Education Act 1996

1996 CHAPTER 56

PART VI

SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

CHAPTER I

[F1 ADMISSION, REGISTRATION AND WITHDRAWAL OF PUPILS]

Annotations:

Amendments (Textual)

F1 Words in cross-heading substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 108 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 2

Parental preferences

F2 411 Parental preferences.

Annotations:

Amendments (Textual)

F2 S. 411 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 2, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)(4)); S.I. 1999/1016, art. 2(3), Sch. 3

F3411A ..........................
Part VI – School admissions, attendance and charges

Chapter I – Admission, registration and withdrawal of pupils

Annotations:

Amendments (Textual)
F3 S. 411A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 2, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)), and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3

Admission arrangements for county and voluntary schools

F4 412

Annotations:

Amendments (Textual)
F4 S. 412 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3

F5 413

Annotations:

Amendments (Textual)
F5 S. 413 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 11, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3

F6 413A

Annotations:

Amendments (Textual)
F6 S. 413A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) subject to savings in S.I. 1999/1016, Sch. 4 para. 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3

F7 413B

Annotations:

Amendments (Textual)
F7 S. 413B repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3
Annotations:

Amendments (Textual)

F9  S. 415 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3.

F10  S. 416 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 11); S.I. 1999/1016, art. 2(3), Sch. 3.

F11  S. 417 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

F12  S. 418 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.
Annotations:

Amendments (Textual)
F13 S. 419 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F14 S. 420 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 6); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F15 S. 421 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F16 S. 421A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F17 S. 422 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 11, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)), and savings in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3.

New county and voluntary schools
Admissions appeals relating to county and voluntary schools

Annotations:

Amendments (Textual)
F18 S. 423 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 8, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3

Nursery and special schools, etc.

Annotations:

Amendments (Textual)
F19 S. 423A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 8, 12 (as added (31.8.1999) by S.I. 1999/2484, art. 2(4)) and in S.I. 1999/2800, reg. 8(3)); S.I. 1999/1016, art. 2(3), Sch. 3

Admission arrangements for grant-maintained schools

Annotations:

Amendments (Textual)
F20 S. 424 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 11); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F21 S. 425 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

Annotations:

Amendments (Textual)
F22
Annotations:

Amendments (Textual)

F22  S. 425A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 8, 11); S.I. 1999/1016, art. 2(3), Sch. 3.

F23  

Annotations:

Amendments (Textual)

F23  S. 425B repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 2); S.I. 1999/1016, art. 2(3), Sch. 3

Admission numbers for grant-maintained schools

F24  

Annotations:

Amendments (Textual)

F24  S. 426 repealed (1.4.1999 to the extent of the repeal of s. 426(6) and 1.9.1999 to the extent of the repeal of s. 426(1)-(5)) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 7); S.I. 1999/1016, art. 2(1)(3), Sch. 1, Sch. 3

F25  

Annotations:

Amendments (Textual)

F25  S. 426A repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch. 31 (with ss. 138(9),144(6); S.I. 1999/1016, art. 2(3), Sch. 3

F26  

Annotations:

Amendments (Textual)

F26  S. 427 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), Sch. 3.

F27  

Annotations:
Annotations:

Amendments (Textual)

F27 S. 428 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), Sch. 1.

Admissions appeals relating to grant-maintained schools

F28 429 ..........................................................

Annotations:

Amendments (Textual)

F28 S. 429 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 8, 11); S.I. 1999/1016, art. 2(3), Sch. 3.

Co-ordinated arrangements for admissions

F29 430 ..........................................................

Annotations:

Amendments (Textual)

F29 S. 430 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 2, 11); S.I. 1999/1016, art. 2(3), Sch. 3.

Power to direct admission of child to school

F30 431 ..........................................................

Annotations:

Amendments (Textual)

F30 S. 431 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 paras. 10, 11); S.I. 1999/1016, art. 2(1), Sch. 1.

F31 432 ..........................................................
Time for admission of pupils

433 Time for admission of pupils.

(1) Section 14 (which requires a [F32 local authority] to secure that sufficient schools for providing primary and secondary education are available for their area) shall not be construed as imposing any obligation on the proprietor of a school to admit children as pupils otherwise than at the beginning of a school term.

