



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART III

#### SCHOOL ADMISSIONS

### CHAPTER II

#### SELECTION OF PUPILS

##### *Partial selection*

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

- (1) [<sup>F1</sup>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 [<sup>F2</sup>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—

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- (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

- F1** S. 99(1) repealed (27.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 39(4)(a), 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 6(b)(g)
- F2** 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)

- C1** 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**.
- C2** 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)**
- C3** 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))
- C4** S. 99(5) modified (1.10.1998) (temp.) by S.I. 1998/2230, **reg. 2**

#### Commencement Information

- II** 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 <sup>[F3]</sup>so long as there is, as compared with the arrangements in force at the beginning of that year—<sup>[F3]</sup>so long as—
- (a) <sup>[F3]</sup>no increase in the proportion of selective admissions in any relevant age group, and] <sup>[F3]</sup>the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and]
  - (b) <sup>[F3]</sup>no significant change in the basis of selection.] <sup>[F3]</sup>there is no significant change in the basis of selection.]

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- [<sup>F4</sup>(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 <sup>M1</sup>Education Act 1996.
- (3) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to ability or to aptitude (as the case may be).
- (4) Nothing in this section applies to a school with selective admission arrangements (as defined by section 104(2)).

#### Textual Amendments

- F3** 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)**
- F4** [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

- I2** 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 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

- M1** 1996 c. 56.

### 101 Permitted selection: pupil banding.

- (1) Subject to [<sup>F5</sup>subsections (2) and (2A)], the admission arrangements for a maintained school [<sup>F6</sup>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.
- [<sup>F7</sup>(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,

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- (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) [<sup>F8</sup>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.
- [<sup>F9</sup>(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 [<sup>F10</sup>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) [<sup>F11</sup>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 [<sup>F12</sup>, and fallen to be implemented, under any enactment].
- (5) Where the admission arrangements for a school make both such provision for selection by ability as is mentioned in [<sup>F13</sup>subsection (1) or (1A)] above and such provision for selection by aptitude as is mentioned in section 102(1), nothing in this section shall be taken to prevent those arrangements—
- (a) from authorising or requiring a process of selection to be carried out at any stage for the purpose of establishing that an applicant for admission has a relevant aptitude; or
- (b) from having the effect of giving priority to such an applicant with a relevant aptitude irrespective of his level of ability.

#### Textual Amendments

- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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

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**F13** 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)

**C5** S. 101 modified (1.10.1998) (*temp.*) by S.I. 1998/2230, reg.3

**C6** 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.

**C7** 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)

**C8** 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

**I3** 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
  - (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 [F14]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

**F14** 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)

**C9** 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.

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- C10** 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)**
- C11** 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

- I4** 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 constitutes a prescribed alteration for the purposes of section 28.
- (3) Any admission arrangements to which [<sup>F15</sup>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 [<sup>F16</sup>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

- F15** 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)
- F16** 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)

- C12** S. 103 modified (*temp.*) (22.4.1999) by [S.I. 1999/1064](#), **reg.8**.
- C13** 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**.
- C14** 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)**
- C15** 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

- I5** 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).

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