



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART III

#### SCHOOL ADMISSIONS

#### CHAPTER I

#### ADMISSION ARRANGEMENTS

#### *Code of practice*

#### **84 Code of practice.**

- (1) The Secretary of State shall issue, and may from time to time revise, a code of practice containing such practical guidance as he thinks appropriate in respect of the discharge by—
  - (a) local education authorities,
  - (b) the governing bodies of maintained schools,
  - (c) appeal panels, and
  - (d) adjudicators,of their respective functions under this Chapter.
- (2) The code may include guidelines setting out aims, objectives and other matters in relation to the discharge of their functions under this Chapter by local education authorities and such governing bodies.
- (3) It shall be the duty of—
  - (a) each of the bodies and persons mentioned in subsection (1) when exercising functions under this Chapter, and

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- (b) any other person when exercising any function for the purposes of the discharge by a local education authority, or the governing body of a maintained school, of functions under this Chapter, to have regard to any relevant provisions of the code.
- (4) The Secretary of State shall publish the code as for the time being in force.
- (5) The Secretary of State may under subsection (1)—
- (a) make separate provision (by means of separate codes of practice) in relation to different functions under this Chapter of the bodies and persons mentioned in that subsection;
  - (b) make different provision for England and for Wales (whether or not by means of separate codes of practice);
- and references in this section to “the code” or to functions under this Chapter shall have effect, in relation to any such separate code of practice, as references to that code or to functions under this Chapter to which it relates (as the case may be).
- (6) In this Chapter—
- “admission arrangements” and “the admission authority” have the meaning given by section 88;
  - “appeal panel” means a panel constituted [<sup>F1</sup>in accordance with regulations under section 94(5) or 95(3)] for the purpose of hearing an appeal under this Chapter;
  - “child” (except in sections 96 and 97) includes a person who has not attained the age of 19;
  - “maintained school” means a community, foundation or voluntary school;
  - [<sup>F2</sup>“the relevant standard number”, in relation to a maintained school, a relevant age group and a school year, means the standard number applying under Schedule 23 to the school in relation to that age group and year.]

#### Textual Amendments

- F1** Words in s. 84(6) substituted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 51, 216, Sch. 4 para. 2](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)
- F2** S. 84(6): Definition of "the relevant standard number" repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 215\(2\), 216, Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

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

- C1** S. 84 modified (temp.)(22.4.1999) by S.I. 1999/1064, [reg.2](#).  
S. 84 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8, Sch. paras. 1\(c\), 2-8](#).  
S. 84 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7, Sch. paras. 1, 2-8](#).
- C2** S. 84(6) modified (6.1.1999) by S.I. 1998/3130, [reg.2](#)

## 85 Making and approval of code of practice.

- (1) Where the Secretary of State proposes to issue or revise a code of practice under section 84, he shall prepare a draft of the code (or revised code).
- (2) The Secretary of State shall consult such persons about the draft as he thinks fit and shall consider any representations made by them.

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- (3) If he determines to proceed with the draft (either in its original form or with such modifications as he thinks fit) he shall lay a copy of the draft before each House of Parliament.
- (4) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State shall take no further steps in relation to the proposed code.
- (5) If no such resolution is made within the 40-day period, the Secretary of State shall issue the code (or revised code) in the form of the draft, and it shall come into force on such date as the Secretary of State may by order appoint.
- (6) Subsection (4) does not prevent a new draft of a proposed code from being laid before Parliament.
- (7) In this section “40-day period”, in relation to the draft of a proposed code, means—
  - (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,
 no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) In this section references to a proposed code include a proposed revised code.

### *[<sup>F3</sup> Admission forums*

#### **Textual Amendments**

**F3** S. 85A cross-heading inserted (20.1.2003 for E., 1.12.2003 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 46, 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952, art. 2](#); [S.I. 2003/2961, art. 4, Sch. Pt. I](#)

#### **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.
- (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

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- (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.

**85B** **Functions of admission forums in relation to Academies**

- (1) Regulations may authorise or require an admission forum established by a local education authority under section 85A to give advice to the governing body of any Academy in the authority’s area on any matter corresponding to a matter prescribed under subsection (1)(b) of that section.
- (2) The governing body of an Academy shall have regard, in conducting the Academy, to any relevant advice given to them by an admission forum by virtue of subsection (1).]]

**Textual Amendments**

**F4** S. 85B inserted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 66, 216 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

*Parental preferences*

**86 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 <sup>F5</sup>subsections (3) and (3A)] and section 87 (children excluded from two or more schools), a local education authority and the governing body of a maintained school shall comply with any preference expressed in accordance with arrangements made under subsection (1).
- <sup>F6</sup>(2A) Arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school; but nothing in this section requires the admission authority for a maintained school for which a child’s parent has expressed a preference to offer the child admission to the school if, in accordance with a scheme adopted or made by virtue of section 89B, the child is offered admission to a different school for which the parent has also expressed a preference.]
- (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; <sup>F7</sup>or]
  - (b) <sup>F8</sup> .....

