have regard, in making any such determination, to—
  - (a) any prescribed method of calculation, and
  - (b) any other prescribed matter.
- (4) References in this section to the determination of any number include references to the determination of zero as that number.”

#### Commencement Information

- I3** S. 47 partly in force; s. 47 not in force at Royal Assent, see s. 216; s. 47 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#)) (as amended (4.12.2003) by [S.I. 2003/2992](#), [arts. 1, 3](#))
- I4** S. 47 in force at 1.2.2006 for W. by [S.I. 2006/172](#), [art. 4](#), [Sch.](#)

#### 48 Co-ordination of admission arrangements

After section 89A of the School Standards and Framework Act 1998 (c. 31) there is inserted—

#### “89B Co-ordination of admission arrangements

- (1) Regulations may require a local education authority—
  - (a) to formulate, for any academic year in relation to which prescribed conditions are satisfied, a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area, and
  - (b) to take prescribed action with a view to securing the adoption of the scheme by themselves and each governing body who are the admission authority for a maintained school in their area.

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- (2) Subject to subsection (3), the Secretary of State may make, in relation to the area of a local education authority and an academic year, a scheme for co-ordinating the arrangements, or assisting in the co-ordination of the arrangements, for the admission of pupils to maintained schools in that area.
- (3) A scheme may not be made under subsection (2) in relation to a local education authority and an academic year if, before the prescribed date in the year preceding the year in which that academic year commences—
  - (a) a scheme formulated by the local education authority in accordance with subsection (1) is adopted in the prescribed manner by the persons mentioned in paragraph (b) of that subsection, and
  - (b) the authority provide the Secretary of State with a copy of the scheme and inform him that the scheme has been so adopted.
- (4) The Secretary of State may by regulations require local education authorities to provide other local education authorities with such information as may be required by them in connection with the exercise of any of their functions under this Chapter.
- (5) Regulations may provide—
  - (a) that each local education authority shall secure that, subject to such exceptions as may be prescribed, no decision made by any admission authority for a maintained school in their area to offer or refuse a child admission to the school shall be communicated to the parent of the child except on a single day, designated by the local education authority, in each year, or
  - (b) that, subject to such exceptions as may be prescribed, a decision made by the admission authority for a maintained school to offer or refuse a child admission to the school shall not be communicated to the parent of the child except on a prescribed day.
- (6) In this section—
 

“academic year” means a period commencing with 1st August and ending with the next 31st July;

“qualifying scheme” means a scheme that meets prescribed requirements.

### **89C Further provision about schemes adopted or made by virtue of section 89B**

- (1) Regulations may make provision about the contents of schemes under section 89B(2), including provision about the duties that may be imposed by such schemes on—
  - (a) local education authorities, and
  - (b) the admission authorities for maintained schools.
- (2) Regulations may provide that where a local education authority or the governing body of a maintained school have, in such manner as may be prescribed, adopted a scheme formulated by a local education authority for the purpose mentioned in section 89B(1)(a), sections 496 and 497 of the Education Act 1996 shall apply as if any obligations imposed on the local education

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authority or governing body under the scheme were duties imposed on them by that Act.

- (3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school falls to be made in prescribed circumstances, the decision shall, if a scheme adopted or made by virtue of this section so provides, be made by the local education authority regardless of whether they are the admission authority for the school.
- (4) Before proposing a scheme for adoption under section 89B(1) a local education authority shall comply with such requirements as to consultation as may be prescribed.
- (5) Regulations under subsection (4) may in particular require consultations to be undertaken with a view to securing that the arrangements for the admission of pupils to maintained schools in the areas of different local education authorities are, so far as is reasonably practicable, compatible with each other.
- (6) Before making a scheme under section 89B(2) in relation to the area of any local education authority, the Secretary of State shall consult—
  - (a) the local education authority, and
  - (b) any governing body who are the admission authority for a school which appears to the Secretary of State to be a school to which the scheme will apply.
- (7) A scheme made under section 89B(2) may be varied or revoked by the Secretary of State.”

#### Commencement Information

- I5** S. 48 partly in force; s. 48 not in force at Royal Assent, see s. 216; s. 48 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)
- I6** S. 48 in force at 1.2.2006 for W. by S.I. 2006/172, art. 4, Sch.

#### 49 Repeal of power to make certain special arrangements for preserving religious character

Section 91 of the School Standards and Framework Act 1998 (c. 31) (special arrangements to preserve religious character of foundation or voluntary aided school) shall cease to have effect.

#### Commencement Information

- I7** S. 49 wholly in force at 19.12.2002; s. 49 not in force at Royal Assent, see s. 216; s. 49 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.) and in force for W. at 19.12.2002 by S.I. 2002/3185, art. 4, Sch. Pt. I (with transitional provisions and savings in art. 7)

#### 50 Admission appeals

In section 94 of the School Standards and Framework Act 1998 (appeal arrangements: general) for subsection (5) there is substituted—

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- “(5) An appeal pursuant to any arrangements made under this section shall be to an appeal panel constituted in accordance with regulations.
- (5A) Regulations may make provision about the making of appeals pursuant to such arrangements, including provision—
- (a) as to the procedure on such appeals,
  - (b) for the payment by the local education authority of allowances to members of an appeal panel, and
  - (c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.
- (5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.
- (5C) Regulations made by virtue of subsection (5A)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.”

#### Commencement Information

- I8** S. 50 partly in force; s. 50 not in force at Royal Assent, see s. 216; s. 50 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch. para. 3)
- I9** S. 50 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2 (with Sch. para. 3)
- I10** S. 50 in force at 31.5.2005 for W. by S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

## 51 Further amendments relating to admission arrangements

Schedule 4 (which contains further amendments relating to admission arrangements) shall have effect.

