



# Education Act 1993

## 1993 CHAPTER 35

### PART IV

#### SCHOOL ATTENDANCE

##### *School attendance orders*

#### **192 School attendance orders**

- (1) If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.
- (2) That period shall not be less than fifteen days beginning with the day on which the notice is served.
- (3) If—
  - (a) a parent on whom a notice has been served under subsection (1) above fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and
  - (b) in the opinion of the authority it is expedient that the child should attend school,the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.
- (4) A school attendance order shall (subject to any amendment made by the local education authority) continue in force for so long as the child is of compulsory school age, unless—
  - (a) it is revoked by the authority, or
  - (b) a direction is made in respect of it under section 198(2) or 202(5) of this Act.

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- (5) Where a maintained or grant-maintained school is named in a school attendance order, the local education authority shall inform the governing body and the head teacher.
- (6) Where a maintained or grant-maintained school is named in a school attendance order the governing body (and, in the case of a maintained school, the local education authority) shall admit the child to the school.
- (7) Subsection (6) above does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (8) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

### **193 Choice of school: child without statement of special educational needs**

- (1) This section applies where a local education authority are required by virtue of section 192(3) of this Act to serve a school attendance order in respect of a child, other than a child for whom they maintain a statement under section 168 of this Act.
- (2) Before serving the order, the authority shall serve on the parent a notice in writing—
  - (a) informing him of their intention to serve the order,
  - (b) specifying the school which the authority intend to name in the order and, if they think fit, one or more other schools which they regard as suitable alternatives, and
  - (c) stating the effect of subsections (3) to (6) below.
- (3) If the notice specifies one or more alternative schools and the parent selects one of them within the period of fifteen days beginning with the day on which the notice is served, the school selected by him shall be named in the order.
- (4) If—
  - (a) within the period mentioned in subsection (3) above—
    - (i) the parent applies for the child to be admitted to a school maintained by a local education authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority of the application, or
    - (ii) the parent applies for the child to be admitted to a grant-maintained school and notifies the authority by whom the notice was served of the application, and
  - (b) the child is offered a place at the school as a result of the application, that school shall be named in the order.
- (5) If—
  - (a) within the period mentioned in subsection (3) above, the parent applies to the local education authority by whom the notice was served for education to be provided for the child at a school which is not maintained by a local education authority and is not a grant-maintained school, and
  - (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 6 of the Education (Miscellaneous Provisions) Act 1953,

that school shall be named in the order.

- (6) If, within the period mentioned in subsection (3) above—
- (a) the parent applies for the child to be admitted to a school which is not maintained by a local education authority and is not a grant-maintained school, and in respect of which no application is made under subsection (5) above, and notifies the local education authority by whom the notice was served of the application,
  - (b) the child is offered a place at the school as a result of the application, and
  - (c) the school is suitable to his age, ability and aptitude and to any special educational needs he may have,

that school shall be named in the order.