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- (c) if the arrangements for admission to the preferred school—
  - (i) are wholly based on selection by reference to ability or aptitude, and
  - (ii) are so based with a view to admitting only pupils with high ability or with aptitude,and compliance with the preference would be incompatible with selection under those arrangements.

[<sup>F9</sup>(3A) In relation to a preference expressed by a parent as to the school at which he wishes secondary education suitable to the requirements of pupils who are over compulsory school age to be provided for his child, the duty imposed by subsection (2) also does not apply if the relevant selection arrangements are wholly based on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under those arrangements.

(3B) In subsection (3A) “the relevant selection arrangements”, in relation to a school, means—

- (a) the arrangements for admission to the school for secondary education suitable to the requirements of pupils who are over compulsory school age, or
- (b) those arrangements and the arrangements for entry to the sixth form of children who have been admitted to the school;

and references in this subsection to entry to the sixth form of children who have been admitted to a school shall be construed in accordance with section 94(7).]

(4) For the purposes of subsection (3)(a) prejudice of the kind referred to in that provision may arise by reason of measures required to be taken in order to ensure compliance with the duty imposed by section 1(6) (duty of local education authority and governing body to comply with limit on infant class sizes).

[<sup>F10</sup>(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 that age group that it is intended to admit to the school in that year otherwise than as boarders.]

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- (6) [F11]Where—
- (a) the admission arrangements for two or more maintained schools provide for co-ordinated admissions on the part of those schools, and
  - (b) they are approved by the Secretary of State for the purposes of this subsection, they shall have effect in relation to each of those schools despite anything in subsection (2).]

(7) Where the arrangements for the admission of pupils to a maintained school 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 this section as having expressed a preference for that school in accordance with arrangements made under subsection (1).

(8) 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 maintained school of a child who is not in the area of the authority maintaining the school, and
    - (b) any application made by a parent as mentioned in section 438(4) or 440(2) of the <sup>M1</sup>Education Act 1996 (application for a particular school to be named in a school attendance order);

and references in [F12]subsections (3) and (3A)] to a preference and a preferred school shall be construed accordingly.

(9) Where admission arrangements for a school [F13, or arrangements such as are mentioned in subsection (3B), provide for all pupils selected under the arrangements] to be selected by reference to ability or aptitude, those arrangements shall be taken for the purposes of this section to be wholly based on selection by reference to ability or aptitude, whether or not they also provide for the use of additional criteria in circumstances where the number of children in a relevant age group who are assessed to be of the requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group.

#### Textual Amendments

- F5** Words in s. 86(2) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F6** S. 86(2A) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F7** Word in s. 86(3)(a) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(4\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F8** S. 86(3)(b) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 215(2), 216, [Sch. 4 para. 3\(4\)\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)
- F9** S. 86(3A)(3B) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(5\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F10** S. 86(5)-(5B) substituted for s. 86(5) (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 47\(1\)](#), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)

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- F11** S. 86(6) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 215(2), 216, Sch. 4 para. 3(6), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F12** Words in s. 86(8) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(7\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)
- F13** Words in s. 86(9) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 3\(8\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.) (as amended (6.3.2003) by S.I. 2003/606, arts. 1, 2)

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

- C3** S. 86 modified (temp. from 22.4.1999) by S.I. 1999/1064, [reg. 3](#)  
Ss. 86-87 restricted (29.3.1999) by S.I. 1999/1016, [art. 6](#), Sch. 4 paras. 1, [2\(1\)](#)  
S. 86 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), Sch. paras. 1(c), [2-8](#).  
S. 86 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), Sch. paras. 1, [2-8](#).
- C4** S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, [reg. 8](#), [Sch. 2 para. 5\(b\)](#)
- C5** S. 86(1)(2) excluded (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 36\(5\)\(a\)\(10\)](#), [162\(2\)](#) (with s. 159)

#### Marginal Citations

- M1** [1996 c. 56](#).

## 87 No requirement to admit children permanently excluded from two or more schools.

- (1) The duty imposed by section 86(2) does not apply in the case of a child to whom subsection (2) below 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.
  - [<sup>F14</sup>(4) However, a child who has been permanently excluded from a school shall not be treated for the purposes of this section as having been so excluded if—
    - (a) he was reinstated as a pupil at the school following the giving of a direction to that effect by the relevant authority in accordance with regulations under subsection (3)(b) or (c) of section 52 of the Education Act 2002,
    - (b) on a review of his exclusion carried out in accordance with regulations under subsection (3)(b) of that section or an appeal made pursuant to regulations under subsection (3)(c) of that section, the relevant authority decided—
      - (i) that it would not be practical to give a direction requiring his reinstatement as a pupil at the school, but
      - (ii) that it would otherwise have been appropriate to give such a direction, or
    - (c) he was so excluded at a time when he had not attained compulsory school age.
- (4A) In subsection (4) “the relevant authority” means—

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- (a) the responsible body as defined by subsection (5) of section 52 of the Education Act 2002, or
  - (b) a panel constituted in accordance with regulations under subsection (3)(c) of that section.]
- (5) In this section “school” means—
- (a) in relation to any time before or after the appointed day, a school maintained by a local education authority; or
  - (b) in relation to any time before the appointed day, a grant-maintained or grant-maintained special school within the meaning of the <sup>M2</sup>Education Act 1996.
- (6) 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.
- (7) Nothing in this section applies to a child unless at least one of the two or more exclusions mentioned in subsection (2) took effect on or after 1st September 1997.

