



School Standards and Framework Act 1998

1998 CHAPTER 31

PART III

SCHOOL ADMISSIONS

CHAPTER II

SELECTION OF PUPILS

Partial selection

99 General restriction on selection by ability or aptitude.

^{F1}(1)

(2) The following are [^{F2}for the purposes of section 39(1) of the Education and Inspections Act 2006] permitted forms of selection by ability—

- (a) any selection by ability authorised by section 100 (pre-existing arrangements);
- (b) any selection by ability authorised by section 101 (pupil banding); and
- (c) any selection by ability conducted in connection with the admission of pupils to the school for secondary education suitable to the requirements of pupils who are over compulsory school age.

(3) No admission arrangements for a maintained school may make provision for selection by aptitude unless they make provision for a permitted form of such selection.

(4) The following are permitted forms of selection by aptitude—

- (a) any selection by aptitude authorised by section 100 (pre-existing arrangements); and

Changes to legislation: School Standards and Framework Act 1998, Cross Heading: Partial selection is up to date with all changes known to be in force on or before 18 April 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) View outstanding changes

- (b) any selection by aptitude authorised by section 102 (aptitude for particular subjects).
- (5) For the purposes of this Chapter—
- (a) a school’s admission arrangements make provision for selection by ability or by aptitude if they make provision for all or any of the pupils who are to be admitted to the school in any relevant age group to be so admitted by reference to ability or to aptitude (as the case may be);
- (b) “ability” means either general ability or ability in any particular subject or subjects;
- (c) “admission arrangements” has the meaning given by section 88(2); and
- (d) “maintained school” means a community, foundation or voluntary school.

Textual Amendments

- F1** S. 99(1) repealed (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 39\(4\)\(a\)](#), [188\(3\)](#), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 6(b)(g); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F2** Words in s. 99(2) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 39\(4\)\(b\)](#), [188\(3\)](#); S.I. 2006/3400, art. 6(b); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

Modifications etc. (not altering text)

- C1** S. 99 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), [reg. 8](#), [Sch. paras. 1\(c\)](#), [2-8](#).
S. 99 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), [reg. 7](#), [Sch. paras. 1](#), [2-8](#).
- C2** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\)](#), [9](#), [Sch. para. 1\(b\)](#)
- C3** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), [regs. 1\(1\)](#), [9](#), [Sch.](#) (with [reg. 2\(2\)](#))
- C4** S. 99(5) modified (1.10.1998) (temp.) by [S.I. 1998/2230](#), [reg. 2](#)
- C5** S. 99(5) applied (29.7.2010) by [Academies Act 2010 \(c. 32\)](#), [ss. 6\(4\)](#), [19\(2\)](#); S.I. 2010/1937, art. 2, [Sch. 1](#)

Commencement Information

- I1** S. 99 wholly in force at 1.4.1999; s. 99 not in force at Royal Assent see s. 145(3); s. 99(1)(2)(5) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#), [Sch. 2 Pt. I para. 3](#); s. 99 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)).

100 Permitted selection: pre-existing arrangements.

- (1) Where at the beginning of the 1997-98 school year the admission arrangements for a maintained school made provision for selection by ability or by aptitude (and they have at all times since that date continued to do so), the admission arrangements for the school may continue to make such provision [^{F3}so long as—
- (a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and
- (b) there is no significant change in the basis of selection.]

[^{F4}(1A) In subsection (1)(a), “the permitted proportion”, in relation to any relevant age group, means the lowest proportion of selective admissions provided for by the school’s admission arrangements at any time since the beginning of the 1997-1998 school year.]

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- (2) In relation to any time before the appointed day, the reference in subsection (1) to a maintained school is a reference to the school as a county, voluntary or grant-maintained school within the meaning of the ^{M1}Education Act 1996.
- (3) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to ability or to aptitude (as the case may be).
- (4) Nothing in this section applies to a school with selective admission arrangements (as defined by section 104(2)).

Textual Amendments

- F3** Words in s. 100(1) substituted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(2\)](#), 188(3); [S.I. 2006/3400](#), art. 6(e); [S.I. 2008/1429](#), art. 3(1), Sch. Pt. 1
- F4** S. 100(1A) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(3\)](#), 188(3); [S.I. 2006/3400](#), art. 6(e); [S.I. 2008/1429](#), art. 3(1), Sch. Pt. 1

Commencement Information

- I2** S. 100 wholly in force at 1.4.1999; s. 100 not in force at Royal Assent see s. 145(3); s. 100 in force at 1.10.1998 to the extent that it relates to s. 99(2)(a) by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); s. 100 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

Marginal Citations

- M1** 1996 c. 56.