#### **194 Specification of schools in notices under section 193(2)**

- (1) Subject to subsection (3) below, a local education authority shall not, if it appears to them that subsection (2) below applies in relation to any school, specify the school in a notice under section 193(2) of this Act unless they are responsible for determining the arrangements for the admission of pupils to the school.
- (2) This subsection applies where, if the child concerned were admitted to the school in accordance with a school attendance order resulting from the notice, the number of pupils at the school in the child's age group would exceed the number fixed—
- (a) in the case of a maintained school, in accordance with section 26 of the Education Reform Act 1988 (admissions to county and voluntary schools), and
  - (b) in the case of a grant-maintained school, in accordance with sections 149 to 151 of this Act,
- as the number of pupils in that age group which it is intended to admit to the school in the school year in which he would be admitted.
- (3) Subsection (1) above does not prevent a local education authority specifying in a notice under section 193(2) of this Act any maintained or grant-maintained school if there is no maintained or grant-maintained school in their area—
- (a) which subsection (1) above does not (apart from this subsection) prevent them from specifying, and
  - (b) which is, in their opinion, a reasonable distance from the home of the child concerned,
- and, in the opinion of the authority, the school is a reasonable distance from the home of the child concerned.
- (4) A local education authority shall not specify in a notice under section 193(2) of this Act a school from which the child concerned is permanently excluded.
- (5) Before deciding to specify a particular maintained or grant-maintained school in a notice under section 193(2) of this Act a local education authority shall consult—
- (a) the governing body, and
  - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the school, that authority.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Where a local education authority decide to specify a particular maintained or grant-maintained school in a notice under section 193(2) of this Act they shall, before serving the notice, serve notice in writing of their decision on—
  - (a) the governing body and head teacher of the school, and
  - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the school, that authority.
- (7) A governing body or local education authority on whom notice is served under subsection (6) above may, within the period of fifteen days beginning with the day on which the notice was received, apply to the Secretary of State for a direction under this section and if they do so, shall inform the local education authority which served the notice.
- (8) Where the Secretary of State gives a direction under this section, the school or schools to be specified in the notice under section 193(2) of this Act shall be determined in accordance with the direction.

**195 Amendment of order at request of parent: child without statement of special educational needs**

- (1) This section applies where a school attendance order is in force in respect of a child, other than a child for whom the local education authority maintain a statement under section 168 of this Act.
- (2) If at any time—
  - (a) the parent applies for the child to be admitted to a school maintained by a local education authority or grant-maintained school which is different from the school named in the order,
  - (b) the child is offered a place at the school as a result of the application, and
  - (c) the parent requests the local education authority by whom the order was served to amend it by substituting that school for the one currently named,the authority shall comply with the request.
- (3) If at any time—
  - (a) the parent applies to the authority for education to be provided for the child at a school which is not maintained by a local education authority or a grant-maintained school and which is different from the school named in the order,
  - (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 6 of the Education (Miscellaneous Provisions) Act 1953, and
  - (c) the parent requests the authority to amend the order by substituting that school for the one currently named,the authority shall comply with the request.
- (4) If at any time—
  - (a) the parent applies for the child to be admitted to a school which is not maintained by a local education authority and is not a grant-maintained school, which is different from the school named in the order and in respect of which no application is made under subsection (3) above,

- (b) as a result of the application, the child is offered a place at the school, being a school which is suitable to his age, ability and aptitude and to any special educational needs he may have, and
  - (c) the parent requests the authority to amend the order by substituting that school for the one currently named,
- the authority shall comply with the request.

#### **196 Choice of school: child with statement of special educational needs**

- (1) Subsections (2) and (3) below apply where a local education authority are required by virtue of section 192(3) of this Act to serve a school attendance order in respect of a child for whom they maintain a statement under section 168 of this Act.
- (2) Where the statement specifies the name of a school that school shall be named in the order.
- (3) Where the statement does not specify the name of a school—
  - (a) the authority shall, in accordance with paragraph 10 of Schedule 10 to this Act, amend the statement so that it specifies the name of a school, and
  - (b) that school shall then be named in the order.
- (4) Where—
  - (a) a school attendance order is in force in respect of a child for whom the local education authority maintain a statement under section 168 of this Act, and
  - (b) the name of the school specified in the statement is changed,the local education authority shall amend the order accordingly.

#### **197 Revocation of order at request of parent**

- (1) This section applies where a school attendance order is in force in respect of a child.
- (2) If at any time the parent applies to the local education authority requesting that the order be revoked on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, the authority shall comply with the request, unless they are of the opinion that no satisfactory arrangements have been made for the education of the child otherwise than at school.
- (3) If a parent is aggrieved by a refusal of the local education authority to comply with a request under subsection (2) above, he may refer the question to the Secretary of State.
- (4) Where a question is referred to the Secretary of State under subsection (3) above, he shall give such direction determining the question as he thinks fit.
- (5) Where the child in question is one for whom the authority maintain a statement under section 168 of this Act—
  - (a) subsections (2) to (4) above do not apply if the name of a school or other institution is specified in the statement, and
  - (b) in any other case a direction under subsection (4) above may require the authority to make such amendments in the statement as the Secretary of State considers necessary or expedient in consequence of his determination.
- (6) In this section, “suitable education” has the meaning given by section 192(8) of this Act.