#### Textual Amendments

**F14** S. 87(4)(4A) substituted for s. 87(4) (20.1.2003 for E. otherwise prosp.) by [Education Act 2002](#) (c. 32), s. 51, 216, [Sch. 4 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

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

**C6** Ss. 86-87 restricted (29.3.1999) by S.I. 1999/1016, [art. 6](#), [Sch. 4 paras. 1, 2\(1\)](#)  
 S. 87 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(c\), 2-8](#)  
 S. 87 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1, 2-8](#).

#### Marginal Citations

**M2** 1996 c. 56.

### *Admission arrangements*

## **88 Admission authorities and admission arrangements.**

- (1) In this Chapter “the admission authority”—
- (a) in relation to a community or voluntary controlled school, means—
    - (i) the local education authority, or
    - (ii) where with the governing body’s agreement the authority have delegated to them responsibility for determining the admission arrangements for the school, the governing body; and
  - (b) in relation to a foundation or voluntary aided school, means the governing body.
- (2) In this Chapter “admission arrangements”, in relation to a maintained school, means the arrangements for the admission of pupils to the school, including the school’s admission policy.



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

**C7** S. 88 modified (6.1.1999) by S.I. 1998/3130, reg. 3

### **89 Procedure for determining admission arrangements.**

(1) The admission authority for a maintained school shall, before the beginning of each school year, determine in accordance with this section the admission arrangements which are to apply for that year.

[<sup>F15</sup>(2) Before determining the admission arrangements which are to apply for a particular school year, the admission authority shall consult the following about the proposed arrangements, namely—

- (a) whichever of the governing body and the local education authority are not the admission authority,
- (b) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,
- (c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)), and
- (d) the admission authorities for maintained schools of any prescribed description.

(2A) Subsection (2) does not apply in relation to the proposed admission arrangements for a particular school year if—

- (a) the admission authority are the school’s governing body, and
- (b) prescribed conditions are satisfied in relation to that year.]

(3) In subsection (2) “the relevant area” means—

- (a) the area of the local education authority; or
- (b) if regulations so provide, such other area (whether more or less extensive than the area of the local education authority) as may be determined by or in accordance with the regulations.

(4) Once the admission authority have carried out any such consultation, the authority shall—

- (a) determine that their proposed arrangements (either in their original form or with such modifications as the authority think fit) shall be the admission arrangements for the school year in question; and
- (b) (except in such cases as may be prescribed) notify the [<sup>F16</sup>appropriate bodies] of those admission arrangements.

(5) Where an admission authority—

- (a) have in accordance with subsection (4) determined the admission arrangements which are to apply for a particular school year, but
- (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined,

the authority shall (except in a case where their proposed variations fall within any description of variations prescribed for the purposes of this subsection) refer the proposed variations to the adjudicator, and shall (in every case) notify the [<sup>F17</sup>appropriate bodies] of the proposed variations.

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- (6) The adjudicator shall consider whether the arrangements should have effect with those variations until the end of that year; and if he determines that the arrangements should so have effect or that they should so have effect subject to such modification of those variations as he may determine—
- (a) the arrangements shall have effect accordingly as from the date of his determination; and
  - (b) the admission authority shall (except in such cases as may be prescribed) notify the [<sup>F18</sup>appropriate bodies] of the variations subject to which the arrangements are to have effect.
- (7) In relation to a maintained school in Wales any reference to the adjudicator in subsection (5) or (6) shall be read as a reference to the Secretary of State.
- (8) Regulations may make provision—
- (a) specifying matters to which any consultation required by subsection (2) is, or is not, to relate;
  - (b) as to the manner in which, and the time by which, any such consultation is to be carried out;
  - (c) as to the manner in which, and the time by which, any notification required by this section is to be given;
  - (d) specifying matters which are, or are not, to constitute major changes in circumstances for the purposes of subsection (5)(b);
  - (e) authorising an admission authority, where they have in accordance with subsection (4) determined the admission arrangements which are to apply for a particular school year, to vary those arrangements to such extent or in such circumstances as may be prescribed;
  - (f) for the application of any of the requirements of subsections (5) and (6) to variations proposed to be made by virtue of paragraph (e), or to any prescribed description of such variations, as if they were variations proposed to be made under subsection (5);
  - [<sup>F19</sup>(fa) requiring an admission authority who have made a determination of a prescribed description under this section to publish such information relating to the determination (including information as to the authority’s reasons for making the determination) as may be prescribed;]
  - (g) as to such other matters connected with the procedure for determining or varying admission arrangements under this section as the Secretary of State considers appropriate.
- [<sup>F20</sup>(8A) The power under paragraph (fa) of subsection (8) to require an admission authority to publish information includes power to require them to publish it—
- (a) by giving a notice containing the information to prescribed persons, or
  - (b) in any other prescribed manner.]

