



School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER I

ADMISSION ARRANGEMENTS

Code [F1 of practice][F1 for school admissions]

Textual Amendments

- F1** Words in s. 84 cross-heading substituted (12.12.2006 for E.) by [Education and Inspections Act 2006](#) (c. 40), ss. 40(7), 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)

84 Code [F2 of practice][F2 for school admissions].

(1) The Secretary of State shall issue, and may from time to time revise, [F3 a code of practice containing such practical guidance][F3 a code for school admissions containing such provision] as he thinks appropriate in respect of the discharge by—

- (a) local education authorities,
- (b) the governing bodies of maintained schools,
- [F4 (ba) admission forums,]
- (c) appeal panels, and
- (d) adjudicators,

of their respective functions under this Chapter.

Status: Point in time view as at 02/01/2008.

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- (2) The code may [^{F5}include guidelines setting out aims, objectives and other matters][^{F5}impose requirements, and 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
 - (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,
- [^{F6}to have regard to][^{F6}to act in accordance with] 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 [^{F7}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 [^{F7}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 [^{F7}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;
- [^{F8}“admission forum” means a forum established under section 85A, including a joint admission forum established in pursuance of regulations under subsection (3)(c) of that section;]
- “appeal panel” means a panel constituted [^{F9}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;
- ^{F10}
...
- [^{F11}(7) In this Chapter, references to a child who is looked after by a local authority are to be read in accordance with section 22(1) of the Children Act 1989.]

Textual Amendments

- F2** Words in s. 84 heading substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 40\(7\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with [arts. 3, 4](#)) (as amended (17.1.2008) by S.I. 2008/54, [arts. 1\(1\), 2](#)); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with [art. 4](#))
- F3** Words in s. 84(1) substituted (12.12.2006 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 40\(2\)\(a\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with [arts. 3, 4](#)) (as amended (17.1.2008) by S.I. 2008/54, [arts. 1\(1\), 2](#))

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- F4** S. 84(1)(ba) inserted (12.12.2006 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 40(2)(b)**, 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)
- F5** Words in s. 84(2) substituted (12.12.2006 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 40(3)**, 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)
- F6** Words in s. 84(3) substituted (12.12.2006 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 40(4)**, 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)
- F7** Words in s. 84(5) repealed (12.12.2006 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 40(5)**, 188(3), **Sch. 18 Pt. 6**; S.I. 2006/2990, art. 2(a)(k) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)
- F8** Words in s. 84(6) inserted (12.12.2006 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 40(6)**, 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)
- F9** Words in s. 84(6) substituted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 2** (with **ss. 210(8)**, 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3)(4))
- F10** Words in s. 84(6) repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with **ss. 210(8)**, 214(4)) and S.I. 2006/173, reg. 5; S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F11** S. 84(7) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 50(2)**, 188(3); S.I. 2006/3400, art. 3(c)

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 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C3** S. 84 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C4** S. 84(6) modified (6.1.1999) by S.I. 1998/3130, **reg.2**

85 [F12 Making and approval of code of practice][F12 Making and approval of code for school admissions].

- (1) Where the Secretary of State proposes to issue or revise a code [F13 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.
- (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.

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(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.

[^{F14}(7A) In the case of a code issued or revised by the Welsh Ministers, subsection (7) (as modified by paragraph 33 of Schedule 11 to the Government of Wales Act 2006) has effect as if the reference to any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days were to any period during which the National Assembly for Wales is dissolved or is in recess for more than four days.]

(8) In this section references to a proposed code include a proposed revised code.

Subordinate Legislation Made

P1 S. 85(5): 28.2.2007 appointed by S.I. 2007/566, art. 3

Textual Amendments

F12 S. 85 heading substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(8\)\(b\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, art. 3(3), [Sch. Pt. 3](#) (with art. 4)

F13 Words in s. 85(1) repealed (12.12.2006 for E.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(8\)\(a\)](#), 188(3), [Sch. 18 Pt. 6](#); S.I. 2006/2990, art. 2(a)(k) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)

F14 S. 85(7A) inserted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), [Sch. 1 para. 64](#)

[^{F15}Admission forums

Textual Amendments

F15 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](#)

^{F16}[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, ^{F17}...
- (b) advising the admission authorities for maintained schools in the area for which the forum is established on—

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- (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 [^{F18}, and
- (c) in the case of an admission forum for the area of a local education authority in England, exercising any other functions that may be imposed on the forum by or under this Chapter.]

[An admission forum for the area of a local education authority in England may

^{F19}(1A) prepare and publish reports on such matters connected with the admission of pupils to maintained schools in that area as may be prescribed.

(1B) For the purposes of the preparation of a report under subsection (1A), an admission forum may request any of the following bodies to provide the forum with any information held by them which falls within a prescribed description and is specified by the forum in its request—

- (a) the local education authority which established the forum;
- (b) any local education authority in England for an area which adjoins the area of the authority mentioned in paragraph (a);
- (c) the governing body of any maintained school in the area for which the forum is established.

(1C) A body mentioned in any of paragraphs (a) to (c) of subsection (1B) must comply with a request made by an admission forum in pursuance of that subsection.]

(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, ^{F20}...

[as to the preparation and publication of reports under subsection (1A), and]

^{F21}(ba)

- (c) as to the establishment by local education authorities of joint admission forums.

[Regulations under subsection (3)(c) may, in relation to England, modify any provision

^{F22}(3A) of this Chapter in its application to a joint admission forum.]

(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.]

[Regulations may make provision with respect to the expenses of an admission forum

^{F23}(5A) for the area of a local education authority in England.

(5B) Except as provided by regulations under subsection (5A), the expenses of an admission forum for the area of a local education authority in England are to be defrayed by the local education authority by whom the forum was established.]

