

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 3: Further Provisions about Maintained Schools

Section 54: Pupil banding

246. This section modifies sections 101 to 103 of the 1998 Act, in order to allow for additional forms of banding. All children applying for a place at a school using banding are assessed or tested and placed into a number of ability bands, as decided by the admissions authority. Under the current law, places may then be allocated to ensure that the intake is representative of all levels of ability among applicants to the school for admission in that age group. If there are more applicants within a particular band of ability than there are places, the places within that band are then allocated on the basis of the other published oversubscription criteria, not on the ranking of test results.
247. *Subsection (1)* adds to section 101 a new *subsection (1A)* which applies only to England. It allows admission authorities of maintained schools to introduce three additional forms of banding: the first across the full ability range of children applying to any of two or more schools in a local education authority area, the second across the full ability range of the relevant age group within the local education authority area, the third across the full ability range of the relevant age group within England. It also requires that, where (in England) the admission authority is the local education authority, it must secure the consent of the governing body before introducing such arrangements as set out in either the original *subsection (1)* of section 101 or the new *subsection (1A)*.
248. *Subsection (1)* also amends *subsections (3) and (4)* of section 101 so as to remove (for England) the requirement that the adoption of banding arrangements must be a “prescribed alteration” that can only be made after publication of statutory proposals.
249. *Subsection (1)* also amends *subsection (5)* of section 101. The amendments ensure that, where schools select up to 10% of their intake by reference to their aptitude in a prescribed subject under section 102(1) of the 1998 Act, such schools are able to admit up to 10% by aptitude irrespective of any banding arrangements adopted.
250. *Subsection (2)* modifies section 102(3) of the 1998 Act to ensure that its provisions (i.e. that aptitude selection is permissible when banding arrangements take place but not when any other form of selection by ability takes place) apply to all permissible forms of banding, including the new forms introduced by *subsection (1A)*.
251. *Subsection (3)* makes amendments of section 103 of the 1998 Act which are consequential on Part 2 of the Act and on the amendments of section 101.