[<sup>F21</sup>(9) Where the local education authority are the admission authority for a community or voluntary controlled school, they shall consult the governing body before making any reference under subsection (5).]

[<sup>F22</sup>(10) In this section “the appropriate bodies”, in relation to an admission authority, means the bodies whom they were required to consult under subsection (2), or would but for subsection (2A) have been required so to consult.]

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#### Textual Amendments

- F15** S. 89(2)(2A) substituted for s. 89(2) (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(2\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F16** Words in s. 89(4) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F17** Words in s. 89(5) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F18** Words in s. 89(6) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F19** S. 89(8)(fa) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F20** S. 89(8A) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(5\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F21** S. 89(9) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(6\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))
- F22** S. 89(10) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51, 216](#), [Sch. 4 para. 5\(7\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))

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

- C8** S. 89 excluded (6.1.1999 with application as mentioned) (*temp.*) by [S.I. 1998/3198](#), [arts.3, 4](#)

#### Commencement Information

- II** S. 89 wholly in force; s. 89 not in force at Royal Assent see s. 145(3); s. 89(2)-(8) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. 1](#); s. 89 in force at 6.1.1999 in so far as not already in force by [S.I. 1998/3198](#), [arts. 2, 3](#) and 4

### [<sup>F23</sup>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.]

*Status: Point in time view as at 20/01/2003.*

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### Textual Amendments

**F23** S. 89A inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 47(2), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

## [<sup>F24</sup>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.
- (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.

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### Textual Amendments

**F24** Ss. 89B, 89C inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 48, 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

## 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 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.]

### Textual Amendments

**F24** Ss. 89B, 89C inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 48, 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

## 90 Reference of objections to adjudicator or Secretary of State.

- (1) Where—
  - (a) admission arrangements have been determined by an admission authority under section 89(4), but

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- (b) a body [<sup>F25</sup>who were, or would but for subsection (2A) of section 89 have been, required to be consulted by the admission authority under subsection (2) of that section] wish to make an objection about those arrangements, and
  - (c) the objection does not fall within any description of objections prescribed for the purposes of this paragraph,

that body may refer the objection to the adjudicator.
- (2) Where—
  - (a) admission arrangements have been determined by an admission authority under section 89(4), but
  - (b) any parent of a prescribed description wishes to make an objection about those arrangements, and
  - (c) the objection falls within any description of objections prescribed for the purposes of this paragraph,

that person may refer the objection to the adjudicator.
- (3) On a reference under subsection (1) or (2) the adjudicator shall either—
  - (a) decide whether, and (if so) to what extent, the objection should be upheld, or
  - (b) in such cases as may be prescribed, refer the objection to the Secretary of State for that question to be decided by him.
- (4) Where the objection is referred to the Secretary of State under subsection (3)(b), the adjudicator shall, if the Secretary of State so requests, give his advice on the question referred to in that provision.
- (5) In relation to a maintained school in Wales—
  - (a) the reference to the adjudicator in subsection (1) or (2) shall be read as a reference to the Secretary of State;
  - (b) subsections (3) and (4) shall not apply; and
  - (c) where any objection is referred to the Secretary of State by virtue of paragraph (a) above, he shall decide whether, and (if so) to what extent, the objection should be upheld.
- (6) Where the adjudicator or the Secretary of State decides that an objection referred to him under this section should be upheld to any extent, his decision on the objection may specify the modifications that are to be made to the admission arrangements in question.
- (7) In the case of any objection referred to him under this section, the adjudicator or the Secretary of State (as the case may be) shall publish his decision on the objection and the reasons for it.
- (8) The decision of the adjudicator or the Secretary of State on the objection shall, in relation to the admission arrangements in question, be binding on the admission authority and on all persons by whom an objection about those arrangements may be made under subsection (1) or (2); and if that decision is to uphold the objection to any extent, those arrangements shall forthwith be revised by the admission authority in such a way as to give effect to the decision.
- (9) Regulations may make provision—
  - (a) as to any conditions which must be satisfied before—
    - (i) an objection can be referred to the adjudicator or the Secretary of State under subsection (1) or (2), or

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- (ii) the adjudicator or the Secretary of State is required to determine an objection referred to him under subsection (2);
  - (b) prescribing the steps which may be taken by an admission authority where an objection has been referred to the adjudicator or the Secretary of State under subsection (1) or (2) but has not yet been determined;
  - (c) as to the manner in which any matters required to be published under subsection (7) are to be published;
  - (d) requiring such matters to be notified to such persons, and in such manner, as may be prescribed;
  - (e) prohibiting or restricting the reference under subsection (1) or (2), within such period following a decision by the adjudicator or the Secretary of State under this section as may be prescribed, of any objection raising the same (or substantially the same) issues in relation to the admission arrangements of the school in question;
  - (f) prescribing circumstances in which an admission authority may revise the admission arrangements for their school in the light of any decision by the adjudicator or the Secretary of State relating to the admission arrangements for another school, and the procedure to be followed in such a case.
- (10) Regulations shall make provision for the cases to be referred to the Secretary of State under subsection (3)(b) to include cases where the objection is concerned with admissions criteria relating to a person's religion or religious denomination.

