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## SCHEDULES

### SCHEDULE 4

Section 51

#### ADMISSION ARRANGEMENTS

- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).

#### Commencement Information

- II** Sch. 4 para. 1 partly in force; Sch. 4 para. 1 not in force at Royal Assent, see s. 216; Sch. 4 para. 1 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

#### Meaning of “appeal panel”

- 2 In section 84(6) of the 1998 Act (interpretation of Chapter 1 of Part 3), in the definition of “appeal panel”, for “under Schedule 24 or 25” there is substituted “ in accordance with regulations under section 94(5) or 95(3) ”.

#### Commencement Information

- I2** Sch. 4 para. 2 partly in force; Sch. 4 para. 2 not in force at Royal Assent, see s. 216; Sch. 4 para. 2 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch. paras. 2, 3)  
**I3** Sch. 4 para. 2 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2 (with Sch. para. 3)

#### Parental preferences

- 3 (1) Section 86 of the 1998 Act (parental preferences) is amended as follows.
- (2) In subsection (2), for “subsections (3) and (6)” there is substituted “ subsections (3) and (3A) ”.
- (3) After subsection (2) there is inserted—
- “(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.”
- (4) In subsection (3)—
- (a) at the end of paragraph (a) there is inserted “ or ”, and
- (b) paragraph (b) is omitted.
- (5) After subsection (3) there is inserted—

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“(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).”

(6) Subsection (6) shall cease to have effect.

(7) In subsection (8), for “subsection (3)” there is substituted “ subsections (3) and (3A) ”.

(8) In subsection (9), for “provide for all pupils admitted to the school” there is substituted “ , or arrangements such as are mentioned in subsection (3B), provide for all pupils selected under the arrangements ”.

#### **Commencement Information**

**I4** Sch. 4 para. 3 partly in force; Sch. 4 para. 3 not in force at Royal Assent, see s. 216; Sch. 4 para. 3 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#)) (as amended (4.12.2003) by [S.I. 2003/2992](#), [arts. 1, 3](#))

#### *Children permanently excluded from two or more schools*

4 In section 87 of the 1998 Act (no requirement to admit children permanently excluded from two or more schools) for subsection (4) there is substituted—

“(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

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- (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.”

#### Commencement Information

- I5** Sch. 4 para. 4 partly in force; Sch. 4 para. 4 not in force at Royal Assent, see s. 216; Sch. 4 para. 4 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch. paras. 2, 3)
- I6** Sch. 4 para. 4 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2

#### Procedure for determining admission arrangements

- 5 (1) Section 89 of the 1998 Act (procedure for determining admission arrangements) is amended as follows.
- (2) For subsection (2) there is substituted—
- “(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)), and
  - (d) the admission authorities for maintained schools of any prescribed description.
- (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 subsections (4), (5) and (6), for “bodies whom they consulted under subsection (2)” there is substituted “appropriate bodies”.

(4) In subsection (8), after paragraph (f) there is inserted—

“(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;”.

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(5) After that subsection there is inserted—

“(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.”

(6) For subsection (9) there is substituted—

“(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).”

(7) After that subsection there is inserted—

“(10) In this section “the appropriate bodies”, in relation to an admission authority, means the bodies whom they were required to consult under subsection (2), or would but for subsection (2A) have been required so to consult.”

#### Commencement Information

**I7** Sch. 4 para. 5 partly in force; Sch. 4 para. 5 not in force at Royal Assent, see s. 216; Sch. 4 para. 5 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

#### Reference of objections

6 In section 90(1)(b) of the 1998 Act (reference of objections to adjudicator or Secretary of State), for “consulted by the admission authority under section 89(2)” there is substituted “who were, or would but for subsection (2A) of section 89 have been, required to be consulted by the admission authority under subsection (2) of that section”.

#### Commencement Information

**I8** Sch. 4 para. 6 partly in force; Sch. 4 para. 6 not in force at Royal Assent, see s. 216; Sch. 4 para. 6 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

#### Publication of information

7 For section 92 of the 1998 Act (publication of information about admissions) there is substituted—

#### “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,

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- (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.”