(2) Where, however, a child was prevented from entering a school at the beginning of a term—
   (a) by his being ill or by other circumstances beyond his parent’s control, or
   (b) by his parent’s having been then resident at a place from which the school was not accessible with reasonable facility,

   the school’s proprietor is not entitled by virtue of subsection (1) to refuse to admit him as a pupil during the currency of the term.

(3) In cases where subsection (2) does not apply, the governing body of a school maintained by a [F32 local authority] shall comply with any general directions given by the authority as to the time of admission of children as pupils.

F33(4) .........................................................

(5) Despite section 7 (duty of parent of child of compulsory school age to cause him to receive full-time education), a parent is not under a duty to cause a child to receive full-time education during any period during which, having regard to subsections (1) and (2), it is not practicable for the parent to arrange for him to be admitted as a pupil at a school.

Annotations:

Amendments (Textual)

F31 S. 432 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 109, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 10); S.I. 1999/1016, art. 2(1), Sch. 1.

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F33 S. 433(4) repealed (1.10.1998) by 1998 c. 31, s. 140(1), Sch. 30 para. 110, Sch.31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch.1 Pt. I.
Registration of pupils

(1) The proprietor of a school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars in respect of all persons who are pupils at the school.

(2) Without prejudice to the generality of subsection (1), the prescribed particulars shall include particulars of the name and address of every person known to the proprietor to be a parent of a pupil at the school.

(3) The regulations shall prescribe the grounds on which names are to be deleted from a register kept under this section; and the name of a person entered in such a register as a pupil at a school—

(a) shall, when any of the prescribed grounds is applicable, be deleted from the register on that ground; and

(b) shall not be deleted from the register otherwise than on any such ground.

(4) The regulations may make provision—

(a) for enabling registers kept under this section to be inspected;

(b) for enabling extracts from such registers to be taken for the purposes of this Act by persons authorised to do so under the regulations; and

(c) for requiring the person by whom any such register is required to be kept to make to—

(i) the Secretary of State, \[F34 and\]

\[F35(ii) \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \]

\[F36(iii) \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \ldots \]

local authorities, such periodical or other returns as to the contents of the register as may be prescribed.

(5) In this Act—

“registered pupil”, in relation to a school, means a person registered as a pupil at the school in the register kept under this section; and

“registered”, in relation to the parents of pupils at a school or in relation to the names or addresses of such parents or pupils, means shown in that register.

(6) A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Annotations:

Amendments (Textual)

F34 Word in s. 434(4)(c)(i) inserted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 111(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

F35 S. 434(4)(c)(ii) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 111(b), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

F36 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), Sch. 2 para. 7(3) (with Sch. 2 para. 7(4)(5))
Withdrawal of pupils from a primary school for secondary education

Withdrawal of pupils from a primary school for secondary education.

A [local authority] may make arrangements in respect of a primary school maintained by them (other than one that is for the time being organised for the provision of both primary and secondary education) under which any registered pupils who are under the age of 12 but have attained the age of 10 years and six months may be required to be withdrawn from the school for the purpose of receiving secondary education.

Annotations:

Amendments (Textual)
F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

Supplementary

436 ........................................

Annotations:

Amendments (Textual)
F37 S. 436 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 112, Sch.31 (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/1016, Sch. 4 para. 11); S.I. 1999/2323, art. 2(1), Sch. 1.
CHAPTER II

SCHOOL ATTENDANCE

436A Duty to make arrangements to identify children not receiving education

(1) A local authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—
   (a) are not registered pupils at a school, and
   (b) are not receiving suitable education otherwise than at a school.

(2) In exercising their functions under this section a local authority must have regard to any guidance given from time to time by the Secretary of State.

(3) In this Chapter, “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.

Annotations:

Amendments (Textual)

F38 S. 436A and cross-heading inserted (27.2.2007 for E., 1.9.2009 for W.) by Education and Inspections Act 2006 (c. 40), ss. 4(1), 188(3); S.I. 2006/3400, art. 6(a); S.I. 2009/1027, art. 3(a)

437 School attendance orders.

(1) If it appears to a local 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 15 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) fails to satisfy the local 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 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 443(2) or 447(5).

(5) Where a maintained school is named in a school attendance order, the local authority shall inform the governing body and the head teacher.

(6) Where a maintained school is named in a school attendance order, the governing body (and, in the case of a maintained school, the local authority) shall admit the child to the school.