101 Permitted selection: pupil banding.

- (1) Subject to [^{F5}subsections (2) and (2A)], the admission arrangements for a maintained school [^{F6}in England or Wales] may make provision for selection by ability to the extent that the arrangements are designed to secure—
- that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among applicants for admission to the school in that age group, and
 - that no level of ability is substantially over-represented or substantially under-represented.
- [^{F7}(1A) Subject to subsections (2) and (2A), the admission authority for a maintained school in England may make provision for selection by ability to the extent that the arrangements are designed to secure—
- that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among such one of the following groups as the admission arrangements may specify (“the reference group”)—
 - children who are applicants for admission in that age group to any of two or more schools (including the school in question) in the area of the [^{F8}local authority],
 - children in that age group who live in the area of the [^{F8}local authority], or
 - children in that age group who live in England, and

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- (b) that no level of ability is substantially over-represented or substantially under-represented by comparison with its representation in the reference group.]
- (2) [^{F9}Subsection (1) or (1A)] does not apply if the arrangements have the effect that, where an applicant for admission has been allocated to a particular range of ability by means of some process of selection by reference to ability, some further such process is required or authorised to be carried out in relation to him for the purpose of determining whether or not he is to be admitted to the school.
- [^{F10}(2A) If the admission authority for a maintained school in England is the [^{F8}local authority], the authority may only introduce such provision for selection by ability as is mentioned in subsection (1) or (1A) with the consent of the governing body of the school.]
- ^{F11}(3)
- (4) [^{F12}In the case of a school in Wales, admission arrangements to which subsection (1) applies are not authorised] by this section unless proposals for the school to have such arrangements have been published [^{F13}, and fallen to be implemented, under any enactment].
- (5) Where the admission arrangements for a school make both such provision for selection by ability as is mentioned in [^{F14}subsection (1) or (1A)] above and such provision for selection by aptitude as is mentioned in section 102(1), nothing in this section shall be taken to prevent those arrangements—
- (a) from authorising or requiring a process of selection to be carried out at any stage for the purpose of establishing that an applicant for admission has a relevant aptitude; or
 - (b) from having the effect of giving priority to such an applicant with a relevant aptitude irrespective of his level of ability.

Textual Amendments

- F5** Words in s. 101(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(i), 188(3); S.I. 2006/3400, art. 3(e)
- F6** Words in s. 101(1) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(ii), 188(3); S.I. 2006/3400, art. 3(e)
- F7** S. 101(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(b), 188(3); S.I. 2006/3400, art. 3(e)
- F8** 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))
- F9** Words in s. 101(2) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(c), 188(3); S.I. 2006/3400, art. 3(e)
- F10** S. 101(2A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(d), 188(3); S.I. 2006/3400, art. 3(e)
- F11** S. 101(3) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(9); S.I. 2013/1800, art. 3(j)
- F12** Words in s. 101(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(f), 188(3); S.I. 2006/3400, art. 3(e)
- F13** Words in s. 101(4) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 109 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F14** Words in s. 101(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(g), 188(3); S.I. 2006/3400, art. 3(e)

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Modifications etc. (not altering text)

- C6** S. 101 modified (1.10.1998) (*temp.*) by S.I. 1998/2230, **reg.3**
- C7** S. 101 applied (with modifications) (18.10.1999) by S.I. 1999/2666, **reg. 8, Sch. paras. 1(c), 2-8.**
S. 101 applied (with modifications) (1.9.1999) by S.I. 1999/2800, **reg. 7, Sch. paras. 1, 2-8.**
- C8** S. 101 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), **regs. 1(1), 9, Sch. para. 1(b)**
- C9** S. 101 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), **regs. 1(1), 9, Sch. (with reg. 2(2))**

Commencement Information

- I3** S. 101 wholly in force at 1.4.1999; s. 101 not in force at Royal Assent see s. 145(3); s. 101(1)-(4) in force at 1.10.1998 by S.I. 1998/2212, **art. 2, Sch. 1 Pt. I, Sch. 2 Pt. I para. 3(b)**; s. 101 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, **art. 2(1)** (with arts. 3-6, Sch. 4).