#### Textual Amendments

**F25** Words in s. 90(1)(b) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 6](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#))

#### Commencement Information

**I2** S. 90 wholly in force at 1.4.1999; s. 90 not in force at Royal Assent see s. 145(3); s. 90(1)-(3), (5), (9) and (10) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, [art. 2](#), [Sch. 1 Pt. 1](#); s. 90 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](#)).

## 91 Special arrangements to preserve religious character of foundation or voluntary aided school.

F26 .....

#### Textual Amendments

**F26** S. 91 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 49, 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#)); S.I. 2002/3185, [art. 4](#), [Sch. Pt. 1](#) (with [art. 7](#))

## [<sup>F27</sup>92] Publication of information about admissions.

Regulations may—

- (a) require the publication by a local education authority of such information relating to admissions as may be prescribed,

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- (b) require the publication by the governing body of a foundation or voluntary aided school of such information relating to admissions as may be prescribed,
- (c) require or allow the publication by the governing body of any school maintained by a local education authority, or by the local education authority on behalf of the governing body, of such information relating to the school as may be prescribed, and
- (d) make provision as to the time by which, and the manner in which, information required to be published by virtue of this section is to be published.]

#### Textual Amendments

**F27** S. 92 substituted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, Sch. 4 para. 7 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

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

**C9** S. 92 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, 4  
 S. 92 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), 2-8  
 S. 92 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8.

#### Commencement Information

**I3** S. 92 wholly in force at 1.4.1999; s. 92 not in force at Royal Assent see s. 145(3); s. 92 in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; s. 92 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).

### Admission numbers

#### 93 Fixing admission numbers.

- [<sup>F28</sup>(1) The admission authority for a maintained 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) Subject to section 1(6) (duty of local education authority and governing body to comply with limit on infant class sizes), 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) Schedule 23 (determination, variation and review of standard numbers) shall have effect.
- (4) A proposal may be made to the admission authority in accordance with subsection (5) by whichever of the governing body and the local education authority are not the admission authority 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.
- (5) Any such proposal—
- (a) shall be made in writing,
  - (b) may relate to one or more relevant age groups, and



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- (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 body 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 body making the proposal may, within 28 days of receiving the notice, make an application under paragraph 4(3) or 8(3) (as the case may be) of Schedule 23 for a decision increasing the relevant standard number.
- (8) Regulations may provide for the operation of subsection (1) and section 86(5) to be suspended to such extent as the Secretary of State considers appropriate for the purpose of enabling—
- (a) admission authorities to review under paragraph 11 of Schedule 23 any standard number applicable to admissions to an infant class at any maintained school, and
  - (b) any application to reduce any such number under paragraph 4(4) or 8(4) (as the case may be) of that Schedule to be decided in accordance with that Schedule, following the coming into force of regulations under section 1 by virtue of which any limit on class sizes is to apply, or be varied, in relation to any such class.
- (9) Regulations under subsection (8) may provide for any suspension to apply—
- (a) in relation to such age groups,
  - (b) for such period, and
  - (c) subject to such conditions,
- as may be specified in the regulations; and in that subsection “infant class” has the meaning given by section 4.
- (10) 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.]

#### Textual Amendments

- F28** S. 93 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))

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

- C10** S. 93 restricted (29.3.1999) by [S.I. 1999/1016](#), [art. 6](#), [Sch. 4](#) paras. 1, [5\(1\)\(5\)](#)
- C11** S. 93(1)(2) applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), [reg. 8](#), [Sch. paras. 1\(c\)](#), [2-8](#).  
S. 93(1)(2) applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), [reg. 7](#), [Sch. paras. 1](#), [2-8](#).
- C12** S. 93(1) excluded (E.) (*temp.*) by [S.I. 2000/180](#), [arts. 3](#), [5](#)

#### Commencement Information

- I4** S. 93 wholly in force at 1.9.1999; s. 93 not in force at Royal Assent see [s. 145\(3\)](#); [s. 93\(3\)\(8\)](#) and (9) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); [s. 93\(1\)\(2\)\(10\)](#) in force at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); [s. 93](#) in force at 1.9.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with [arts. 3-6](#), [Sch. 4](#)).

