

SCHEDULE 4

Article 6

TRANSITIONAL AND SAVING PROVISIONS RELATING TO THE ADMISSION OF CHILDREN TO MAINTAINED SCHOOLS

Interpretation

1.—(1) In this Schedule—

“admission arrangements” in relation to a school, means the arrangements for the admission of children to the school, including the school’s admission policy;

“the modification regulations” means the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1998(1);

“school year”, in the context of references to the admission of a child to a school in any particular year, means the school year in which he would first take up a place there in consequence of a decision to admit him;

“the transitional provisions regulations” means regulations 1 to 4 of the Education (Infant Class Sizes) (Transitional Provisions) Regulations 1998(2).

(2) Any reference to a county, voluntary or grant-maintained school in—

(a) this Schedule, or

(b) a provision of (or a provision made under) the 1996 Act which is to continue to have effect for transitional purposes on or after 1st September 1999 by virtue of this Schedule,

shall have effect for the purposes of this Schedule, in relation to any time on or after that date, as a reference to a community, foundation or voluntary school which was, immediately before that date, a county, voluntary or (as the case may be) a grant-maintained school.

(3) A reference in this Schedule to the instrument or articles of government for a grant-maintained school shall be construed as a reference to that instrument or those articles as they had effect immediately before 1st September 1999.

School admissions: parental preferences

2.—(1) Subject to sub-paragraph (5) below, sections 86 and 87 of the 1998 Act shall not apply in relation to—

(a) the admission of a child to a school in any school year earlier than the 1999/2000 school year, or

(b) an application for admission to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to an application made before 1st September 1999 for the admission of a child to a school in the 1999/2000 or any earlier school year.

(3) Where an application to which sub-paragraph (2) applies relates to the admission of a child to a county or voluntary school, the following provisions shall continue to have effect in relation to an application, namely—

(a) section 411 of the 1996 Act (as amended by the modification regulations);

(b) sections 411A and 430(2) of that Act;

(c) the transitional provisions regulations (in so far as they are applicable); and

(d) the school’s admission arrangements for the school year concerned.

(1) S.I.1998/1948.

(2) S.I. 1998/1947.

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(4) Where an application to which sub-paragraph (2) applies relates to the admission of a child to a grant-maintained school, the following provisions shall continue to have effect in relation to that application, namely—

- (a) the provisions of that school’s articles of government concerning the determination of applications for admission;
- (b) section 425B of that Act (as inserted by the modification regulations);
- (c) section 430(2) of the 1996 Act;
- (d) paragraphs 3 and 4 of Schedule 33B to that Act;
- (e) the transitional provisions regulations (in so far as they are applicable); and
- (f) the school’s admission arrangements for the school year concerned.

(5) Section 86(3)(a) and (4) of the 1998 Act shall apply as from 1st April 1999 for the purposes of section 96(4) or 97(5) of that Act in relation to the admission of a child to a school in the 1998/1999 or 1999/2000 school year.

(6) An application made on or after 1st September 1999 for the admission of a child to a school in the 1999/2000 school year shall be determined in accordance with the school’s admission arrangements for that year.

(7) Section 86(3)(b) of the 1998 Act shall have effect in relation to an application referred to in sub-paragraph (6) above as if, for the words “special arrangements under section 91 (admission arrangements to preserve the religious character of a foundation or voluntary aided school)” there were substituted—

“arrangements in relation to the 1999/2000 school year for preserving the particular religious character of the school made before 1st September 1999—

- (i) between the governing body and the local education authority under section 413 of that Act (where the school immediately before that date was an aided or special agreement school), or
- (ii) by the governing body in accordance with the school’s articles of government (where the school immediately before that date was a grant-maintained school);”.

(8) Any reference in sub-paragraphs (2) and (6) to an application for the admission of a child to a school includes a reference to—

- (a) a preference expressed by a parent in accordance with arrangements made by a local education authority under section 411(1) of the 1996 Act; and
- (b) an application as mentioned in section 438(4) or 440(2) of that Act.

