

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 3: Further Provisions about Maintained Schools

Section 46: Restriction on alteration of admission arrangements

214. This section, which relates only to admission arrangements for maintained schools in England, modifies sections 89 and 90 of the 1998 Act. It adds a *subsection (1ZA)* to section 89, cross-referencing it to two sections that have been added: sections 89D and 90A.
215. *Subsection (1)* provides that section 89 of the 1998 Act (which requires the admission authority to decide the admission arrangements for each school year) has effect subject to the new provisions in sections 89D and 90A.
216. *Subsection (2)* inserts section 89D. This provision relates to approval of proposals to establish new schools or to expand existing schools. Although the admission arrangements are one of the factors considered by decision-makers in determining whether to approve a proposal, the present system would enable schools to change the arrangements the year after approval of a proposal. The section enables regulations to be made which have the effect of ‘freezing’ approved admission arrangements for a prescribed period, so that those considered and approved by decision-makers remain in place for a reasonable period.
217. Regulations will set out in more detail the period for which admission arrangements must remain unchanged, and the circumstances in which admission authorities may apply to the adjudicator for variations of those arrangements within the prescribed period.
218. *Subsection (3)* inserts section 90A. At present, section 90(8) of the 1998 Act makes an adjudicator’s determination of an objection binding on parties to the objection for the school year to which the admission arrangements relate. This can result in admission criteria, which the adjudicator has determined are unfair, being reinstated the following year. This, in turn, can lead to repeats of earlier objections to the adjudicator. The new section 90A has the effect that determinations by the adjudicator will generally remain effective for a prescribed number of school years or lesser period as determined by the adjudicator. The new section also includes a regulation-making power in *subsection (6)*. This will enable regulations to prescribe circumstances in which admission authorities may apply to the adjudicator to vary arrangements which they would otherwise be prevented from altering by the new section.