(7) Subsection (6) does not affect any power to exclude from a school a pupil who is already a registered pupil there.

(8) In this Chapter—

“maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital; and]

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F39 Words in s. 437(5)(6) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 113(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F40 Definition substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 113(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F41 Words in s. 437(8) repealed (27.2.2007 for E., 1.9.2009 for W.) by Education and Inspections Act 2006 (c. 40), ss. 4(2), 188(3), Sch. 18 Pt. 6; S.I. 2006/3400, art. 6(a)(g); S.I. 2009/1027, art. 3(a)(d)

438 Choice of school: child without EHC plan or statement of special educational needs.

(1) This section applies where a local authority are required by virtue of section 437(3) to serve a school attendance order in respect of a child, other than a child for whom they maintain an EHC plan (in the case of a local authority in England) or a statement under section 324 (in the case of a local authority in Wales).

(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).

(3) If the notice specifies one or more alternative schools and the parent selects one of them within the period of 15 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) the parent applies for the child to be admitted to a school maintained by a [32]local authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority 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), the parent applies to the [32]local authority by whom the notice was served for education to be provided at a school which is not a school maintained by a [32]local authority, and

(b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to pay the fees payable in respect of the education provided for him at the school, that school shall be named in the order.

(6) If, within the period mentioned in subsection (3)—

(a) the parent—

(i) applies for the child to be admitted to a school which is not maintained by a [32]local authority and, in respect of which no application is made under subsection (5), and

(ii) notifies the [32]local authority by whom the notice was served of the application,

(b) the child is offered a place at the school and the authority have, that school shall be named in the order.
439 Specification of schools in notices under section 438(2).

(1) Subject to subsection (3), a [F32local authority] shall not, if it appears to them that subsection (2) applies in relation to any school, specify the school in a notice under section 438(2) 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 [F48[F49determined in accordance with section 89 of the School Standards and Framework Act 1998 (determination of admission numbers)] 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) does not prevent a [F32local authority] specifying in a notice under section 438(2) any maintained [F50...school if—

(a) there is no maintained [F50...school in their area which—

(i) the authority are not (apart from this subsection) prevented by subsection (1) from specifying, and

(ii) is, in the opinion of the authority, a reasonable distance from the home of the child concerned, and

(b) in the opinion of the authority, the school in question is a reasonable distance from the home of the child concerned.

(4) A [F32local authority] shall not specify in a notice under section 438(2) a school from which the child concerned is permanently excluded.

[F51(4A) A [F32local authority] shall not specify a school in a notice under section 438(2) if the admission of the child concerned would result in prejudice of the kind referred to in section 86(3)(a) of the School Standards and Framework Act 1998 (parental preferences) by reason of measures required to be taken as mentioned in subsection (4) of that section.]

(5) Before deciding to specify a particular maintained [F50...school in a notice under section 438(2) a [F32local authority] shall consult—

(a) the governing body, and

(b) if another [F32local authority] are responsible for determining the arrangements for the admission of pupils to the school, that authority.

(6) Where a [F32local authority] decide to specify a particular maintained [F50...school in a notice under section 438(2) they shall, before serving the notice, serve notice in writing of their decision on—
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Part VI – School admissions, attendance and charges
Chapter II – School attendance

(1) This section applies where a school attendance order is in force in respect of a child, other than a child for whom the [F32 local authority] maintain [F53 an EHC plan (in the case of a local authority in England) or] a statement under section 324 [F54 (in the case of a local authority in Wales)].

(2) If at any time—

(a) the parent applies for the child to be admitted to a school maintained by a [F32 local authority]...
(b) the child is offered a place at the school as a result of the application, and
(c) the parent requests the [F32 local 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—

[F56](a) the parent applies to the authority for education to be provided for the child at a school which is not a school maintained by a [F32 local authority] and which is different from the school named in the order,
(b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to pay the fees payable in respect of the education provided for him at the school, 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 [F32 local authority]... , which is different from the school named in the order and in respect of which no application is made under subsection (3),
(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.

Annotations:

Amendments (Textual)
F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))
F52 Words in s. 440 title inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 40(3); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))
F53 Words in s. 440(1) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 40(2)(a); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))
F54 Words in s. 440(1) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 40(2)(b); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))
F55 Words in S. 440(2)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 116(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
F56 S. 440(3)(a)(b) substituted (1.9.1999 for certain purposes, otherwise prosp.) by 1998 c. 31, ss. 140(1), 145(3), Sch. 30 para. 116(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
F57 Words in S. 440(4)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 116(c), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
Choice of school: child with \[^{F58}\] EHC plan or statement of special educational needs.