(9) Sub-paragraphs (3) and (4) shall have effect notwithstanding—

- (a) the repeal of sections 218 to 221, 411, 411A and 413 of, and Schedules 23 and 33B to, the 1996 Act; and
- (b) the coming into force of sections 86 and 87 of the 1998 Act.

Special arrangements to preserve character of foundation or voluntary aided school

3. Section 91 of the 1998 Act shall not apply in relation to the determination of a school’s admission arrangements for any school year earlier than 2000/2001.

Publication of information about school admissions

4. Section 92 of the 1998 Act shall not have effect so as to require a local education authority or the governing body of a school to publish information in respect of—

- (a) a school’s admissions arrangements for any school year earlier than 2000/2001; or

- (b) the other matters mentioned in that section so far they relate to any such year.

Fixing admission numbers

5.—(1) Section 93 of the 1998 Act shall not apply in relation to the fixing of a school's admission number for any school year earlier than 2000/2001.

(2) Section 416(1) and (2) of the 1996 Act shall continue to have effect in relation to the fixing of an admission number for a county or voluntary school for 1999/2000 and earlier school years.

(3) This sub-paragraph applies where before 1st September 1999—

(a) a proposal is made to the admission authority for a county or voluntary school under section 416(3) of the 1996 Act; and

(b) either—

(i) the time limit for the admission authority to give notice under section 416(6) rejecting that proposal has not expired, or

(ii) the admission authority have given such a notice within that time limit, but the authority making the proposal have not made an application to the Secretary of State as mentioned in section 416(7) (and the time limit for doing so has not expired).

(4) Where sub-paragraph (3) applies, any such proposal shall be treated as having been made under section 93(4) of the 1998 Act; and accordingly subsections (6) and (7) of that section shall have effect in relation to that proposal.

(5) This paragraph shall have effect notwithstanding the repeal of section 416 of the 1998 Act and the coming into force of section 93 of the 1998 Act.

Variation of standard numbers

6.—(1) This sub-paragraph applies where before 1st September 1999—

(a) proposals have been published under paragraph 1 of Schedule 32 to the 1996 Act in relation to an application to the Secretary of State for an order under section 420(2) of that Act reducing a standard number applying to any county or voluntary school; but

(b) the Secretary of State has not determined that application by making or refusing to make an order under paragraph 5(1) of Schedule 32 to that Act.

(2) Where sub-paragraph (1) applies, the provisions of—

(a) section 420(2) and (3) of the 1996 Act,

(b) Schedule 32 to that Act (as amended by the modification regulations), and

(c) any regulations made under paragraph 1 of Schedule 32 (as they had effect immediately before 1st September 1999),

shall continue to apply in relation to those proposals and that application.

(3) Where, upon an application referred to in sub-paragraph (1), the Secretary of State decides to make an order as mentioned in paragraph 5(1) of Schedule 32 to the 1996 Act reducing the standard number, the relevant standard number which applies to the school in the school year beginning on or after 1st September 1999 by virtue of paragraph 1 of Schedule 23 to the 1998 Act shall have effect from the date specified in that order as if it had been reduced to the lower number so specified in accordance with paragraph 6 or (as the case may be) 10 of that Schedule.

(4) This sub-paragraph applies where before 1st September 1999—

(a) an application has been made by—

(i) the admission authority for a school, or

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(ii) the governing body or local education authority in accordance with section 416(7) of the 1996 Act, for an order under section 420(2) of that Act increasing a relevant standard number; but

(b) the Secretary of State has not determined that application by making or refusing to make an order in respect that application under section 420(5).

(5) Where sub-paragraph (4) applies, section 420(2), (4) and (5) of the 1996 Act shall continue to have effect in relation to that application; and where, upon such an application, the Secretary of State decides to make an order under section 420(5) increasing the standard number, the relevant standard number which applies to the school in the school year beginning on or after 1st September 1999 by virtue of paragraph 1 of Schedule 23 to the 1998 Act shall have effect from the date specified in the order as if it had been increased to the higher number so specified in accordance with paragraph 6 or (as the case may be) 10 of that Schedule.