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Textual Amendments

- F16** S. 85A 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
- F17** Word in s. 85A(1)(a) repealed (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 41\(2\)\(a\)](#), 188(3), **Sch. 18 Pt. 6**; [S.I. 2006/3400](#), art. 7(a)(e)
- F18** S. 85A(1)(c) and word inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(2)(b)**, 188(3); [S.I. 2006/3400](#), art. 7(a)
- F19** S. 85A(1A)-(1C) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(3)**, 188(3); [S.I. 2006/3400](#), art. 7(a)
- F20** Word in s. 85A(3)(b) repealed (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 41\(4\)\(a\)](#), 188(3), **Sch. 18 Pt. 6**; [S.I. 2006/3400](#), art. 7(a)(e)
- F21** S. 85A(3)(ba) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(4)(b)**, 188(3); [S.I. 2006/3400](#), art. 7(a)
- F22** S. 85A(3A) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(5)**, 188(3); [S.I. 2006/3400](#), art. 7(a)
- F23** S. 85A(5A)(5B) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(6)**, 188(3); [S.I. 2006/3400](#), art. 7(a)

Modifications etc. (not altering text)

- C5** S. 85A applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\)](#), 9, **Sch. para. 1(b)**
- C6** S. 85A applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), [regs. 1\(1\)](#), 9, **Sch.** (with [reg. 2\(2\)](#))

^{F24} **Functions of admission forums in relation to Academies**

^{F25} **85B**

- (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

- F24** 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
- F25** 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

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(b) to give reasons for his preference.

[^{F26}(1A) A local authority in England shall provide advice and assistance to parents of children in the area of the authority in connection with the preferences expressed or to be expressed by them in accordance with the arrangements made under subsection (1).]

(2) Subject to [^{F27}subsections (3) and (3A)] and section 87 (children excluded from two or more schools), [^{F28}a local education authority and the governing body of a maintained school][^{F28}the admission authority for a maintained school] shall comply with any preference expressed in accordance with arrangements made under subsection (1).

[^{F29}(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; [^{F30}or]
(b) ^{F31}
(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.

[^{F32}(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).

[^{F33}(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

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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.]

^{F34}(6)

(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 ^{M1}Education Act 1996 (application for a particular school to be named in a school attendance order);

and references in [^{F35}subsections (3) and (3A)] to a preference and a preferred school shall be construed accordingly.

(9) Where admission arrangements for a school [^{F36}, 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

F26 S. 86(1A) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 42, 188(3); S.I. 2006/3400, art. 7(b)

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- F27** Words in s. 86(2) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F28** Words in s. 86(2) substituted (8.1.2007 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 43(2)**, 188(3); S.I. 2006/3400, art. 2(a)
- F29** S. 86(2A) inserted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F30** Word in s. 86(3)(a) inserted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(4)(a)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F31** 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.)
- F32** S. 86(3A)(3B) inserted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(5)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F33** S. 86(5)-(5B) substituted for s. 86(5) (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), **ss. 47(1)**, 216(4) (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 4); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2006/172, art. 4, Sch.
- F34** S. 86(6) repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 3(6), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2006/172, art. 4, Sch.
- F35** Words in s. 86(8) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(7)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F36** Words in s. 86(9) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(8)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))

Modifications etc. (not altering text)

- C7** 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**.
- C8** S. 86 applied (with modifications) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C9** S. 86 amendment to earlier commencing S.I. 2002/2439, Sch. para. 4 (4.12.2003) by The Education Act 2002 (Commencement No. 2 and Savings and Transitional Provisions) (Amendment No. 2) Order 2003 (S.I. 2003/2992), arts. 1, **3**
- C10** S. 86 excluded (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 2 para. 1**
- C11** S. 86 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C12** S. 86 excluded (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 2 para. 1**

Status: Point in time view as at 02/01/2008.

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- C13** S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, reg. 8, **Sch. 2 para. 5(b)**
- C14** 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)
- C15** S. 86(5)-(5B) modified (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(5)**

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.
- [^{F37}(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—
 - (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 ^{M2}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.

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- (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

- F37** S. 87(4)(4A) substituted for s. 87(4) (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 4](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2952](#), [art. 2](#) (with [Sch. para. 3](#)); [S.I. 2003/2961](#), [art. 7](#), [Sch. Pt. IV](#)

Modifications etc. (not altering text)

- C16** 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](#).
- C17** S. 87 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\), 9](#), [Sch. para. 1\(b\)](#)
- C18** S. 87 applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), [regs. 1\(1\), 9](#), [Sch.](#) (with [reg. 2\(2\)](#))

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.

[^{F38}(1A) Where the admission authority for a community or voluntary controlled school is the local authority, it is the duty of the governing body to implement any decision relating to the admission of pupils to the school which is taken by or on behalf of the admission authority.

- (1B) Subsection (1A) does not affect—
- (a) any right of appeal which the governing body may have by virtue of arrangements made in pursuance of section 95(2) (appeals in relation to children to whom section 87(2) applies, other than looked after children in England),
 - (b) any right to refer the matter to the adjudicator which the governing body may have by virtue of section 95A(3) (references to the adjudicator in relation to looked after children in England to whom section 87(2) applies), or
 - (c) the application of section 101(2A) or section 109(2).]

Status: Point in time view as at 02/01/2008.

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- (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.

Textual Amendments

F38 S. 88(1A)(1B) inserted (8.1.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 43(1), 188(3)**; S.I. 2006/3400, **art. 2(a)**

Modifications etc. (not altering text)

C19 S. 88 modified (6.1.1999) by [S.I. 1998/3130](#), **reg. 3**

[^{F39}88A Prohibition on interviews

- (1) No admission arrangements for a maintained school may require or authorise any interview with an applicant for admission to the school or his parents, where the interview is to be taken into account (to any extent) in determining whether the applicant is to be admitted to the school.
- (2) If the maintained school is one at which boarding accommodation is provided for pupils, subsection (1) does not apply in relation to any interview intended to assess the suitability of an applicant for a boarding place.
- (3) Where the admission arrangements for a maintained school make provision for a permitted form of selection by aptitude, subsection (1) does not prevent the arrangements from requiring or authorising any audition or other oral or practical test to be carried out in relation to an applicant solely for the purpose of ascertaining the applicant's aptitude in accordance with the arrangements.
- (4) In this section, “permitted form of selection by aptitude” is to be read in accordance with section 99(4).]

Textual Amendments

F39 S. 88A inserted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 44, 188(3)**; S.I. 2006/3400, **art. 6(c)**

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.

[^{F40}(1ZA) This section has effect subject to sections 89D and 90A (restrictions on alteration of admission arrangements in England).]

[^{F41}(1A) Regulations may require the admission authorities for maintained schools [^{F42}in England] to include in their admission arrangements such provision relating to the admission of children who are looked after by a local authority [^{F43}in England]^{F44}... as may be prescribed, which may in particular include provision for securing that, subject to sections 86(3) and (3A) and 87 (cases where duty to comply with parental

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preference does not apply), such children are to be offered admission in preference to other children.]

[^{F45}(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)), [^{F46}and]
- (d) the admission authorities for maintained schools of any prescribed description; [^{F47}and]

[^{F47}(e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed.]

