

Status: Point in time view as at 01/09/1998.

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SCHEDULES

[^{F1}SCHEDULE 25A

APPEALS AGAINST EXCLUSION OF PUPILS FROM GRANT-MAINTAINED SCHOOLS

Textual Amendments

- F1** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (with transitional provisions)

^{F2} *Introductory*

Textual Amendments

- F2** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{F3}₁ In this Schedule—

“appeal” means an appeal mentioned in section 307A;

“appeal committee” means an appeal committee constituted for the purposes of an appeal in accordance with the instrument of government of the school;

“the relevant person” means—

- (a) in relation to a pupil under the age of 18, a parent of his;
- (b) in relation to a pupil who has attained that age, the pupil himself.

Textual Amendments

- F3** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{F4} *Procedure on appeal*

Textual Amendments

- F4** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{F5}₂ An appeal shall be by notice in writing setting out the grounds on which it is made.

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Textual Amendments

F5 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F63} (1) Subject to sub-paragraph (2), the appeal committee shall meet to consider an appeal—
- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
 - (b) if the governing body have determined a shorter period, within that period.
- (2) The governing body may extend the period within which the appeal committee are to consider an appeal where—
- (a) the relevant person requests them to do so; and
 - (b) they are satisfied that the circumstances are exceptional and justify the period under sub-paragraph (1) being extended.

Textual Amendments

F6 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F74} (1) For the purpose of fixing the time (falling within the period mentioned in paragraph 3) at which the hearing of an appeal is to take place, the governing body shall take reasonable steps to ascertain any times falling within that period when—
- (a) the relevant person, or
 - (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 5,
- would be able to attend.
- (2) Where in accordance with sub-paragraph (1) the governing body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.

Textual Amendments

F7 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F85} (1) The appeal committee shall give the relevant person an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.
- (2) The appeal committee shall allow—
- (a) the head teacher and a member of the governing body to make written representations;

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- (b) the head teacher and a member of the governing body to appear and make oral representations; and
- (c) the governing body to be represented.

Textual Amendments

F8 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F9}6 An appeal shall be held in private except when otherwise directed by the governing body, but any member of the Council on Tribunals may attend as an observer any meeting of the appeal committee at which an appeal is considered.

Textual Amendments

F9 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F10}7 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

Textual Amendments

F10 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- ^{F11}8 (1) In deciding whether the pupil in question should be reinstated (and, if so, the time when this should take place), the appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making its decision on an appeal, the appeal committee shall also have regard to the measures publicised by the head teacher under section 306A(7).
- (3) Sub-paragraphs (1) and (2) do not apply where the appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.
- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.

Textual Amendments

F11 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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- F12⁹** In the event of a disagreement between the members of the appeal committee the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.

Textual Amendments

F12 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F13¹⁰** Subject to paragraph 11, the decision of the appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the relevant person, the governing body, the head teacher and the local education authority to whose area the pupil belongs within—
- (a) the period ending with the 17th school day after the day on which the appeal is lodged; or
 - (b) if the governing body have determined a shorter period, that period.

Textual Amendments

F13 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F14¹¹** Where the governing body extend the period for the consideration of an appeal in accordance with paragraph 3(2), they shall (to the extent it appears to them to be necessary as a result of the extension of that period) extend the period within which the appeal committee are to communicate their decision.

Textual Amendments

F14 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F15¹²** Subject to paragraphs 2 to 11, all matters relating to the procedure on appeals shall be determined by the governing body.

Textual Amendments

F15 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F16¹³** (1) Subject to sub-paragraph (2), where joint arrangements for appeals have been made in accordance with paragraph 6(2) of Schedule 23 (content of articles of government), paragraphs 2 to 12 shall have effect in respect of appeals to committees established in accordance with the joint arrangements.

(2) In the case of any appeal made in pursuance of the joint arrangements—

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- (a) paragraphs 3, 4, 6, 10(b), 11 and 12 shall have effect as if for “the governing body” there were substituted “the governing body and the governing body of every other school which is a party to the arrangements, acting jointly”; and
- (b) paragraphs 5(2) and 10 (except paragraph 10(b)) shall have effect as if for “the governing body” there were substituted “the governing body against whose decision the appeal is made”.

Textual Amendments

F16 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{F17}Power of Secretary of State to make amendments

Textual Amendments

F17 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{F18}14 The Secretary of State may by order amend the preceding provisions of this Schedule.]

Textual Amendments

F18 Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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