#### Commencement Information

- I11** S. 51 partly in force; s. 51 not in force at Royal Assent, see s. 216; s. 51 in force for certain purposes for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with Sch.)
- I12** S. 51 in force at 20.1.2003 so far as not already in force except in relation to W. by S.I. 2002/2952, art. 2
- I13** S. 51 in force at 9.1.2004 for specified purposes for W. by S.I. 2003/2961, art. 7, Sch. Pt. IV
- I14** S. 51 in force at 31.3.2004 for specified purposes for W. by S.I. 2004/912, art. 4, Sch. Pt. 1
- I15** S. 51 in force at 31.5.2005 for specified purposes for W. by S.I. 2005/1395, art. 4, Sch.
- I16** S. 51 in force at 1.2.2006 for W. so far as not already in force by S.I. 2006/172, art. 4, Sch.

### *Exclusion of pupils*

## 52 Exclusion of pupils

- (1) The head teacher of a maintained school may exclude a pupil from the school for a fixed period or permanently.

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- (2) The teacher in charge of a pupil referral unit may exclude a pupil from the unit for a fixed period or permanently.
- (3) Regulations shall make provision—
- (a) requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2),
  - (b) requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated,
  - (c) requiring the local education authority to make arrangements for enabling a prescribed person to appeal, in any prescribed case, to a panel constituted in accordance with the regulations against any decision of the responsible body not to reinstate a pupil, and
  - (d) as to the procedure on appeals.
- (4) Regulations under this section may also make provision—
- (a) for the payment by the local education authority of allowances to members of a panel constituted in accordance with the regulations,
  - (b) requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales,
  - (c) requiring local education authorities to give prescribed information to the Secretary of State or the Assembly, as the case may be, and
  - (d) in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2).
- (5) In subsection (3), “the responsible body” means—
- (a) in relation to exclusion from a maintained school, the governing body of the school, and
  - (b) in relation to exclusion from a pupil referral unit, such person as may be prescribed;
- and, in relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) shall have effect in relation to such an exclusion with the omission of paragraph (b) and as if the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil.
- (6) Regulations made by virtue of subsection (4)(a) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (c. 70) (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of a panel constituted in accordance with regulations under this section.
- (7) Regulations shall make provision enabling a prescribed person, in any prescribed case, to appeal to a panel constituted in accordance with the regulations against any decision made after 31st August 1994 under paragraph 7 of Schedule 1 to the Education Act 1996 (c. 56), or any enactment repealed by that Act, in relation to the permanent exclusion of a pupil from a pupil referral unit; and the provision that may be made by regulations made by virtue of this subsection in relation to any such decision includes any provision that could after the commencement of subsections (2) to (4) be made in relation to a decision falling within subsection (3)(c).

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- (8) Regulations under this section which—
- (a) relate to exclusions from pupil referral units (whether before or after the passing of this Act), and
  - (b) are made before the repeal by this Act of the existing enactments is fully in force,
- may provide for any provision made by or under the existing enactments to have effect in relation to exclusions from pupil referral units with such modifications as may be prescribed.
- (9) In subsection (8) “the existing enactments” means sections 64(2) and (3) and 65 to 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (c. 31).
- (10) In this section “exclude”, in relation to the exclusion of a child from a school or pupil referral unit, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly).
- (11) In this section “maintained school” has the same meaning as in Chapter 1.

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

- C1** S. 52 modified (E.) (temp. from 20.1.2003) by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\)](#), **reg. 5**
- C2** S. 52 modified (W.) (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), regs. 1(1), **6**
- C3** S. 52(2) restricted (W.) (9.1.2004) by [The Education \(Pupil Exclusions and Appeals\) \(Pupil Referral Units\) \(Wales\) Regulations 2003 \(S.I. 2003/3246\)](#), regs. 1(1), **4**
- C4** S. 52(5)(a) modified (31.3.2004) by [The Blackburn with Darwen \(Maintained Nursery School Governance\) Order 2004 \(S.I. 2004/657\)](#), arts. 1(1), **3(h)**

**Commencement Information**

- I17** S. 52 partly in force; s. 52(7)-(11) in force at Royal Assent, see s. 216(1); s. 52(1)-(6) in force for E. at 20.1.2003 by [S.I. 2002/2952](#), **art. 2** (with savings and transitional provisions in [art. 3](#), [Sch. para. 4](#))
- I18** S. 52(1)-(6) in force at 20.1.2003 except in relation to W. by [S.I. 2002/2952](#), **art. 2** (with [Sch. para. 4](#))
- I19** S. 52(1)-(6) in force at 9.1.2004 for W. by [S.I. 2003/2961](#), **art. 7**, **Sch. Pt. IV**
- I20** S. 52(11) in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**
- I21** [S. 52\(11\)](#) in force at 31.10.2005 for W. by [S.I. 2005/2910](#), **art. 4**, **Sch.**

*Attendance targets*

**53 Attendance targets**

- (1) Section 63 of the School Standards and Framework Act 1998 (power to make regulations for targets relating to unauthorised absences) is amended as follows.
- (2) In subsections (1) and (3), the word “unauthorised” is omitted.
- (3) After subsection (3) there is inserted—
- “(3A) Provision made by regulations under this section may relate to—
- (a) absences which are authorised pursuant to regulations under section 434 of the Education Act 1996, or
  - (b) absences which are not so authorised, or



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(c) both.”

(4) In subsection (4), the definition of “unauthorised absence” is omitted.

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**Commencement Information**

**I22** S. 53 in force at 1.6.2004 except in relation to W. by S.I. 2004/1318, art. 2

**I23** S. 53 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, Sch.

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