102 Permitted selection [^{F15}in maintained schools in England]: aptitude for particular subjects.

- (1) Subject to subsection (2), the admission arrangements for a maintained school [^{F16}in England] may make provision for the selection of pupils for admission to the school by reference to their aptitude for one or more prescribed subjects where—
- the admission authority for the school are satisfied that the school has a specialism in the subject or subjects in question; and
 - the proportion of selective admissions in any relevant age group does not exceed 10 per cent.
- (2) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit any aptitude of his other than for the subject or subjects in question.
- (3) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in [^{F17}section 101(1) or (1A)], the reference in subsection (2) above to a test of ability does not include any such test for which provision may be made under that section.
- (4) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the subject or subjects in question.
- (5) In this section “test” includes assessment and examination.

Textual Amendments

- F15** Words in s. 102 heading inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), **reg. 1(3), Sch. 2 para. 4(7)(a)**
- F16** Words in s. 102(1) inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), **reg. 1(3), Sch. 2 para. 4(7)(b)**

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F17 Words in s. 102(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(2), 188(3)**; S.I. 2006/3400, art. 3(e)

Modifications etc. (not altering text)

C10 S. 102 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.

S. 102 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.

C11 S. 102 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**

C12 S. 102 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

Commencement Information

I4 S. 102 wholly in force at 1.4.1999; s. 102 not in force at Royal Assent see s. 145(3); S. 102(1)(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; s. 102 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4).

[^{F18}102A Permitted selection in maintained schools in Wales: aptitude for particular areas of learning and experience etc.

- (1) The admission arrangements for a maintained school in Wales may make provision for the selection of pupils for admission to the school by reference to their aptitude for—
 - (a) one or more prescribed areas of learning and experience, or
 - (b) one or more prescribed elements within one or more areas of learning and experience.
- (2) But the admission arrangements may make such provision only where—
 - (a) the admission authority for the school are satisfied that the school has a specialism in the area or areas, or element or elements, in question, and
 - (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.
- (3) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit the applicant’s aptitude other than for the area or areas, or element or elements, in question.
- (4) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in section 101(1), the reference in subsection (3) to a test of ability does not include any such test for which provision may be made under that section.
- (5) In this section, “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the area or areas, or element or elements, in question.
- (6) In this section—

“area of learning and experience” has the same meaning as in the Curriculum and Assessment (Wales) Act 2021;

“test” includes assessment and examination.]

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Textual Amendments

- F18** S. 102A inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), **Sch. 2 para. 4(8)**

103 Permitted selection: introduction, variation or abandonment of provision for such selection.

- (1) In connection with the determination of a maintained school's admission arrangements for a particular school year, sections [F19 88C to 88K or, as the case may be,] 89 and 90 shall, except to the specified extent, apply in relation to the making or abandonment by those arrangements of provision for any permitted form of selection by ability or aptitude as they apply in relation to the making or abandonment by those arrangements of provision for other matters.
- (2) In subsection (1) “the specified extent” means the extent to which those admission arrangements would effect an alteration in the provision made by the school's admission arrangements as respects any such form of selection (whether by introducing, varying or abandoning any such form of selection) which [F20 constitutes—
- in relation to England, a prescribed alteration for the purposes of section 18 of the Education and Inspections Act 2006, and
 - in relation to Wales, a [F21 regulated alteration within the meaning of Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013]].
- (3) Any admission arrangements to which [F22 section 101(1) or (1A)] applies (whether authorised by section 100 or section 101) may be varied if (and only if) the arrangements as varied are designed to secure [F23 the objectives mentioned in section 101(1)(a) and (b), section 101(1A)(a)(i) and (b), section 101(1A)(a)(ii) and (b) or section 101(1A)(a)(iii) and (b)].

Textual Amendments

- F19** Words in s. 103(1) inserted (2.12.2008) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 69**; S.I. 2008/3077, art. 2(d)
- F20** Words in s. 103(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(a)**, 188(3); S.I. 2007/935, art. 7(l)
- F21** Words in s. 103(2)(b) substituted (W.) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 19(10)**; S.I. 2013/1800, art. 3(j)
- F22** Words in s. 103(3) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(b)(i)**, 188(3); S.I. 2006/3400, art. 3(e)
- F23** Words in s. 103(3) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 54(3)(b)(ii)**, 188(3); S.I. 2006/3400, art. 3(e)

Modifications etc. (not altering text)

- C13** S. 103 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, **reg.8**.
- C14** S. 103(3) applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.
S. 103(3) applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.
- C15** S. 103(3) applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**

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C16 S. 103(3) applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))

Commencement Information

I5 S. 103 wholly in force at 1.4.1999; s. 103 not in force at Royal Assent see s. 145(3); S. 103(3) in force at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); s. 103 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)