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*Status: This is the original version (as it was originally enacted).*

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*School attendance: offences and education supervision orders*

**198 Offence: failure to comply with school attendance order**

- (1) If a parent on whom a school attendance order is served fails to comply with the requirements of the order, he is guilty of an offence, unless he proves that he is causing the child to receive suitable education otherwise than at school.
- (2) If, in proceedings for an offence under this section, the parent is acquitted, the court may direct that the school attendance order shall cease to be in force.
- (3) A direction under subsection (2) above does not affect the duty of the local education authority to take further action under section 192 of this Act if at any time the authority are of the opinion that having regard to any change of circumstances it is expedient to do so.
- (4) In this section, “suitable education” has the meaning given by section 192(8) of this Act.

**199 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.
- (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—
  - (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 or the funding authority for any of the following—
    - (i) his transport to and from the school,
    - (ii) boarding accommodation for him at or near the school, and
    - (iii) enabling him to become a registered pupil at a school nearer to his home.
- (5) In subsection (4) above, “walking distance” means—
  - (a) in relation to a child who is under the age of eight years, two miles, and
  - (b) in relation to a child who has attained the age of eight years, 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) above 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 years, that he has made at least two hundred attendances during the period of twelve 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) 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.

## **200 Presumption of age**

- (1) This section applies for the purposes of any proceedings for an offence under section 198 or 199 of this Act.
- (2) In so far as it is material, the child in question shall be presumed to have been of compulsory school age at any time unless the parent proves the contrary.
- (3) Where a court is obliged by virtue of subsection (2) above to presume a child to have been of compulsory school age, section 95(1) of the Education Act 1944 (provisions as to evidence) does not apply.

## **201 Institution of proceedings and punishment**

- (1) Proceedings for an offence under section 198 or 199 of this Act shall not be instituted except by a local education authority.
- (2) A person guilty of an offence under section 198 or 199 of this Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **202 Education supervision orders**

- (1) Before instituting proceedings for an offence under section 198 or 199 of this Act, a local education authority shall consider whether it would be appropriate (instead of or as well as instituting the proceedings) to apply for an education supervision order with respect to the child.
- (2) The court—
  - (a) by which a person is convicted of an offence under section 198 of this Act, or
  - (b) before which a person is charged with an offence under section 199 of this Act,may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child’s welfare will be satisfactorily safeguarded even though no education supervision order is made.

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- (3) Where, following such a direction, a local education authority decide not to apply for an education supervision order they shall inform the court of the reasons for their decision.
- (4) Unless the court has directed otherwise, the information required under subsection (3) above shall be given to the court before the end of the period of eight weeks beginning with the date on which the direction was given.
- (5) Where—
- (a) a local education authority apply for an education supervision order with respect to a child who is the subject of a school attendance order, and
  - (b) the court decides that section 36(3) of the Children Act 1989 (education supervision orders) prevents it from making the order,
- the court may direct that the school attendance order shall cease to be in force.
- (6) In this section—
- “appropriate local authority” has the same meaning as in section 36(9) of the Children Act 1989, and
  - “education supervision order” means an education supervision order under that Act.

### *Exemption*

#### **203 Exemption where child attains 5 years during term**

Where—

- (a) a child attains the age of five years during the school term of a grant-maintained school, and
- (b) arrangements have been made for the admission of the child to that school at the start of the next school term,

then, during the period beginning with his attaining that age and ending with the start of that next school term, section 36 of the Education Act 1944 (duty of parents to secure the education of their children) and section 192 of this Act shall not apply to the child.