(6) This paragraph shall have effect notwithstanding the repeal of sections 416 and 420 of the 1996 Act, and the coming into force of section 93 of, and Schedule 23 to, the 1998 Act.

Approved admission numbers for grant-maintained schools

7.—(1) Section 426(1) shall continue to have effect in relation to the fixing of an admission number for a grant-maintained school for the 1999/2000 and earlier school years.

(2) This sub-paragraph applies where before 1st September 1999—

(a) the governing body of a grant-maintained school have made an application for the approval under section 426(4) of the 1996 Act of a proposed variation of any approved admission number applying to that school; but

(b) no decision has been made approving or refusing to approve that application.

(3) Where sub-paragraph (2) applies, the provisions of—

(a) section 426(4) and (5) of the 1996 Act (as amended by the modification regulations), and

(b) the school's articles of government concerning the variation of approved admission numbers,

shall continue to apply in relation to an application mentioned in that sub-paragraph.

(4) Where, upon such an application, the Secretary of State decides to approve a variation of the approved admission number under section 426(4) of the 1996 Act, the relevant standard number which applies to the school in the school year beginning on or after 1st September 1999 by virtue of paragraph 1 of Schedule 23 to the 1998 Act shall have effect from the date specified in the Secretary of State's decision as if varied to the lower or higher number so specified in accordance with paragraph 6 or (as the case may be) 10 of that Schedule.

(5) This sub-paragraph applies where before 1st April 1999—

(a) the governing body of a grant-maintained school have made an application as mentioned in sub-paragraph (2)(a);

(b) no decision has been made approving or refusing to approve that application; and

(c) the school is in the area of a local education authority in relation to which an order under section 27(1)(a) or (b) of the 1996 Act applies.

(6) Where sub-paragraph (5) applies, sub-paragraph (4) shall have effect in relation to any period on or after 1st April 1999 but before 1st August 1999 as if each reference to the Secretary of State were to the Funding Agency for Schools.

(7) In the case of a grant-maintained school whose articles of government require the governing body to publish proposals before making an application under section 426(4) of the 1996 Act for the

reduction of an approved admission number, sub-paragraph (2)(a) shall have effect as if for “made an application” there were substituted “published proposals in relation to a proposed application”.

(8) This paragraph shall have effect notwithstanding the repeal of sections 27, 218 to 221 and 426 and 426A of, and Schedules 4 and 23 to, the 1996 Act, and the coming into force of section 93 of, and Schedule 23 to, the 1998 Act.

Admission appeals

8.—(1) Section 94 of and Schedule 24 to, or (as the case may be) section 95(2) of and Schedule 25 to, the 1998 Act shall not apply in relation to an appeal against—

- (a) a decision concerning the admission of a child to a school in any school year earlier than the 1999/2000 school year, or
- (b) a decision to which sub-paragraph (2) or (4) applies.

(2) This sub-paragraph applies in relation to a decision as mentioned in section 423(1) or (2) or 423A(2) of the 1996 Act concerning the admission of a child to a county or voluntary school in any school year earlier than 2000/2001 where before 1st September 1999—

- (a) notice of appeal against that decision has been given; but
- (b) the appeal has not been determined by an appeal committee constituted in accordance with paragraph 1 or 2 of Schedule 33 to the 1996 Act.

(3) The following provisions, namely—

- (a) sections 423 of, and Schedule 33 to, the 1996 Act (as amended by the modification regulations),
- (b) section 423A of, and Schedule 33A to, that Act, and
- (c) the appeal arrangements made by the local education authority or the governing body pursuant to those provisions (as those arrangements had effect immediately before 1st September 1999),

shall continue to have effect in relation to an appeal referred to in sub-paragraph (2).

(4) This sub-paragraph applies in relation to a decision refusing a child admission to a grant-maintained school in any school year earlier than 2000/2001 where before 1st September 1999—

- (a) notice of appeal against that decision has been given; but
- (b) the appeal has not been determined by an appeal committee constituted for the purposes of paragraph 6 of Schedule 23 to the 1996 Act.