(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 [^{F48}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 [^{F48}appropriate bodies] of the proposed variations.

(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—

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- (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 [^{F49}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);
 - [^{F50}(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.
- [^{F51}(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.]

[^{F52}(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).]

[^{F53}(10) In this section, “the appropriate bodies”, in relation to an admission authority, means—

 - (a) the bodies or persons whom they were required to consult under subsection (2), or would but for subsection (2A) have been required to consult, and
 - (b) in the case of an admission authority for a maintained school in England, the admission forum for the area of the local education authority in which the school is situated.]

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Textual Amendments

- F40** S. 89(1ZA) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), **ss. 46(1)**, 188(3); S.I. 2006/3400, art. 7(c)
- F41** S. 89(1A) inserted (3.10.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), **ss. 106**, 125(4) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, Sch. 1
- F42** Words in s. 89(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 52(2)(a)**, 188(2)
- F43** Words in s. 89(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 52(2)(b)**, 188(2)
- F44** Words in s. 89(1A) repealed (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 50(3), 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 3(c)(h)
- F45** S. 89(2)(2A) substituted for s. 89(2) (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(2)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F46** Word in s. 89(2)(c) repealed (8.1.2007 for E.) by Education and Inspections Act 2006 (c. 40), ss. 45(a), 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 2(b)(e)
- F47** S. 89(2)(e) and word inserted (8.1.2007 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 45(b)**, 188(3); S.I. 2006/3400, art. 2(b)
- F48** Words in s. 89(4)(5) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(3)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F49** Words in s. 89(6) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(3)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F50** S. 89(8)(fa) inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(4)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F51** S. 89(8A) inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(5)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F52** S. 89(9) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(6)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F53** S. 89(10) substituted (27.2.2007) by Education and Inspections Act 2006 (c. 40), **ss. 41(7)**, 188(3); S.I. 2006/3400, art. 7(a)

Modifications etc. (not altering text)

- C20** S. 89 excluded (6.1.1999 with application as mentioned) (*temp.*) by S.I. 1998/3198, **arts.3, 4**
- C21** S. 89(1) excluded (27.3.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(2), **14(2)**
- C22** S. 89(1) excluded (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(4)**
- C23** S. 89(2)-(10) excluded (27.3.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(2), **14(2)**
- C24** S. 89(2)-(10) excluded (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(4)**
- C25** S. 89(5)-(7) excluded (W.) (1.2.2006) by The Education (Variation of Admission Arrangements) (Wales) Regulations 2006 (S.I. 2006/177), regs. 1(1), **3(3)**

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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

[^{F54}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.]

Textual Amendments

- F54** S. 89A inserted (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 47\(2\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#) and [S.I. 2006/173](#), [reg. 6](#)); [S.I. 2002/2439](#), [art. 3](#) (with [art. 4](#), [Sch. paras. 3, 5](#)) (which transitional provisions in [Sch. para. 4](#) are substituted (6.3.2003) by [S.I. 2003/606](#), [art. 2](#) and (4.12.2003) by [S.I. 2003/2992](#), [art. 3](#)); [S.I. 2006/172](#), [art. 4](#), [Sch.](#)

[^{F55}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.

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- (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.

Textual Amendments

F55 Ss. 89B, 89C inserted (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 48**, 216(4) (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), art. 3; [S.I. 2006/172](#), art. 4, Sch.

Modifications etc. (not altering text)

C26 S. 89B applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**

C27 S. 89B applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))

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

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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 [^{F56}by virtue of this section][^{F56}by virtue of section 89B] so provides, be made by the local education authority regardless of whether they are the admission authority for the school.

[Where any decision as to whether a child is to be granted or refused admission to a ^{F57}(3A) maintained school is (by virtue of regulations under subsection (3)) made by the local authority although they are not the admission authority, the governing body of the school must implement the decision.]

- (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

- F55** Ss. 89B, 89C inserted (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 48**, 216(4) (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), art. 3; [S.I. 2006/172](#), art. 4, Sch.
- F56** Words in s. 89C(3) substituted (8.1.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 43(3)(a)**, 188(3); [S.I. 2006/3400](#), art. 2(a)
- F57** S. 89C(3A) inserted (8.1.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 43(3)(b)**, 188(3); [S.I. 2006/3400](#), art. 2(a)

Modifications etc. (not altering text)

- C28** S. 89C applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**
- C29** S. 89C applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))

[^{F58}89D Power to restrict alteration of admission arrangements following establishment or expansion

- (1) Subsection (2) applies in relation to a maintained school in England where—
- (a) proposals for the establishment of, or the making of a prescribed alteration to, the school have been published under Part 2 of the Education and Inspections

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- Act 2006 or under section 113A of, or Schedule 7 to, the Learning and Skills Act 2000,
- (b) in the case of proposals for the making of a prescribed alteration to the school, the proposals are for an increase in the number of pupils that may be admitted to the school or for an enlargement of the premises,
 - (c) the proposals fall to be implemented (with or without modifications), and
 - (d) prescribed conditions are satisfied.
- (2) Regulations may provide that, where this subsection applies in relation to a maintained school—
- (a) the admission arrangements for the initial period (as defined by subsection (7)) and each of a prescribed number of school years following that period are to be the arrangements which fall to be implemented in accordance with the proposals (or in accordance with the proposals as modified), and
 - (b) those arrangements may not be varied by the admission authority for the school except—
 - (i) to comply with any duty imposed on them by regulations under section 89(1A), or
 - (ii) in accordance with regulations under subsection (5).
- (3) Regulations under subsection (2) may exclude or modify any provision of section 89 (other than section 89(1A)) in its application to cases to which the regulations apply.
- (4) Regulations under subsection (2) may provide that in cases to which the regulations apply the admission arrangements which fall to be implemented in accordance with the proposals (or in accordance with the proposals as modified) are to be treated for the purposes of section 86(5) to (5B) as having been determined by the admission authority under section 89.
- (5) Regulations may prescribe circumstances in which an admission authority may refer to the adjudicator proposals to vary admission arrangements in cases to which regulations under subsection (2) apply.
- (6) Regulations may make provision as to the determination by the adjudicator of any reference made by virtue of subsection (5).
- (7) In this section—
- “initial period” means—
 - (a) in relation to a maintained school which is being established, the period beginning with the day on which the school opens and ending with the beginning of the first school term to begin after the following July;
 - (b) in relation to a maintained school which is increasing the number of pupils that may be admitted to the school or enlarging its premises, the period beginning with the first day on which additional pupils may be admitted or (as the case may be) the enlarged premises are in use and ending with the beginning of the first school term to begin after the following July;
 - “prescribed alteration” means an alteration prescribed for the purposes of section 18 of the Education and Inspections Act 2006.]