(1) Subsections (2) and (3) apply where a \[^{F32}\] local authority] are required by virtue of section 437(3) to serve a school attendance order in respect of a child for whom they maintain \[^{F68}\] an EHC plan (in the case of a local authority in England) or \[^{F66}\] a statement under section 324 (in the case of a local authority in Wales).

(2) Where the \[^{F64}\] EHC plan or statement specifies the name of a school, that school shall be named in the order.

(3) Where the \[^{F62}\] EHC plan or statement does not specify the name of a school—

(a) the authority shall, \[^{F63}\] . . . , amend the \[^{F64}\] EHC plan or statement so that it specifies the name of a school, and

(b) that school shall then be named in the order.

\[^{F65}\](3A) An amendment to a statement required to be made under subsection (3)(a) shall be treated for the purposes of Schedule 27 as if it were an amendment proposed following a periodic review (within the meaning of that Schedule).

\[^{F66}\](3B) An amendment to an EHC plan required to be made under subsection (3)(a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly.

(4) Where—

(a) a school attendance order is in force in respect of a child for whom the \[^{F32}\] local authority] maintain \[^{F67}\] an EHC plan or a statement under section 324, and

(b) the name of the school specified in the \[^{F68}\] plan or statement is changed,

the \[^{F32}\] local authority] shall amend the order accordingly.

Annotations:

Amendments (Textual)

| F32 | 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5)) |
| F58 | Words in s. 441 title inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 41(7); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)) |
| F59 | Words in s. 441(1) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 41(2)(a); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)) |
| F60 | Words in s. 441(1) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 41(2)(b); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)) |
| F61 | Words in s. 441(2) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 41(3); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)) |
| F62 | Words in s. 441(3) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 41(4)(a); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)) |
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 [F32local 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 [F32local authority] to comply with a request under subsection (2), he may refer the question to the Secretary of State.

(4) Where a question is referred to the Secretary of State under subsection (3), 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 [F69an EHC plan (in the case of a local authority in England) or] a statement under section 324 [F68(in the case of a local authority in Wales)]—

(a) subsections (2) to (4) do not apply if the name of a school or other institution is specified in [F34the EHC plan or] the statement, and

(b) in any other case a direction under subsection (4) may require the authority to make such amendments in the [F37plan or the] statement as the Secretary of State considers necessary or expedient in consequence of his determination.
School attendance: offences and education supervision orders

443  **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) does not affect the duty of the [F32 local authority] to take further action under section 437 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) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Amendments (Textual)

F32  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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

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.

[F73(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[F74... to cause him to do so, he is guilty of an offence.]]

[F75(1B) It is a defence for a person charged with an offence under subsection (1A) to prove that he had a reasonable justification for his failure to cause the child to attend regularly at the school.]

(2) Subsections [F76(2A)] 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.
The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school at any time if the parent proves that at that time the child was prevented from attending by reason of sickness or any unavoidable cause.

(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, \( F78 \) or

(b) ..................................................\( F79 \)

(c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

\( F80 \) (3A) Subsections (3B) and (3D) apply where the child's home is in England.

(3B) The child shall not be taken to have failed to attend regularly at the school if the parent proves that—

(a) the \( F32 \) local authority have a duty to make travel arrangements in relation to the child under section 508B(1) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty, or

(b) the \( F32 \) local authority have a duty to make travel arrangements in relation to the child by virtue of subsection (2)(c) of section 508E (school travel schemes) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty.

(3C) For the purposes of subsection (3B)—

(a) the reference to “travel arrangements” in paragraph (a) has the same meaning as in section 508B, and

(b) the reference to “travel arrangements” in paragraph (b) has the same meaning as in paragraph 3 of Schedule 35C.

(3D) Where the school is an independent school which is not a qualifying school, the child shall not be taken to have failed to attend regularly at the school if the parent proves—

(a) that the school is not within walking distance of the child's home,

(b) that no suitable arrangements have been made by the \( F32 \) local authority for boarding accommodation for him at or near the school, and

(c) that no suitable arrangements have been made by the \( F32 \) local authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(3E) For the purposes of subsection (3D), “qualifying school” has the same meaning as it has for the purposes of Schedule 35B (meaning of “eligible child” for the purposes of section 508B).