(5) The following provisions, namely—

- (a) paragraph 6 of Schedule 23 to the 1996 Act,
- (b) paragraph 6A of that Schedule (as inserted by the modification regulations),
- (c) paragraph 4 of Schedule 33B to the 1996 Act,
- (d) the provisions of that school’s instrument and articles of government concerning appeals against decisions refusing children admission to the school, and
- (e) the arrangements for such appeals made by the governing body (as they had effect immediately before 1st September 1999),

shall continue to have effect in relation to an appeal referred to in sub-paragraph (4).

(6) A reference in sub-paragraph (2) or (4) to the giving of a notice of appeal shall be construed for the purposes of this paragraph as a notice of appeal given in accordance with the provisions referred to in sub-paragraph (3) or (as the case may be) (5).

(7) Sub-paragraphs (3) and (5) shall have effect notwithstanding—

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- (a) the repeal of sections 218 to 221, 423, 423A, 425A and 429 of, and Schedules 23, 33, 33A and 33B to, the 1996 Act; and
- (b) the coming into force of sections 94 and 95 of, and Schedules 24 and 25 to, the 1998 Act.

Appeal committees

9.—(1) This paragraph applies to an admissions or exclusions appeal committee constituted—

- (a) for the purposes of paragraph 6 of Schedule 23 to the 1996 Act⁽³⁾, or
- (b) in accordance with paragraph 1 or 2 of Schedule 33 to that Act,

where that committee exercises (or is entitled to exercise) any function on or after 1st April 1999 (whether by virtue of paragraph 8 of this Schedule or otherwise).

(2) Where this paragraph applies to an appeal committee—

- (a) (in the case of a committee as mentioned in sub-paragraph (1)(b) above) section 177 of the Local Government Act 1972⁽⁴⁾,
- (b) section 25(5) of the Local Government Act 1974⁽⁵⁾, and
- (c) paragraph 15(b) and (c) of Schedule 1 to the Tribunal and Inquiries Act 1992⁽⁶⁾,

shall have effect on or after 1st April 1999 without the amendments made by the provisions of paragraph 3, 4 or 47 of Schedule 30 to the 1998 Act; and this paragraph shall have effect notwithstanding the coming into force of those provisions.

Direction to admit child to specified school

10.—(1) This paragraph applies where before 1st April 1999—

- (a) the appropriate authority (as defined in section 431(7) or (8) of the 1996 Act) have served notice in accordance with section 432(2) of that Act of their intention to give a direction under section 431 requiring a specified school to admit a child; but
- (b) the authority have not given that direction.

(2) Where this paragraph applies, the appropriate authority may, subject to the provisions of—

- (a) section 431(3A) (as inserted by the modification regulations), and
- (b) section 432(2) to (5) (as amended by those regulations),

proceed to give the direction mentioned in sub-paragraph (1); and sections 431 and 432 (as so amended) shall continue to apply for the purposes of that direction.

(3) This paragraph has effect notwithstanding the repeal of sections 431 and 432 of the 1996 Act and the coming into force of sections 96 and 97 of the 1998 Act.

New schools, nursery and special schools, children with statements

11. Notwithstanding the repeal of sections 413, 415, 422, 424, 425A, 429, 430 and 436 of the 1996 Act, those provisions shall continue to have effect to the extent that they relate to the other provisions of Chapter I of Part VI of the 1996 Act which are to continue to have effect for transitional purposes by virtue of this Schedule.

(3) Paragraph 6 of Schedule 23 was amended by paragraph 49(3) of Schedule 7 to the Education Act 1997 (c. 44).

(4) 1972 c. 70. Section 177(1) was amended by paragraph 25 of Schedule 37 to the 1996 Act.

(5) 1974 c. 7. Section 25(5) was amended by paragraph 27 of Schedule 37 to the 1996 Act.

(6) 1992 c. 53. Paragraph 15 of Schedule 1 was amended by paragraph 118(3) of Schedule 37 to the 1996 Act.