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### *Admission appeals*

#### **94 Appeal arrangements: general.**

- (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 96 (directions for admission), and
  - (b) in the case of a community or voluntary controlled school maintained by the authority, any decision made by or on behalf of the governing body refusing the child admission to the school.
- [<sup>F29</sup>(1A) A local education authority shall make arrangements for enabling the parent of a child who has been admitted to a community or voluntary controlled school maintained by the authority to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form.]
- (2) The governing body of a foundation or voluntary aided 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.
- [<sup>F30</sup>(2A) The governing body of a foundation or voluntary aided school shall make arrangements for enabling the parent of a child who has been admitted to the school to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form.]
- (3) Joint arrangements may be made under subsection (2) [<sup>F31</sup>or (2A)] by the governing bodies of two or more foundation or voluntary aided schools maintained by the same local education authority.
- (4) A local education authority and the governing body or bodies of one or more foundation or voluntary aided schools maintained by the authority may make joint arrangements consisting of—
- (a) such of the arrangements made by the authority in pursuance of subsection (1) [<sup>F32</sup>or (1A)] as the authority may determine; and
  - (b) arrangements made by the governing body or bodies in pursuance of subsection (2) [<sup>F33</sup>or (2A)] .
- [<sup>F34</sup>(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.

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- (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.]
- (6) The decision of an appeal panel on an appeal [<sup>F35</sup>pursuant to arrangements under this section] shall be binding on—
- the local education authority or the governing body by whom or on whose behalf the decision under appeal was made, and
  - in the case of a decision made by or on behalf of a local education authority, the governing body of a community or voluntary controlled school at which the appeal panel determines that a place should be offered to the child in question.
- [<sup>F36</sup>(7) References in this section, in relation to a child who has been admitted to a school, to his entering the school's sixth form are to his being transferred to a class at the school in which secondary education suitable to the requirements of pupils who are over compulsory school age is provided from a class in which such education is not provided.]

#### Textual Amendments

- F29** S. 94(1A) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(2)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F30** S. 94(2A) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(3)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F31** Words in s. 94(3) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(4)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F32** Words in s. 94(4)(a) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(5)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F33** Words in s. 94(4)(b) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(5)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F34** S. 94(5)(5A)(5B)(5C) substituted for s. 94(5) (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), **ss. 50, 51, 216** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F35** Words in s. 94(6) substituted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(6)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)
- F36** S. 94(7) inserted (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 51, 216, **Sch. 4 para. 8(7)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with Sch.)

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

- C13** S. 94 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **8**
- C14** S. 94 modified (temp. from 22.4.1999) by S.I. 1999/1064, **reg. 5**
- C15** S. 94 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**  
S. 94 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**
- C16** S. 94 excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 36(5)(b)(10)**, 162(2) (with s. 159)

*Status: Point in time view as at 20/01/2003.*

*Changes to legislation: School Standards and Framework Act 1998, Part III is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 95 Appeals relating to children to whom section 87 applies.

- (1) Nothing in section 94(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 maintained school, and
  - (b) refusing the child admission to the school,
- in a case where, at the time when the decision is made, section 87(2) applies to the child.
- (2) Where a local education authority are the admission authority for a community or voluntary 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 87(2) applies.
- [<sup>F37</sup>(3) An appeal by the governing body pursuant to arrangements made under subsection (2) shall be to an appeal panel constituted in accordance with regulations.
- (3A) Regulations may make provision about the making of appeals pursuant to arrangements under subsection (2), including provision—
- (a) requiring prescribed information to be given to governing bodies in prescribed circumstances,
  - (b) as to the procedure on such appeals,
  - (c) for the payment by the local education authority of allowances to members of an appeal panel, and
  - (d) as to the matters to which an appeal panel is to have regard in considering an appeal.
- (3B) Regulations made by virtue of subsection (3A)(c) 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.]
- (4) The decision of an appeal panel on an appeal made pursuant to arrangements under subsection (2) shall be binding on the local education authority and the governing body.

### Textual Amendments

**F37** S. 95(3)(3A)(3B) substituted for s. 95(3) (20.1.2003 for E. otherwise prosp.) by [Education Act 2002](#) (c. 32), ss. 51, 216, [Sch. 4 para. 9](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with [Sch.](#))

### Modifications etc. (not altering text)

**C17** S. 95 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, [reg.6](#).

**C18** S. 95 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(c\), 2-8](#).

S. 95 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1, 2-8](#).

**C19** S. 95(2) restricted (29.3.1999) by S.I. 1999/1016, [art. 6](#), [Sch. 4 paras. 1, 8](#)

*Status: Point in time view as at 20/01/2003.*

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### *Power to direct admission of child to school*

#### **96 Direction to admit child to specified school.**

- (1) The local education authority may give a direction under this section [<sup>F38</sup>to the governing body of a school for which they are not the admission authority] if, in the case of any child in their area, 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 97(4), specify a school in the area referred to in subsection (1).
- (4) A direction under this section to admit a child shall not specify a school if his admission would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.
- (5) Where a school is specified in a direction under this section, the governing body shall admit the child to the school.
- (6) Subsection (5) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (7) 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.
- (8) In this section and section 97 “school” means a maintained school.

#### **Textual Amendments**

**F38** Word in s. 96(1) inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 10](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#) (with Sch.)

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

**C20** [S. 96](#) applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), reg. 8, [Sch. paras. 1\(c\)](#), [2-8](#).  
[S. 96](#) applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), reg. 7, [Sch. paras. 1](#), [2-8](#).