(3F) Subsection (4) applies where the child's home is in Wales.

\( F81 \) (4) The child is not to be taken to have failed to attend regularly at the school if the parent proves that the local authority have failed to discharge—

(a) a duty to make transport arrangements in relation to the child under section 3 of the Learner Travel (Wales) Measure 2008, or

(b) a duty to make travel arrangements in relation to the child under section 4 of that Measure.

(5) In \( F82 \) subsection (3D) “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, [F83 subsections (3B), (3D) and (4)] shall not apply, but [F84 it is a defence for the parent to prove] —
   (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 [F85 unless the parent proves that at that time the child was] prevented from being present by reason of sickness or any unavoidable cause.

[F86(7A) Where—
   (a) a child of compulsory school age has been excluded for a fixed period on disciplinary grounds from a school in England which is—
      (i) a maintained school,
      (ii) a pupil referral unit,
[F87(iii) an Academy school,
      (iiia) an alternative provision Academy,]
      (iv) a city technology college, or
      (v) a city college for the technology of the arts,
   (b) he remains for the time being a registered pupil at the school,
   (c) the appropriate authority make arrangements for the provision of full-time education for him at the school during the period of exclusion, and
   (d) notice in writing of the arrangements has been given to the child's parent,
the exclusion does not affect the application of subsections (1) to (7) to the child's attendance at the school on any day to which the arrangements relate.

(7B) In subsection (7A)(c) “the appropriate authority” means—
   (a) in relation to a maintained school, the governing body of the school,
   (b) in relation to a pupil referral unit, the [F32 local authority], and
   (c) in relation to any school mentioned in subsection (7A)(a)(iii) to (v), the proprietor of the school.]

(8) A person guilty of an offence under [F88 subsection (1)] is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[F89(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)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F73 S. 444(1A) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(a)(2); S.I. 2001/562, art. 2

F74 Words in s. 444(1A) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(1), 188(1), Sch. 18 Pt. 1 (with s. 109(11))

F75 S. 444(1B) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(2), 188(1) (with s. 109(11))

F76 Word in s. 444(2) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(3), 188(1) (with s. 109(11))

F77 S. 444(2A) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(4), 188(1) (with s. 109(11))

F78 Word in s. 444(3)(a) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(5)(a), 188(1) (with s. 109(11))

F79 S. 444(3)(b) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(5)(b), 188(1), Sch. 18 Pt. 1 (with s. 109(11))

F80 S. 444(3A)-(3F) inserted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 82(2), 82(3) (with s. 82(5)); S.I. 2007/1801, art. 4(d)

F81 S. 444(4) substituted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 20(2), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

F82 Words in s. 444(5) substituted and repealed (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 20(3), 28(2) and Sch. 2; S.I. 2009/371, art. 2(2), Sch. Pt. 2

F83 Words in s. 444(6) substituted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 82(4), 188(3) (with s. 82(5)); S.I. 2007/1801, art. 4(d)

F84 Words in s. 444(6) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(6), 188(1) (with s. 109(11))

F85 Words in s. 444(7) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(7), 188(1) (with s. 109(11))

F86 S. 444(7A)(7B) inserted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 109(8), 188(3) (with s. 109(11)); S.I. 2007/1801, art. 4(i)

F87 S. 444(7A)(iii)(iiia) substituted for s. 444(7A)(iii) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 9(7); S.I. 2012/924, art. 2

F88 Words in s. 444(8) substituted (1.3.2001) by 2000 c. 43, s. 72(1)(b)(2); S.I. 2001/562, art. 2

F89 S. 444(8A)(8B) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(c)(2); S.I. 2001/562, art. 2

Application of section 444 to alternative educational provision

(1) Where, in the case of a child of compulsory school age who is not a registered pupil at any school—
   (a) a [F32]local authority] has made arrangements under section 19 for the provision of education for him otherwise than at a school or at his home, and
(b) notice in writing of the arrangements has been given to the child's parent, subsections (1) to (7) of section 444 have effect as if the place at which the education is provided were a school and the child were a registered pupil at that school.