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Textual Amendments

F58 S. 89D inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 46(2)**, 188(3); S.I. 2006/3400, art. 7(c)

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

[^{F59}(b) an appropriate body wishes 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.

[^{F60}(5A) Where the adjudicator or the Secretary of State is required by virtue of subsection (3) (a) or (b) or (5)(c) to decide whether to uphold an objection to admission arrangements, he may consider whether it would be appropriate for changes to be made to any aspect of the admission arrangements, whether or not he would be required to do so for the purpose of determining the objection.

(5B) In the case of any objection referred to him under this section, the adjudicator or the Secretary of State (as the case may be) must publish a report containing the following—

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- (a) his decision on the objection,
 - (b) any decision he has made on whether it would be appropriate for changes to be made to the admission arrangements, whether in the light of his decision on the objection or otherwise,
 - (c) if, in relation to a maintained school in England, he considers that any change required ought not to be protected under section 90A for the number of school years prescribed under section 90A(2), that section 90A is not to apply to that change or that the change will be protected only for such lesser number of school years as he may specify, and
 - (d) his reasons for the decisions mentioned in paragraphs (a) to (c).
- (5C) Where the adjudicator or the Secretary of State (as the case may be) decides that it would be appropriate for changes to be made to the admission arrangements, his decision may specify the modifications that are to be made to the arrangements.]
- (6) [^{F61}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) [^{F61}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) [^{F62}The decisions of the adjudicator or the Secretary of State mentioned in subsection (5B)(a) and (b) shall, in relation to the admission arrangements in question, be binding on the admission authority and on all persons by whom an objection may be made under subsection (1) or (2); and, if the adjudicator or the Secretary of State has decided that it would be appropriate for changes to be made to the admission arrangements, 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
 - (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;
 - [^{F63}(ba) requiring an admission authority for a maintained school in England to provide information which—
 - (i) falls within a prescribed description, and
 - (ii) is requested by the adjudicator or the Secretary of State for the purposes of his functions under this section;]
 - (c) as to the manner in which [^{F64}any matters required to be published under subsection (7) are][^{F64}a report required to be published under subsection (5B) is] to be published;
 - (d) requiring such matters to be notified to such persons, and in such manner, as may be prescribed;

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- (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) ^{F65}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.]
- ^{F66}(11) In this section, “appropriate body” means, in relation to the admission arrangements determined by an admission authority—
- (a) any body or person whom the admission authority were required to consult under subsection (2) of section 89, or would but for subsection (2A) of that section have been required to consult, and
 - (b) in the case of admission arrangements determined by an admission authority for a maintained school in England, the admission forum for the area of the local education authority in which the school is situated.]

Textual Amendments

- F59** S. 90(1)(b) substituted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(8)(a)**, 188(3); S.I. 2006/3400, art. 7(a)
- F60** S. 90(5A)-(5C) inserted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(2)**, 188(3); S.I. 2006/3400, art. 6(d)
- F61** S. 90(6)(7) repealed (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(3)**, 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 6(d)(g)
- F62** S. 90(8) substituted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(4)**, 188(3); S.I. 2006/3400, art. 6(d)
- F63** S. 90(9)(ba) inserted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(5)(a)**, 188(3); S.I. 2006/3400, art. 6(d)
- F64** Words in s. 90(9)(c) substituted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(5)(b)**, 188(3); S.I. 2006/3400, art. 6(d)
- F65** S. 90(10) repealed (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 47(6)**, 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 6(d)(g)
- F66** S. 90(11) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 41(8)(b)**, 188(3); S.I. 2006/3400, art. 7(a)

Modifications etc. (not altering text)

- C30** S. 90 transitional provisions for effects of 2002 c. 32, Sch. 4 para. 6 (W.) (1.2.2006) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2006 \(S.I. 2006/173\)](#), regs. 1(1), 7

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**).

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[^{F67}90A Restriction on alteration of admission arrangements following adjudicator's decision

- (1) Where in accordance with section 90(8) the admission authority for a maintained school in England have revised any provisions of admission arrangements for a school year, this section applies except to the extent that the adjudicator or the Secretary of State determined under section 90(5B)(c), in relation to any change required, that this section was not to apply.
- (2) In this section—
 - “the protected provisions” in relation to any admission arrangements, means provisions corresponding to those revised in accordance with section 90(8) or regulations under subsection (6) (as so revised);
 - “the required number” means such number as may be prescribed or such lesser number as is specified by the adjudicator or the Secretary of State under section 90(5B)(c) in relation to a particular change.
- (3) The admission authority for the school—
 - (a) must incorporate the protected provisions in determining the admission arrangements for each of the required number of school years following the school year in relation to which the revision in accordance with section 90(8) was made, and
 - (b) may not vary those arrangements in such a way as to alter the protected provisions.
- (4) Subsection (3) does not apply to the extent that—
 - (a) the admission authority are required to determine or vary their admission arrangements in a way which alters the protected provisions in order to comply with any duty imposed on them by regulations under section 89(1A), or
 - (b) the arrangements may be determined or varied in a way which alters those provisions in accordance with regulations under subsection (6).
- (5) Regulations may exclude or modify any provision of section 89 (other than section 89(1A)) in its application to cases to which this section applies.
- (6) Regulations may prescribe circumstances in which an admission authority to whom subsection (3) applies may refer to the adjudicator proposals to determine or vary their admission arrangements in a way which alters the protected provisions.
- (7) Regulations may make provision as to the determination by the adjudicator of any reference made by virtue of subsection (6).]

Textual Amendments

F67 S. 90A inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 46(3)**, 188(3); S.I. 2006/3400, art. 7(c)

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

F68

Status: Point in time view as at 02/01/2008.