#### **97 Procedure for giving direction under section 96.**

- (1) Before deciding to give a direction under section 96, the local education authority shall consult—
  - (a) the parent of the child, and
  - (b) the governing body of the school they propose to specify in the direction.

*Status: Point in time view as at 20/01/2003.*

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- (2) Where the local education authority decide to give such a direction specifying any school—
- (a) they shall, before doing so, serve a notice in writing of their decision on the governing body and head teacher of the school, and
  - (b) they 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) The governing body 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 local education authority.
- [<sup>F39</sup>(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—
- (a) where the local education authority referred to in subsection (1) are the admission authority for that school, they shall—
    - (i) admit the child to the school, and
    - (ii) give notice in writing to the governing body and head teacher of the school of the Secretary of State’s determination, and
  - (b) in any other case, that school shall be specified in the direction.]
- (5) The Secretary of State shall not make a determination under subsection (4) in relation to a school if the child’s admission to the school would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.
- [<sup>F40</sup>(6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the local education authority to the head teacher of the school.]

#### Textual Amendments

**F39** S. 97(4) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 51, 216, Sch. 4 para. 11\(2\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#) (with [Sch.](#))

**F40** S. 97(6) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 51, 216, Sch. 4 para. 11\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#) (with [Sch.](#))

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

**C21** S. 97 applied (with modifications) (18.10.1999) by [S.I. 1999/2666, reg. 8, Sch. paras. 1\(c\), 2-8](#).

S. 97 applied (with modifications) (1.9.1999) by [S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8](#).

### *Nursery and special schools, etc: children with statements*

#### **98 Admission for nursery education or to nursery or special school: children with statements of special educational needs.**

- (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.
- [<sup>F41</sup>(2) The admission of children to a school for nursery education shall be disregarded—

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- (a) for the purposes of any determination under section 89 of the number of pupils in any relevant age group that it is intended to admit to a primary school in a school year, and
  - (b) in determining for the purposes of section 89A what is a relevant age group in relation to a primary school.]
- (3) Subject to subsection (4), nothing in this Chapter [<sup>F42</sup>apart from subsections (4A) and (4B)] applies in relation to—
- (a) nursery schools, or
  - (b) children who will be under compulsory school age at the time of their proposed admission.
- (4) Where the arrangements for the admission of pupils to a maintained school provide for the admission to the school of children who will be under compulsory school age at the time of their proposed admission, this Chapter shall apply in relation to the admission of such pupils to the school otherwise than for nursery education.
- [<sup>F43</sup>(4A) The person responsible for admitting, or refusing to admit, children to a maintained school for nursery education shall be the person who (by virtue of section 88(1)) is the admission authority for the school.
- (4B) Regulations may make provision as to the person who is to be responsible for admitting, or refusing to admit, children to maintained nursery schools.]
- (5) Regulations may make provision in connection with the arrangements for the admission of pupils to community or foundation special schools, and for the allocation between the local education authority and the governing body of such a school of functions in connection with such arrangements.
- (6) Apart from section [<sup>F44</sup>92(3) to (6)][<sup>F44</sup>92(c) and (d)] and subsection (5) above, nothing in this Chapter applies in relation to special schools.
- (7) Subject to subsections (8) and (9), nothing in this Chapter applies in relation to children for whom statements of special educational needs are maintained under section 324 of the <sup>M3</sup>Education Act 1996.
- (8) Any provision made by, or (as the case may be) by virtue of, section 84 or [<sup>F44</sup>92(3) to (6)][<sup>F44</sup>92(c) and (d)] or this section [<sup>F45</sup>, apart from subsections (4A) and (4B)], applies, or (as the case may be) may be made so as to apply, in relation to such children.
- [<sup>F46</sup>(9) Such children shall, in addition, be taken into account for the purposes of—
- (a) the references in section 86(5), (5B) and (9) to a number of pupils, and
  - (b) any determination under section 89 of the number of pupils in a relevant age group that it is intended to admit, or to admit either as boarders or otherwise than as boarders, to a school in a school year.]
- (10) In subsection (8) the reference to any provision made by this section includes a reference to subsection (4) only so far as it has effect for the purposes mentioned in subsection (9).

#### Textual Amendments

- F41** S. 98(2) substituted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 12\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Status: Point in time view as at 20/01/2003.*

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- F42** Words in s. 98(3) inserted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 12\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)
- F43** S. 98(4A)(4B) inserted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 12\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)
- F44** Words in s. 98(6)(8) substituted (E.) (20.1.2003) by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\)](#), [reg. 4](#)
- F45** Words in s. 98(8) inserted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 12\(5\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)
- F46** S. 98(9) substituted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 51, 216, [Sch. 4 para. 12\(6\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

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

- C22** S. 98 modified (*temp.*) (22.4.1999) by [S.I. 1999/1064](#), [reg. 7](#).
- C23** S. 98 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), [reg. 8](#), [Sch. paras. 1\(c\), 2-8](#).  
S. 98 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), [reg. 7](#), [Sch. paras. 1, 2-8](#).