(1A) Where—
(a) a child of compulsory school age has been excluded for a fixed period on disciplinary grounds from a relevant school in England,
(b) the child remains for the time being a registered pupil at the school,
(c) the appropriate authority for the school has made arrangements under section 19 above or section 100 of the Education and Inspections Act 2006 for the provision of full-time education for the child otherwise than at the school or at the child's home during the period of exclusion, and
(d) notice in writing of the arrangements has been given to the child's parent,
subsections (1) to (7) of section 444 have effect during that period as if the child were not a registered pupil at the school and as if the place at which the education is provided were a school and the child were a registered pupil at that school (so far as that would not otherwise be the case).

(1B) Where—
(a) a child of compulsory school age who is a registered pupil at a relevant school in England is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any educational provision, and
(b) notice in writing of the requirement has been given to the child's parent,
subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (in addition to being a registered pupil at the school mentioned in paragraph (a)).

(1C) Subsection (1B) does not apply if—
(a) the place at which the child is required to attend is another relevant school (whether in England or elsewhere), and
(b) the child is a registered pupil at that other school.

(1D) In relation to a maintained school or a pupil referral unit—
(a) references in subsection (1A) to exclusion are references to exclusion under section 51A of the Education Act 2002, and
(b) the requirement referred to in subsection (1B) is a requirement imposed under section 29(3) or 29A(1) of that Act.

(2) Where—
(a) a child of compulsory school age has been excluded from a relevant school in Wales,
(b) he remains for the time being a registered pupil at the school,
(c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training, and
(d) notice in writing of the requirement has been given to the child's parent,
subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).
(3) In relation to a maintained school or a pupil referral unit—
   (a) the reference in subsection (2)(a) to exclusion is a reference to exclusion under
       section 52 of the Education Act 2002, and
   (b) the requirement referred to in subsection (2)(c) is a requirement imposed
       under section 29(3) of that Act.

(4) A child shall not be taken to have failed to attend regularly—
   (a) in a case falling within subsection (1) [F94 or (1A)], at the place at which
       education is provided for him, or
   (b) in a case falling within subsection [F95 (1B) or] (2), at the place at which he
       is required to attend,
   unless he has failed to attend regularly since the giving of the notice mentioned in
   subsection (1)(b) [F96, (1A)(d), (1B)(b)] or (2)(d).

(5) Section 572, which provides for the methods by which notices may be served under
   this Act, does not preclude the notice mentioned in subsection (1)(b) [F97, (1A)(d), (1B)
   (b)] or (2)(d) from being given to a child’s parent by any other effective method.

(6) In proceedings for an offence under section 444 in a case falling within subsection (1)
   [F98 or (1A)] of this section, [F99 it is a defence for the parent to prove] that the child is
   receiving suitable education otherwise than by regular attendance at a school or at the
   place mentioned in subsection (1) [F98 or (1A)].

(7) In section 444 “leave”—
   (a) in relation to a place at which education is provided as mentioned in
       subsection (1) of this section, means leave granted by any person authorised
       to do so by the [F32 local authority];
   (aa) in relation to a place at which education is provided as mentioned in subsection
       [F101 (1B)(a) or] (1A) of this section, means leave granted by any
       person authorised to do so by the appropriate authority for the school;
   (b) in relation to a place at which a child is required to attend as mentioned in
       subsection [F101 (1B)(a) or] (2)(c) of this section, means leave granted by any
       person authorised to do so by the appropriate authority for the school.

(8) In this section—
   (a) “relevant school” means—
       (i) a maintained school,
       (ii) a pupil referral unit,
       (iii) an Academy school,
       (aa) an alternative provision Academy,
       (iv) a city technology college, or
       (aa) a city college for the technology of the arts;
   (b) “appropriate authority” means—
       (i) in relation to a maintained school, the governing body,
       (ii) in relation to a pupil referral unit, the [F32 local authority], and
       (iii) in relation to a school falling within paragraph (a)(iii), [F103 (iii)], (iv)
       or (v), the proprietor of the school.
Penalty notice in respect of failure to secure regular attendance at school of registered pupil

(1) Where an authorised officer has reason to believe—

(a) that a person has committed an offence under section 444(1), and

(b) that the offence relates—

(i) to a relevant school

(ii) in a case falling within subsection (1) of section 444ZA, to a place at which education is provided by a local authority...