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Textual Amendments

- F68** 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](#))

[^{F69}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,
- (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

- F69** S. 92 substituted (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 7](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2006/172, [art. 4](#), [Sch.](#)

Modifications etc. (not altering text)

- C31** S. 92 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, [Sch. para. 1\(b\)](#)
- C32** 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](#).
- C33** S. 92 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with [reg. 2\(2\)](#))

Commencement Information

- 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

[^{F70}93] **Fixing admission numbers.**

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Textual Amendments

- F70** S. 93 repealed (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#) and [S.I. 2006/173, reg. 5](#)); [S.I. 2002/2439, art. 3](#) (with [art. 4, Sch. paras. 3, 5](#)); [S.I. 2006/172, art. 4, Sch.](#)

Admission appeals

94 Appeal arrangements: general.

- (1) A local education authority shall make arrangements for enabling the parent of a child to appeal against—
- 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 [^{F71}or 97A] (directions for admission), and
 - [^{F72}in the case of a community or voluntary controlled school maintained by the authority][^{F72}in a case where the governing body of a community or voluntary controlled school maintained by the authority are the admission authority], any decision made by or on behalf of the governing body refusing the child admission to the school.

[^{F73}(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.

[^{F74}(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) [^{F75}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—

- such of the arrangements made by the authority in pursuance of subsection (1) [^{F76}or (1A)] as the authority may determine; and
- arrangements made by the governing body or bodies in pursuance of subsection (2) [^{F76}or (2A)].

[^{F77}(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—

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- (a) as to the procedure on such appeals,
 - (b) for the payment by the local education authority of allowances to members of an appeal panel, and
 - (c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.
- (5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.
- (5C) Regulations made by virtue of subsection (5A)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.]
- (6) The decision of an appeal panel on an appeal [^{F78}pursuant to arrangements under this section] shall be binding on—
- (a) the local education authority or the governing body by whom or on whose behalf the decision under appeal was made, and
 - (b) 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.
- [^{F79}(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

- F71** Words in s. 94(1)(a) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 51(1), 188(3); S.I. 2006/3400, art. 3(d)
- F72** Words in s. 94(1)(b) substituted (8.1.2007 for E.) by Education and Inspections Act 2006 (c. 40), ss. 43(4), 188(3); S.I. 2006/3400, art. 2(a)
- F73** S. 94(1A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 8(2) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F74** S. 94(2A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 8(3) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F75** Words in s. 94(3) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 8(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F76** Words in s. 94(4)(a)(b) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 8(5) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F77** S. 94(5)-(5C) substituted for s. 94(5) (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), ss. 50, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

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- F78** Words in s. 94(6) substituted (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 8\(6\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F79** S. 94(7) inserted (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 8\(7\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

Modifications etc. (not altering text)

- C34** S. 94 restricted (29.3.1999) by [S.I. 1999/1016](#), art. 6, Sch. 4 paras. 1, **8**
- C35** S. 94 modified (temp. from 22.4.1999) by [S.I. 1999/1064](#), **reg. 5**
- C36** 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**
- C37** S. 94 excluded (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 36(5)(b)(10)**, 162(2) (with s. 159)
- C38** S. 94 applied (with modifications) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**
- C39** S. 94 excluded (1.9.2005) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2005 \(S.I. 2005/2039\)](#), reg. 1(1), **Sch. 2 para. 1**
- C40** S. 94 applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C41** S. 94 excluded (23.4.2007) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(Wales\) Regulations 2007 \(S.I. 2007/1069\)](#), reg. 1(1), **Sch. 2 para. 1**

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—
- made by or on behalf of the admission authority for a maintained school, and
 - 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.

[^{F80}(2A) Subsection (2) does not apply in relation to a decision made by or on behalf of a local authority in England to admit to a school a child who is looked after by a local authority in England (provision for references to the adjudicator in relation to such a decision being made by section 95A).]

[^{F81}(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—
- requiring prescribed information to be given to governing bodies in prescribed circumstances,
 - as to the procedure on such appeals,

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- (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

- F80** S. 95(2A) inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 48(1)**, 188(3); S.I. 2006/3400, art. 3(a)
- F81** S. 95(3)-(3B) substituted for s. 95(3) (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 4 para. 9** (with **ss. 210(8)**, 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(4))

Modifications etc. (not altering text)

- C42** S. 95 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, **reg.6**.
- C43** 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**.
- C44** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), **regs. 1(1)**, 9, **Sch. para. 1(b)**
- C45** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), **regs. 1(1)**, 9, **Sch.** (with **reg. 2(2)**)
- C46** S. 95(2) restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **8**

[^{F82}95A References relating to looked after children to whom section 87(2) applies

- (1) This section applies where—
- (a) a local authority in England are the admission authority for a community or voluntary controlled school, and
 - (b) a decision is made by or on behalf of the authority to admit to the school a child who, at the time when the decision is made, is looked after by a local authority in England and to whom (at that time) section 87(2) applies.
- (2) The local authority must give notice of the decision to the governing body of the school.
- (3) The governing body of the school may, within the period of seven days beginning with the day on which they are notified of the decision, refer the matter to the adjudicator.
- (4) A reference under subsection (3) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (5) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (4)—

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- (a) the decision to admit the child to the school shall cease to have effect, but
 - (b) the adjudicator may determine that another maintained school in England is to be required to admit the child.
- (6) A determination under subsection (5)(b) may only be made with the agreement of the local authority who look after the child.
- (7) A determination under subsection (5)(b) may not be made if—
- (a) the child is permanently excluded from the other school, or
 - (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (8) If the adjudicator determines under subsection (5)(b) that another school is to be required to admit the child—
- (a) the admission authority for the school shall admit the child to the school, and
 - (b) if the admission authority are not the governing body of the school, the admission authority shall give notice in writing to the governing body and head teacher of the school of the adjudicator's decision.
- (9) Regulations may make provision—
- (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under this section;
 - (b) requiring an admission authority for a maintained school to provide information which—
 - (i) falls within a prescribed description, and
 - (ii) is requested by the adjudicator for the purposes of any such determination.]

Textual Amendments

F82 S. 95A inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 48(2), 188(3); S.I. 2006/3400, art. 3(a)

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 [^{F83}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.

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- (3) A direction under this section shall, unless it is given on the determination of [^{F84}the appropriate authority (within the meaning of section 97)] 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 [^{F85}sections 97 to 97C] “school” means a maintained school.

Textual Amendments

- F83** Words in s. 96(1) inserted (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 10](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F84** Words in s. 96(3) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 51\(2\)\(a\)](#), 188(3); S.I. 2006/3400, art. 3(d)
- F85** Words in s. 96(8) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 51\(2\)\(b\)](#), 188(3); S.I. 2006/3400, art. 3(d)

Modifications etc. (not altering text)

- C44** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, [Sch. para. 1\(b\)](#)
- C45** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))
- C47** 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.
- (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 [^{F86}the appropriate authority] under subsection (3) has expired and, if it is so referred, [^{F86}the appropriate authority] has made [^{F87}its determination].