#### Commencement Information

- I5** S. 98 wholly in force at 1.4.1999; s. 98 not in force at Royal Assent see s. 145(3); s. 98(5) and (8)-(10) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); s. 98 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

- M3** [1996 c. 56](#).

## CHAPTER II

### SELECTION OF PUPILS

#### *Partial selection*

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

- (1) No admission arrangements for a maintained school may make provision for selection by ability unless—
- they make provision for a permitted form of such selection; or
  - the school is a grammar school (as defined by section 104(7)).
- (2) The following are permitted forms of selection by ability—
- any selection by ability authorised by section 100 (pre-existing arrangements);
  - any selection by ability authorised by section 101 (pupil banding); and
  - 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—
- 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.

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

**C24** 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.

**C25** S. 99(5) modified (1.10.1998) (temp.) by S.I. 1998/2230, reg. 2

#### Commencement Information

**I6** 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 so long as there is, as compared with the arrangements in force at the beginning of that year—
- (a) no increase in the proportion of selective admissions in any relevant age group, and
- (b) no significant change in the basis of selection.
- (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>M4</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)).

#### Commencement Information

**I7** 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

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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

**M4** 1996 c. 56.

### 101 Permitted selection: pupil banding.

- (1) Subject to subsections (2) to (4), the admission arrangements for a maintained school may make provision for selection by ability to the extent that the arrangements are designed to secure—
  - (a) 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
  - (b) that no level of ability is substantially over-represented or substantially under-represented.
- (2) Subsection (1) 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.
- (3) The introduction for a maintained school of admission arrangements to which subsection (1) applies shall be one of the alterations to such a school which are prescribed for the purposes of section 28.
- (4) Such arrangements are not authorised for any school by this section unless proposals for the school to have such arrangements have been published [<sup>F47</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 subsection (1) 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

**F47** 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

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

**C26** S. 101 modified (1.10.1998) (*temp.*) by [S.I. 1998/2230](#), **reg.3**

**C27** 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**.

*Status: Point in time view as at 20/01/2003.*

**Changes to legislation:** School Standards and Framework Act 1998, Part III is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

- 18** 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: aptitude for particular subjects.

- (1) Subject to subsection (2), the admission arrangements for a maintained school 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 section 101(1), 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.

### Modifications etc. (not altering text)

- C28** 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.

### Commencement Information

- 19** 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).

## 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 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.

*Status: Point in time view as at 20/01/2003.*

*Changes to legislation: School Standards and Framework Act 1998, Part III is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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 constitutes a prescribed alteration for the purposes of section 28.
- (3) Any admission arrangements to which section 101(1) applies (whether authorised by section 100 or section 101) may be varied if (and only if) the arrangements as varied are designed to secure the objectives mentioned in section 101(1)(a) and (b).

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

**C29** S. 103 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, reg.8.

**C30** 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.

#### **Commencement Information**

**I10** 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

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- (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>M5</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.
- (7) In this Chapter “grammar school” means a school for the time being designated under this section.

#### Commencement Information

**III** 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

**M5** 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—
  - (a) to all grammar schools within the area of a prescribed local education authority or within such other area as may be prescribed,
  - (b) to a prescribed group of grammar schools, or
  - (c) to any grammar school not falling within paragraph (a) or (b).
- (3) Ballot regulations may make provision—
  - (a) 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;
  - (b) 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;
  - (c) 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—
    - (i) make the arrangements for the holding of ballots under this section,
    - and

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- (ii) 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);
  - (d) requiring prescribed bodies or persons, or bodies or persons falling within any prescribed category—
    - (i) to provide the designated body or any other person with any prescribed information requested by that body or person, or
    - (ii) to publish prescribed information in such manner as may be prescribed;
  - (e) 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);
  - (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>M6</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 local education authority,
  - (b) the proprietor of an independent school, or
  - (c) a local education authority,
 in complying with any obligations which may be imposed by regulations made under subsection (3)(d)(i) or (ii).

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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>M7</sup>Education Act 1996 shall be taken—

- (a) to be a school maintained by a local education 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.

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

**C31** S. 105 applied (3.12.1998) by S.I. 1998/2876, art. 11(1).

#### **Marginal Citations**

**M6** 1996 c. 56.

**M7** 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 local education 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 local education authority which are situated in such area as may be prescribed, together with (if the regulations so provide) all schools maintained by such local education 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 local education 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 local education 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

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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.

(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).

## **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 local education authority, and
- (b) the governing body of any school maintained by a local education 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



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- (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 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>M8</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.

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

**C32** [S. 107\(5\)](#) modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 4](#)

#### Marginal Citations

**M8** [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 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.

### **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

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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 for the purposes of section 28; but any proposals for any such revision of the admission arrangements of a grammar school which is a community school shall be published under that section by the governing body and not by the local education 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 section 28 or Schedule 6 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 section 28 shall be of no effect.
- (4) Regulations made under section 105 may make provision, in relation to cases where any such proposals under section 28 have fallen to be implemented under paragraph 5 or 10 of Schedule 6, 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.

#### Commencement Information

**I12** 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).

**Status:**

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**Changes to legislation:**

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