



School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER II

SELECTION OF PUPILS

Grammar schools

104 Designation of grammar schools.

- (1) Where the Secretary of State is satisfied that a maintained school had selective admission arrangements at the beginning of the 1997-98 school year, he may by order designate the school as a grammar school for the purposes of this Chapter.
- (2) A school has selective admission arrangements for the purposes of this Chapter if its admission arrangements make provision for all (or substantially all) of its pupils to be selected by reference to general ability, with a view to admitting only pupils with high ability.
- (3) For the purpose of deciding whether a school's admission arrangements fall within subsection (2), any such additional criteria as are mentioned in section 86(9) shall be disregarded.
- (4) Where a maintained school is a grammar school—
 - (a) sections 105 to 109 have effect for prescribing procedures for altering the school's admission arrangements so that it no longer has selective admission arrangements; and

Status: Point in time view as at 25/03/2020.

Changes to legislation: School Standards and Framework Act 1998, Cross Heading: Grammar schools is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 ^{M1}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

II 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. 1](#); 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

M1 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 [^{F1}local authority] or within such other area as may be prescribed,
 - (b) to a prescribed group of grammar schools, or
 - (c) to any grammar school not falling within paragraph (a) or (b).
- (3) Ballot regulations may make provision—
 - (a) requiring a request for a ballot under this section to be made by means of a petition signed by parents eligible to request the ballot;

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- (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 ^{M2}Education Act 1996 (default powers of Secretary of State) to apply to proprietors of independent schools in relation to a duty imposed by or under the regulations.
- (8) Where—
- (a) a ballot has been held under this section, and
 - (b) the result of the ballot was to the effect that the schools or school in question should retain selective admission arrangements,
- no further ballot relating to the schools or school shall be held under this section within such period as is specified in ballot regulations.

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(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 ^{F1}local authority],
- (b) the proprietor of an independent school, or
- (c) a ^{F1}local 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 ^{M3}Education Act 1996 shall be taken—

- (a) to be a school maintained by a ^{F1}local 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.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

Modifications etc. (not altering text)

- C1** S. 105 applied (3.12.1998) by S.I. 1998/2876, art. 11(1).

Marginal Citations

- M2** 1996 c. 56.
M3 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 ^{F1}local 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 ^{F1}local authority] which are situated in such area as may be prescribed, together with (if the regulations so provide) all schools maintained by such ^{F1}local authority] as may be prescribed;
- (b) registered parents of registered pupils at independent schools where—
 - (i) such parents are resident, and

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- (ii) the schools are situated, within the area of the prescribed [^{F1}local 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 [^{F1}local 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).

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

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—

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- (a) publishing any material which, in whole or in part, appears designed to influence—
 - (i) eligible parents in deciding whether or not to request a ballot under section 105, or
 - (ii) the outcome of such a ballot; or
 - (b) assisting any person to publish any such material; or
 - (c) influencing, or assisting any person to influence, by any other means—
 - (i) eligible parents in deciding whether or not to request such a ballot, or
 - (ii) the outcome of such a ballot.
- (2) This section applies to—
- (a) any [^{F1}local authority], and
 - (b) the governing body of any school maintained by a [^{F1}local 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 ^{M4}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.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

Modifications etc. (not altering text)

- C2** S. 107(5) modified (20.11.1998) by S.I. 1998/2670, **reg. 4**

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Marginal Citations

M4 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 [F2]88C to 88K or, as the case may be,] 89 and 90) so that, as from the beginning of such school year as may be prescribed, the school no longer has selective admission arrangements.
- (3) Where the Secretary of State is satisfied that, in pursuance of subsection (2), a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.

Textual Amendments

F2 Words in s. 108(2) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 70; S.I. 2008/3077, art. 2(d)

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 [F3]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 [F4]section 19 of the 2006 Act] by the governing body and not by the [F1]local 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 [F5]sections 19 to 24 of the 2006 Act or regulations under those sections] shall have effect with such modifications as may be prescribed;

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- (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 [^{F6}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 [^{F7}section 19 of the 2006 Act] have fallen to be implemented under [^{F8}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.
- [^{F9}(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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

- I2** 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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