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- (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 ^{F88}[the appropriate authority] and, if they do so, shall inform the local education authority.
- ^{F89}(4) On a reference under subsection (3) ^{F90}[the appropriate authority] may determine which school is to be required to admit the child, and ^{F91}[if it 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 ^{F92}[the appropriate authority's] determination, and
- (b) in any other case, that school shall be specified in the direction.]
- (5) ^{F93}[The appropriate authority] 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.
- ^{F94}(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.]
- ^{F95}(6A) In this section, “the appropriate authority” means—
- (a) in relation to a local authority in England, the adjudicator, and
- (b) in relation to a local authority in Wales, the Assembly.]

Textual Amendments

- F86** Words in s. 97(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(a)(i), 188(3); S.I. 2006/3400, art. 3(b)
- F87** Words in s. 97(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(a)(ii), 188(3); S.I. 2006/3400, art. 3(b)
- F88** Words in s. 97(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(b), 188(3); S.I. 2006/3400, art. 3(b)
- F89** S. 97(4) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 11(2) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F90** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(c)(i), 188(3); S.I. 2006/3400, art. 3(b)
- F91** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(c)(ii), 188(3); S.I. 2006/3400, art. 3(b)
- F92** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(c)(iii), 188(3); S.I. 2006/3400, art. 3(b)
- F93** Words in s. 97(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(d), 188(3); S.I. 2006/3400, art. 3(b)
- F94** S. 97(6) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 11(3) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F95** S. 97(6A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 49(e), 188(3); S.I. 2006/3400, art. 3(b)

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Modifications etc. (not altering text)

- C44** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**
- C45** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C48** 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**.

[^{F96}97A Direction to admit looked after child to specified school

- (1) A local authority in England may, in relation to a child looked after by them, give a direction under this section to the admission authority for any school in England other than a school for which the local authority are the admission authority.
- (2) A direction under this section shall not specify a school from which the child is permanently excluded.
- (3) Where a school is specified in a direction under this section, the admission authority shall admit the child to the school.
- (4) Subsection (3) does not affect any power to exclude from a school a pupil who is already a registered pupil there.

Textual Amendments

- F96** Ss. 97A, 97B inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 50(1)**, 188(3); [S.I. 2006/3400](#), art. 3(c)

97B Procedure for giving direction under section 97A

- (1) Before deciding to give a direction under section 97A, the local authority shall consult the admission authority for the school they propose to specify in the direction.
- (2) The admission authority for the school shall, within the period of seven days beginning with the day on which they are consulted as mentioned in subsection (1), inform the local authority whether they are willing to admit the child to the school without being directed to do so by the authority.
- (3) Where the local authority decide to give a direction under section 97A specifying a school—
 - (a) they shall, before doing so, serve a notice in writing of their decision on—
 - (i) the admission authority for the school,
 - (ii) if the school is a community or voluntary controlled school and the governing body of the school are not the admission authority, the governing body of the school,
 - (iii) if the school is maintained by a local authority who are not the authority proposing to give the direction and are not the admission authority, the local authority who maintain the school, and
 - (iv) the head teacher of the school, and
 - (b) they shall not give the direction until the period for referring the matter to the adjudicator under subsection (4) has expired and, if it is so referred, until the

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adjudicator has made such determinations under this section as it appears to him to be appropriate to make in connection with the reference.

- (4) The following persons—
- (a) the admission authority on whom a notice is served under subsection (3)(a)(i), and
 - (b) in the case of a notice relating to a child to whom (at the time of service of the notice) section 87(2) applies, the governing body of a community or voluntary controlled school on whom the notice is served under subsection (3)(a)(ii),
- may, within the period of seven days beginning with the day on which the notice was served, refer the matter to the adjudicator and, if they do so, shall inform the local authority.
- (5) A reference under subsection (4) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (6) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (5)—
- (a) the local authority may not give a direction under section 97A that the school admit the child, but
 - (b) the adjudicator may determine that another school in England is to be required to admit the child.
- (7) A determination under subsection (6)(b) may only be made with the agreement of the local authority who look after the child.
- (8) A determination under subsection (6)(b) may not be made if—
- (a) the child is permanently excluded from the other school, or
 - (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (9) If the adjudicator determines under subsection (6)(b) that another school is to be required to admit the child, then—
- (a) if the local 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 adjudicator's decision, and
 - (b) in any other case, the local authority shall specify that school in their direction under section 97A.
- (10) A direction under section 97A shall be given by notice in writing and a copy of the notice shall be given by the local authority to the head teacher of the school.]

Textual Amendments

F96 Ss. 97A, 97B inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 50(1)**, 188(3); S.I. 2006/3400, art. 3(c)

Status: Point in time view as at 02/01/2008.

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[^{F97}97C Determinations under section 97 or 97B: supplemental

Regulations may make provision in relation to England—

- (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under section 97 or 97B;
- (b) requiring an admission authority for a school to provide information which—
 - (i) falls within a prescribed description, and
 - (ii) is requested by the adjudicator for the purposes of any such determination.]

Textual Amendments

F97 S. 97C inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 51(3)**, 188(3); S.I. 2006/3400, art. 3(d)

[^{F98}Looked after children in Wales

Textual Amendments

F98 S. 97D and cross-heading inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 52(1)**, 188(2)

97D Power of Assembly to make regulations about admission of looked after children

- (1) The Assembly may by regulations make provision about the admission of children looked after by local authorities in Wales (“looked after children”) to maintained schools in Wales.
- (2) Regulations under subsection (1) may include provision requiring the admission authorities for such schools—
 - (a) to include in their admission arrangements such provision relating to the admission of looked after children as may be prescribed, which may in particular include provision for securing that, subject to prescribed exceptions, such children are to be offered admission in preference to other children;
 - (b) to admit looked after children in prescribed circumstances, subject to prescribed exceptions.
- (3) Regulations under subsection (1) may provide that any of the preceding provisions of this Chapter—
 - (a) shall not apply in relation to looked after children;
 - (b) shall apply in relation to such children with prescribed modifications.]

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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.
- ^{F99}(2) The admission of children to a school for nursery education shall be disregarded—
 - (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 ^{F100}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.
- ^{F101}[(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 ^{F102}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 ^{M3}Education Act 1996.
- (8) Any provision made by, or (as the case may be) by virtue of, section 84 or ^{F103}92(c) and (d)] or this section^{F104}, 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.
- ^{F105}(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.]

