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School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER I

ADMISSION ARRANGEMENTS

VALID FROM 01/04/1999

Parental preferences

86 Parental preferences.

- (1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—
 - (a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions, and
 - (b) to give reasons for his preference.
- (2) Subject to subsections (3) and (6) and section 87 (children excluded from two or more schools), a local education authority and the governing body of a maintained school shall comply with any preference expressed in accordance with arrangements made under subsection (1).
- (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;

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- (b) if the preferred school is a foundation or voluntary aided school and compliance with the preference would be incompatible with any special arrangements under section 91 (admission arrangements to preserve the religious character of a foundation or voluntary aided school); or
 - (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.
- (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).
- (5) No prejudice shall, however, 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—
- (a) the relevant standard number, or
 - (b) the admission number fixed in accordance with section 93,
- whichever is the greater.
- (6) Where—
- (a) the admission arrangements for two or more maintained schools provide for co-ordinated admissions on the part of those schools, and
 - (b) they are approved by the Secretary of State for the purposes of this subsection,
- they shall have effect in relation to each of those schools despite anything in subsection (2).
- (7) Where the arrangements for the admission of pupils to a maintained school provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, a parent who makes such an application shall be regarded for the purposes of this section as having expressed a preference for that school in accordance with arrangements made under subsection (1).
- (8) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—
- (a) any application for the admission to a maintained school of a child who is not in the area of the authority maintaining the school, and
 - (b) any application made by a parent as mentioned in section 438(4) or 440(2) of the ^{M1}Education Act 1996 (application for a particular school to be named in a school attendance order);
- and references in subsection (3) to a preference and a preferred school shall be construed accordingly.
- (9) Where admission arrangements for a school provide for all pupils admitted to the school 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

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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.

Modifications etc. (not altering text)

- C1** 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**.
- C2** S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, reg. 8, **Sch. 2 para. 5(b)**
- C3** S. 86(3)(b) restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **2(7)(8)**
- C4** S. 86(5) excluded (E.) (temp.) by S.I. 2000/180, **arts. 3, 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.
- (4) However, a child shall not be regarded as permanently excluded from a school for the purposes of this section if—
 - (a) although so excluded he was reinstated as a pupil at the school following the giving of a direction to that effect to the head teacher of the school; or
 - (b) he was so excluded at a time when he had not attained compulsory school age.
- (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.
- (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.

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Modifications etc. (not altering text)

- C5** 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**.

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- M2** 1996 c. 56.

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