#### Commencement Information

**19** Sch. 4 para. 7 partly in force; Sch. 4 para. 7 not in force at Royal Assent, see s. 216; Sch. 4 para. 7 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

#### Appeal arrangements: general

- 8 (1) Section 94 of the 1998 Act (appeal arrangements: general) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(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.”
- (3) After subsection (2) there is inserted—
- “(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.”
- (4) In subsection (3), after “(2)” there is inserted “ or (2A) ”.
- (5) In subsection (4), in paragraph (a), after “(1)” there is inserted “ or (1A) ” and in paragraph (b), after “(2)” there is inserted “ or (2A) ”.
- (6) In subsection (6) for “under Schedule 24” there is substituted “ pursuant to arrangements under this section ”.
- (7) After that subsection there is inserted—
- “(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.”

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#### Commencement Information

- I10** Sch. 4 para. 8 partly in force; Sch. 4 para. 8 not in force at Royal Assent, see s. 216; Sch. 4 para. 8 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch. paras. 2, 3)
- I11** Sch. 4 para. 8 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2 (with Sch. para. 3)

#### *Appeals relating to children to whom section 87 applies*

9 In section 95 of the 1998 Act (appeals relating to children to whom section 87 applies), for subsection (3) there is substituted—

“(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—

- (a) requiring prescribed information to be given to governing bodies in prescribed circumstances,
- (b) as to the procedure on such appeals,
- (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.”

#### Commencement Information

- I12** Sch. 4 para. 9 partly in force; Sch. 4 para. 9 not in force at Royal Assent, see s. 216; Sch. 4 para. 9 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in art. 3, Sch. paras. 2, 3)
- I13** Sch. 4 para. 9 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2 (with Sch. para. 3)

#### *Direction to admit child to specified school*

10 In section 96(1) of the 1998 Act (direction to admit child to specified school) after “section” there is inserted “ to the governing body of a school for which they are not the admission authority ”.

#### Commencement Information

- I14** Sch. 4 para. 10 partly in force; Sch. 4 para. 10 not in force at Royal Assent, see s. 216; Sch. 4 para. 10 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

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*Procedure for giving direction under section 96*

11 (1) Section 97 of the 1998 Act (procedure for giving direction under section 96) is amended as follows.

(2) For subsection (4) there is substituted—

“(4) On a reference under subsection (3) the Secretary of State may determine which school is to be required to admit the child, and if he 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 the Secretary of State’s determination, and

(b) in any other case, that school shall be specified in the direction.”

(3) For subsection (6) there is substituted—

“(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.”

**Commencement Information**

**115** Sch. 4 para. 11 partly in force; Sch. 4 para. 11 not in force at Royal Assent, see s. 216; Sch. 4 para. 11 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

*Nursery education, special schools and children with statements*

12 (1) Section 98 of the 1998 Act (admission for nursery education etc) is amended as follows.

(2) For subsection (2) there is substituted—

“(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) In subsection (3), after “Chapter” there is inserted “ apart from subsections (4A) and (4B) ”.

(4) After subsection (4) there is inserted—

“(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.”

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(5) In subsection (8) after “this section” there is inserted “, apart from subsections (4A) and (4B),”.

(6) For subsection (9) there is substituted—

“(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.”

#### Commencement Information

- I16** Sch. 4 para. 12 partly in force; Sch. 4 para. 12 not in force at Royal Assent, see s. 216; Sch. 4 para. 12 in force for E. at 20.1.2003 by S.I. 2002/2952, art. 2 (with savings and transitional provisions in Sch. paras. 2, 3)
- I17** Sch. 4 para. 12 in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, art. 2 (with Sch. para. 2)

#### *Diocesan Boards of Education Measure 1991*

13 In section 3(1) of the Diocesan Boards of Education Measure 1991 (1991 No. 2) (transactions for which advice or consent of Board is required), after paragraph (c) there is inserted—

“(cc) consulting under section 89(2) of that Act about proposed admission arrangements for any school year;”.

#### Commencement Information

- I18** Sch. 4 para. 13 partly in force; Sch. 4 para. 13 not in force at Royal Assent, see s. 216; Sch. 4 para. 13 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)

#### *Education Act 1996*

14 In section 439(2) of the Education Act 1996 (c. 56) (specification of school intended to be named in a school attendance order), for “fixed in accordance with section 93 of the School Standards and Framework Act 1998 (fixing admission numbers)” there is substituted “determined in accordance with section 89 of the School Standards and Framework Act 1998 (determination of admission numbers)”.

#### Commencement Information

- I19** Sch. 4 para. 14 partly in force; Sch. 4 para. 14 not in force at Royal Assent, see s. 216; Sch. 4 para. 14 in force for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in Sch.)



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