

*Status: Point in time view as at 01/09/1997.*

*Changes to legislation: Education Act 1997, SCHEDULE 2 is up to date with all changes known to be in force on or before 14 July 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)*

## SCHEDULES

### SCHEDULE 2 **E+W**

Section 12.

#### SCHEDULE INSERTED AFTER SCHEDULE 33 TO THE EDUCATION ACT 1996

#### “SCHEDULE 33A **E+W**”

#### CHILDREN TO WHOM SECTION 411A(2) APPLIES: APPEALS BY GOVERNING BODIES

##### *Duty to notify governing body of decision to admit child*

- 1 Where any such decision as is mentioned in section 423A(2) is made by or on behalf of a local education authority, the authority shall give the governing body of the school notice in writing—
- (a) of that decision; and
  - (b) of the governing body’s right to appeal against the decision in accordance with paragraph 2.

##### *Time limit on appealing*

- 2 An appeal by the governing body against any such decision must be made not later than the 15th school day after the day on which they are given the notice under paragraph 1.

##### *Appeal committees*

- 3 (1) Subject to sub-paragraphs (2) and (3) below, paragraphs 1, 5, 6 and 7 of Schedule 33 (school admission appeals) shall have effect in relation to appeals under section 423A(2) as they have effect in relation to appeals under section 423(1).
- (2) A person shall not be a member of an appeal committee for the consideration of an appeal under section 423A(2) if he has to any extent been involved in any previous consideration of the question whether the child in question should or should not be reinstated at any school from which he has at any time been permanently excluded, or in any previous appeal relating to the child under section 423A(2).
- (3) A person shall not be eligible to be a lay member for the purposes of paragraph 1(2)(a) of Schedule 33 (as it applies in accordance with this paragraph) unless he satisfies the condition set out in paragraph (b) of paragraph 5(2) of that Schedule as well as that set out in paragraph (a) of that provision.
- (4) In this paragraph “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33, as it applies in accordance with this paragraph.

##### *Procedure on an appeal*

- 4 In the following provisions of this Schedule—
- “appeal” means an appeal under section 423A(2); and

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“appeal committee” means such an appeal committee as is mentioned in paragraph 3(4) above.

- 5 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 6 The appeal committee shall meet to consider an appeal—
- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
  - (b) if the local education authority have determined a shorter period, within that period.
- 7 On an appeal the committee shall allow—
- (a) the local education authority and the governing body to make written representations;
  - (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations; and
  - (c) the governing body to be represented.
- 8 In considering an appeal the appeal committee shall have regard to—
- (a) the reasons for the local education authority’s decision that the child in question should be admitted; and
  - (b) any reasons put forward by the governing body as to why the child’s admission would be inappropriate.
- 9 Appeals shall be heard in private except when otherwise directed by the local education authority, but any member of the local education authority or of the Council on Tribunals may attend, as an observer, any meeting of an appeal committee at which an appeal is considered.
- 10 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.
- 11 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 12 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to—
- (a) the local education authority, and
  - (b) the governing body making the appeal,
- within the period ending with the 17th school day after the day on which the appeal is lodged.
- 13 (1) Subject to paragraphs 5 to 12, all matters relating to the procedure on appeals shall be determined by the local education authority.
- (2) Neither section 106 of the <sup>M1</sup>Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee.

*Power of Secretary of State to make amendments*

- 14 The Secretary of State may by order amend the preceding provisions of this Schedule.”

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**Marginal Citations**

**M1** 1972 c. 70.

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