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- (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

- F99** S. 98(2) substituted (20.1.2003 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(2\)](#) (with [ss. 210\(8\), 214\(4\)](#) and [S.I. 2006/173, reg. 7](#)); [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch. para. 2](#)); [S.I. 2006/172, art. 4, Sch.](#)
- F100** Words in s. 98(3) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch. para. 3](#)); [S.I. 2004/912, art. 4, Sch. Pt. 1](#) (with [art. 7](#))
- F101** S. 98(4A)(4B) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch. para. 4](#)); [S.I. 2004/912, art. 4, Sch. Pt. 1](#) (with [art. 7](#))
- F102** Words in s. 98(6) substituted: (E.) (20.1.2003) by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\), reg. 4](#); and (W.) (1.2.2006) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2006 \(S.I. 2006/173\), regs. 1\(1\), 10](#)
- F103** Words in s. 98(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](#); and (W.) (1.2.2006) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2006 \(S.I. 2006/173\), regs. 1\(1\), 10](#)
- F104** Words in s. 98(8) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(5\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch. para. 5](#)); [S.I. 2004/912, art. 4, Sch. Pt. 1](#) (with [art. 7](#))
- F105** S. 98(9) substituted (20.1.2003 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(6\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch. para. 6](#)); [S.I. 2006/172, art. 4, Sch.](#)

Modifications etc. (not altering text)

- C44** [Ss. 95-99 applied \(with modifications\) \(E.\) \(8.5.2003\) by The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\), regs. 1\(1\), 9, Sch. para. 1\(b\)](#)
- C49** S. 98 modified (*temp.*) (22.4.1999) by [S.I. 1999/1064, reg. 7](#).
- C50** 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](#).
- C51** S. 98(2) transitional provisions for effects of 2002 c. 32, Sch. 4 para. 12(2) (W.) (1.2.2006) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2006 \(S.I. 2006/173\), regs. 1\(1\), 8](#)

Commencement Information

- I4** 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.

Status: Point in time view as at 02/01/2008.

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CHAPTER II

SELECTION OF PUPILS

Partial selection

99 General restriction on selection by ability or aptitude.

- (1) ^{F106}No admission arrangements for a maintained school may make provision for selection by ability unless—
 - (a) they make provision for a permitted form of such selection; or
 - (b) the school is a grammar school (as defined by section 104(7)).
- (2) The following are ^{F107}for the purposes of section 39(1) of the Education and Inspections Act 2006] permitted forms of selection by ability—
 - (a) any selection by ability authorised by section 100 (pre-existing arrangements);
 - (b) any selection by ability authorised by section 101 (pupil banding); and
 - (c) any selection by ability conducted in connection with the admission of pupils to the school for secondary education suitable to the requirements of pupils who are over compulsory school age.
- (3) No admission arrangements for a maintained school may make provision for selection by aptitude unless they make provision for a permitted form of such selection.
- (4) The following are permitted forms of selection by aptitude—
 - (a) any selection by aptitude authorised by section 100 (pre-existing arrangements); and
 - (b) any selection by aptitude authorised by section 102 (aptitude for particular subjects).
- (5) For the purposes of this Chapter—
 - (a) a school’s admission arrangements make provision for selection by ability or by aptitude if they make provision for all or any of the pupils who are to be admitted to the school in any relevant age group to be so admitted by reference to ability or to aptitude (as the case may be);
 - (b) “ability” means either general ability or ability in any particular subject or subjects;
 - (c) “admission arrangements” has the meaning given by section 88(2); and
 - (d) “maintained school” means a community, foundation or voluntary school.

Textual Amendments

F106 S. 99(1) repealed (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 39(4)(a), 188(3), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 6(b)(g)

F107 Words in s. 99(2) inserted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 39\(4\)\(b\)](#), 188(3); S.I. 2006/3400, art. 6(b)

Modifications etc. (not altering text)

C44 Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, [Sch. para. 1\(b\)](#)

Status: Point in time view as at 02/01/2008.

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- C45** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))
- C52** 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](#).
- C53** [S. 99\(5\)](#) modified (1.10.1998) (temp.) by [S.I. 1998/2230](#), [reg. 2](#)

Commencement Information

- I5** 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 [^{F108}so long as there is, as compared with the arrangements in force at the beginning of that year—][^{F108}so long as—]
- (a) [^{F108}no increase in the proportion of selective admissions in any relevant age group, and]
[^{F108}the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and]
- (b) [^{F108}no significant change in the basis of selection.]
[^{F108}there is no significant change in the basis of selection.]
- [^{F109}(1A) In subsection (1)(a), “the permitted proportion”, in relation to any relevant age group, means the lowest proportion of selective admissions provided for by the school's admission arrangements at any time since the beginning of the 1997-1998 school year.]
- (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 ^{M4}Education Act 1996.
- (3) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to ability or to aptitude (as the case may be).
- (4) Nothing in this section applies to a school with selective admission arrangements (as defined by section 104(2)).

Textual Amendments

- F108** Words in s. 100(1) substituted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(2\)](#), 188(3); [S.I. 2006/3400](#), [art. 6\(e\)](#)
- F109** [S. 100\(1A\)](#) inserted (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(3\)](#), 188(3); [S.I. 2006/3400](#), [art. 6\(e\)](#)

Commencement Information

- I6** 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 ^{F110}subsections (2) and (2A)], the admission arrangements for a maintained school ^{F111}[in England or Wales] 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.
- ^{F112}(1A) Subject to subsections (2) and (2A), the admission authority for a maintained school in England may make provision for selection by ability to the extent that the arrangements are designed to secure—
- (a) that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among such one of the following groups as the admission arrangements may specify (“the reference group”)—
 - (i) children who are applicants for admission in that age group to any of two or more schools (including the school in question) in the area of the local authority,
 - (ii) children in that age group who live in the area of the local authority, or
 - (iii) children in that age group who live in England, and
 - (b) that no level of ability is substantially over-represented or substantially under-represented by comparison with its representation in the reference group.]
- (2) ^{F113}[Subsection (1) or (1A)] does not apply if the arrangements have the effect that, where an applicant for admission has been allocated to a particular range of ability by means of some process of selection by reference to ability, some further such process is required or authorised to be carried out in relation to him for the purpose of determining whether or not he is to be admitted to the school.
- ^{F114}(2A) If the admission authority for a maintained school in England is the local authority, the authority may only introduce such provision for selection by ability as is mentioned in subsection (1) or (1A) with the consent of the governing body of the school.]
- (3) The introduction for a maintained school ^{F115}[in Wales] 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) ^{F116}[In the case of a school in Wales, admission arrangements to which subsection (1) applies are not authorised] by this section unless proposals for the school to have such arrangements have been published^{F117}, 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 ^{F118}[subsection (1) or (1A)] above and such provision for

