



Education Act 1996

1996 CHAPTER 56

PART VI

SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

CHAPTER II

SCHOOL ATTENDANCE

School attendance: offences and education supervision orders

444 Offence: failure to secure regular attendance at school of registered pupil.

(1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence.

[^{F1}(1A) If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.]

(2) Subsections (3) to (6) below apply in proceedings for an offence under this section in respect of a child who is not a boarder at the school at which he is a registered pupil.

(3) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school—

- (a) with leave,
- (b) at any time when he was prevented from attending by reason of sickness or any unavoidable cause, or
- (c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

(4) The child shall not be taken to have failed to attend regularly at the school if the parent proves—

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- (a) that the school at which the child is a registered pupil is not within walking distance of the child's home, and
 - (b) that no suitable arrangements have been made by the local education authority^{F2} . . . for any of the following—
 - (i) his transport to and from the school,
 - (ii) boarding accommodation for him at or near the school, or
 - (iii) enabling him to become a registered pupil at a school nearer to his home.
- (5) In subsection (4) “walking distance”—
- (a) in relation to a child who is under the age of eight, means 3.218688 kilometres (two miles), and
 - (b) in relation to a child who has attained the age of eight, means 4.828032 kilometres (three miles),
- in each case measured by the nearest available route.
- (6) If it is proved that the child has no fixed abode, subsection (4) shall not apply, but the parent shall be acquitted if he proves—
- (a) that he is engaged in a trade or business of such a nature as to require him to travel from place to place,
 - (b) that the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits, and
 - (c) if the child has attained the age of six, that he has made at least 200 attendances during the period of 12 months ending with the date on which the proceedings were instituted.
- (7) In proceedings for an offence under this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be taken to have failed to attend regularly at the school if he is absent from it without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (8) A person guilty of an offence under [^{F3}subsection (1)] is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [^{F4}(8A) A person guilty of an offence under subsection (1A) is liable on summary conviction—
- (a) to a fine not exceeding level 4 on the standard scale, or
 - (b) to imprisonment for a term not exceeding three months,
- or both.
- (8B) If, on the trial of an offence under subsection (1A), the court finds the defendant not guilty of that offence but is satisfied that he is guilty of an offence under subsection (1), the court may find him guilty of that offence.]
- (9) In this section “leave”, in relation to a school, means leave granted by any person authorised to do so by the governing body or proprietor of the school.

Annotations:

Amendments (Textual)

F1 S. 444(1A) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(a)(2); S.I. 2001/562, art. 2

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- F2** Words in S. 444(4)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 117, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
- F3** Words in s. 444(8) substituted (1.3.2001) by 2000 c. 43, s. 72(1)(b)(2); S.I. 2001/562, art. 2
- F4** S. 444(8A)(8B) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(c)(2); S.I. 2001/562, art. 2

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 444(1A) words repealed by 2006 c. 40 s. 109(1) Sch. 18 Pt. 1
- s. 444(1B) inserted by 2006 c. 40 s. 109(2)
- s. 444(2) word substituted by 2006 c. 40 s. 109(3)
- s. 444(2A) inserted by 2006 c. 40 s. 109(4)
- s. 444(3)(a) word inserted by 2006 c. 40 s. 109(5)(a)
- s. 444(3)(b) and word repealed by 2006 c. 40 s. 109(5)(b) Sch. 18 Pt. 1
- s. 444(4) substituted by 2008 nawm 2 s. 20(2)
- s. 444(5) words repealed by 2008 nawm 2 Sch. 2
- s. 444(5) words substituted by 2008 nawm 2 s. 20(3)
- s. 444(5) words substituted by 2006 c. 40 s. 82(3)
- s. 444(6) words substituted by 2006 c. 40 s. 82(4)
- s. 444(6) words substituted by 2006 c. 40 s. 109(6)
- s. 444(7) words substituted by 2006 c. 40 s. 109(7)
- s. 444(7A)(7B) inserted by 2006 c. 40 s. 109(8)
- s. 444(7A)(iii) (iiia) substituted for s. 444(7A)(iii) by 2011 c. 21 Sch. 13 para. 9(7)
- s. 444(8A)(b) words substituted by 2003 c. 44 Sch. 26 para. 49(2)

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

- Act Education Acts modified (temp.) by 2006 c. 40 Sch. 6 para. 3(3)
- Act amendment to earlier affecting provision 2009 nawm 5 by S.I. 2010/1148 art. 5(2)
- Act applied by S.I. 2005/397 reg. 2
- Act applied (with modifications) by S.I. 2010/1907 reg. 16(2)(c) Sch. 2
- Act applied (with modifications) by S.I. 2010/875 reg. 16 Sch. 2
- Act construed with 1998 c. 38 s. 145B (as inserted) by 2004 c. 23 s. 4
- Act modified by 2005 c. 18 s. 96(2)
- Act modified by 2005 c. 18 s. 122
- Act modified by 2009 c. 22 s. 264(5)
- Act modified by 2010 c. 32 s. 4(6) 17(4)
- Act words substituted by S.I. 2010/1158 Sch. 2 para. 7(2)
- Act words substituted by S.I. 2010/1158 Sch. 2 para. 7(3)

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

- s. 14A inserted by 2006 c. 40 s. 3
- s. 15ZA extended by S.I. 2011/908 art. 10 Sch. 3 para. 6
- s. 15ZA-15ZB inserted by 2009 c. 22 s. 41
- s. 15ZA(6)(7) applied by 2009 c. 22 s. 83(4)
- s. 15ZA(6)(7) applied by 2009 c. 22 s. 95(6)
- s. 15ZB extended by S.I. 2011/908 art. 10 Sch. 3 para. 6
- s. 15ZC extended by S.I. 2011/908 art. 10 Sch. 3 para. 6
- s. 15ZC inserted by 2009 c. 22 s. 42
- s. 15ZD inserted by 2011 c. 21 Sch. 16 para. 11
- s. 17A cross-heading amendment to earlier affecting provision 2009 c. 22 s. 45 by 2011 c. 21 s. 30(2)
- s. 17A amendment to earlier affecting provision 2009 c. 22 s. 45 by 2011 c. 21 s. 30(3)
- s. 17A extended by S.I. 2011/908 art. 10 Sch. 3 para. 6
- s. 17A-17D inserted by 2009 c. 22 s. 45