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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

- F110** Words in s. 101(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(a)(i)**, 188(3); S.I. 2006/3400, art. 3(e)
- F111** Words in s. 101(1) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(a)(ii)**, 188(3); S.I. 2006/3400, art. 3(e)
- F112** S. 101(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(b)**, 188(3); S.I. 2006/3400, art. 3(e)
- F113** Words in s. 101(2) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(c)**, 188(3); S.I. 2006/3400, art. 3(e)
- F114** S. 101(2A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(d)**, 188(3); S.I. 2006/3400, art. 3(e)
- F115** Words in s. 101(3) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(e)**, 188(3); S.I. 2006/3400, art. 3(e)
- F116** Words in s. 101(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(f)**, 188(3); S.I. 2006/3400, art. 3(e)
- F117** 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
- F118** Words in s. 101(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(g)**, 188(3); S.I. 2006/3400, art. 3(e)

Modifications etc. (not altering text)

- C54** S. 101 modified (1.10.1998) (*temp.*) by S.I. 1998/2230, **reg.3**
- C55** 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**.
- C56** S. 101 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), **regs. 1(1)**, 9, **Sch. para. 1(b)**
- C57** S. 101 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), **regs. 1(1)**, 9, **Sch.** (with **reg. 2(2)**)

Commencement Information

- I7** 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—

- (a) the admission authority for the school are satisfied that the school has a specialism in the subject or subjects in question; and

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- (b) 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 [F119 section 101(1) or (1A)], the reference in subsection (2) above to a test of ability does not include any such test for which provision may be made under that section.
- (4) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the subject or subjects in question.
- (5) In this section “test” includes assessment and examination.

Textual Amendments

F119 Words in s. 102(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(2), 188(3); S.I. 2006/3400, art. 3(e)

Modifications etc. (not altering text)

C58 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.

C59 S. 102 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, Sch. para. 1(b)

C60 S. 102 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, Sch. (with reg. 2(2))

Commencement Information

I8 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.
- (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 [F120 constitutes—

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- (a) in relation to England, a prescribed alteration for the purposes of section 18 of the Education and Inspections Act 2006, and
 - (b) in relation to Wales, a prescribed alteration for the purposes of section 28].
- (3) Any admission arrangements to which [^{F121}section 101(1) or (1A)] applies (whether authorised by section 100 or section 101) may be varied if (and only if) the arrangements as varied are designed to secure [^{F122}the objectives mentioned in section 101(1)(a) and (b), section 101(1A)(a)(i) and (b), section 101(1A)(a)(ii) and (b) or section 101(1A)(a)(iii) and (b)].

Textual Amendments

- F120** Words in s. 103(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(3)(a), 188(3); S.I. 2007/935, art. 7(1)
- F121** Words in s. 103(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(3)(b)(i), 188(3); S.I. 2006/3400, art. 3(e)
- F122** Words in s. 103(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(3)(b)(ii), 188(3); S.I. 2006/3400, art. 3(e)

Modifications etc. (not altering text)

- C61** S. 103 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, reg.8.
- C62** 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.
- C63** S. 103(3) applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, Sch. para. 1(b)
- C64** S. 103(3) applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, Sch. (with reg. 2(2))

Commencement Information

- I9** 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—

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- (a) sections 105 to 109 have effect for prescribing procedures for altering the school’s admission arrangements so that it no longer has selective admission arrangements; and
 - (b) its admission arrangements shall not be so altered except in accordance with those sections.
- (5) Regulations may make provision—
- (a) for enabling the Secretary of State to make an order designating as a grammar school for the purposes of this Chapter a maintained school established in substitution for one or more discontinued schools each of which either has been or could have been so designated under this section (whether by virtue of subsection (1) or by virtue of the regulations); and
 - (b) for any provisions of this Chapter, or any regulations made under it, to have effect in relation to any such school with such modifications as may be prescribed.
- (6) In this section “maintained school” includes, in relation to any time before the appointed day—
- (a) a county or voluntary school, or
 - (b) a grant-maintained school,
- within the meaning of the ^{M5}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

I10 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).

Status: Point in time view as at 02/01/2008.

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- (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
 - (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 ^{M6}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

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- (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).
- 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 ^{M7}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)

C65 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,

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- 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 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

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- (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
 - (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 ^{M8}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)

C66 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.

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- (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 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 [^{F123}under section 18 of the 2006 Act]; but any proposals for any such revision of the admission arrangements of a grammar school which is a community school shall be published under [^{F124}section 19 of the 2006 Act] 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 [^{F125}sections 19 to 24 of the 2006 Act or regulations under those sections] shall have effect with such modifications as may be prescribed;
 - (b) that, in any prescribed circumstances following the making of a request for a ballot to be held under section 105, any such proposals under [^{F126}section 19 of the 2006 Act] shall be of no effect.
- (4) Regulations made under section 105 may make provision, in relation to cases where any such proposals under [^{F127}section 19 of the 2006 Act] have fallen to be implemented under [^{F128}regulations under section 24 of that Act], for requiring the school to which the proposals relate to be disregarded for the purposes of any regulations made under section 105(2).
- (5) Where the Secretary of State is satisfied that, by reason of the implementation of any such proposals, a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.

[^{F129}(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.]

Textual Amendments

F123 Words in s. 109(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 29\(2\)\(a\)](#); S.I. 2007/935, art. 7(o)

F124 Words in s. 109(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 29\(2\)\(b\)](#); S.I. 2007/935, art. 7(o)

F125 Words in s. 109(3)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 29\(3\)\(a\)](#); S.I. 2007/935, art. 7(o)

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- F126** Words in s. 109(3)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(3)(b)**; S.I. 2007/935, art. 7(o)
- F127** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(a)**; S.I. 2007/935, art. 7(o)
- F128** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(b)**; S.I. 2007/935, art. 7(o)
- F129** S. 109(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(5)**; S.I. 2007/935, art. 7(o)

Commencement Information

- I11** S. 109 wholly in force at 1.9.1999; s. 109 not in force at Royal Assent see s. 145(3); s. 109(3)(4) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**; s. 109 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

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