[i][F107][F32]

[i][F108][F32]

[i][F109][F32]

(iv) in a case falling within subsection (1B) of that section, to a place at which a child is required to attend in the circumstances mentioned in that subsection,]
he may give the person a penalty notice in respect of the offence.

(2) A penalty notice is a notice offering a person the opportunity of discharging any liability to conviction for the offence under section 444(1) to which the notice relates by payment of a penalty in accordance with the notice.

(3) Where a person is given a penalty notice, proceedings for the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) may not be instituted before the end of such period as may be prescribed.

(4) Where a person is given a penalty notice, he cannot be convicted of the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) if he pays a penalty in accordance with the notice.

(5) Penalties under this section shall be payable to [F36 local authorities]... [F109]

[F110] (6) Sums received by a [F32 local authority] under this section may be used by the authority for the purposes of any of its functions which may be specified in regulations but, to the extent that they are not so used, must be paid in accordance with regulations to the Secretary of State.

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F36 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), Sch. 2 para. 7(3) (with Sch. 2 para. 7(4)(5))

F104 Ss. 444A, 444B inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 23(1), 93; S.I. 2003/3300, art. 3(a)(ii)

F105 S. 444A(1)(b) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 3 (with s. 119); S. I. 2005/2034, art. 5

F106 Words in s. 444A removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)

F107 Words in s. 444A removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)

F108 S. 444A(1)(b)(iii)(iv) substituted for s. 444A(1)(b)(iii) (1.9.2012) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 50; S.I. 2012/2197, art. 2(c)

F109 Words in s. 444A removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)

F110 S. 444A(6) substituted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 110, 188(3); S.I. 2007/1801, art. 4(i)

Modifications etc. (not altering text)

C9 S. 444A: power to amend conferred (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 23(9), 93; S.I. 2003/3300, art. 3(a)(ii)

444B Penalty notices: supplemental

(1) Regulations may make—
provision as to the form and content of penalty notices,
(b) provision as to the monetary amount of any penalty and the time by which it is to be paid,
(c) provision for determining the [F32local authority] to which a penalty is payable,
(d) provision as to the methods by which penalties may be paid,
(e) provision as to the records which are to be kept in relation to penalty notices,
(f) provision as to the persons who may be authorised by a [F32local authority] or a head teacher to give penalty notices,
(g) provision limiting the circumstances in which authorised officers of a prescribed description may give penalty notices,
(h) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
   (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
   (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates (and any offence under section 444(1A) arising out of the same circumstances),
(i) provision for a certificate—
   (i) purporting to be signed by or on behalf of a prescribed person, and
   (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,

   to be received in evidence of the matters so stated,
(j) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice,
(k) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices,
(l) such other provision in relation to penalties or penalty notices as the Secretary of State thinks necessary or expedient.

(2) Without prejudice to the generality of subsection (1) or section 569(4), regulations under subsection (1)(b) may make provision for penalties of different amounts to be payable in different cases or circumstances (including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid).

(3) [F36Local authorities], head teachers and authorised officers shall, in carrying out their functions in relation to penalty notices, have regard to any guidance which is published by the Secretary of State from time to time in relation to penalty notices.

(4) In this section and section 444A—
   “authorised officer” means—
   (a) a constable,
   (b) an officer of a [F32local authority]... who is authorised by the authority to give penalty notices, or
   (c) an authorised staff member,

   “authorised staff member” means—
   (a) a head teacher of a relevant school... , or
   (b) a member of the staff of a relevant school... who is authorised by the head teacher of the school to give penalty notices,

   “penalty” means a penalty under a penalty notice,
“penalty notice” has the meaning given by section 444A(2),
“relevant school” means—
(a) a maintained school,
(b) a pupil referral unit,
(c) an Academy school,
(ca) an alternative provision Academy,
(d) a city technology college, or
(e) a city college for the technology of the arts.

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))
F36 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), Sch. 2 para. 7(3) (with Sch. 2 para. 7(4)(5))
F104 Ss. 444A, 444B inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 23(1), 93; S.I. 2003/3300, art. 3(a)(ii)
F111 Words in s. 444B removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)
F112 Words in s. 444B removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)
F113 Words in s. 444B removed (3.7.2013) by The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 (S.I. 2013/1657), arts. 1, 2(1)
F114 Words in s. 444B(4) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 9(9); S.I. 2012/924, art. 2

Modifications etc. (not altering text)

C10 S. 444B: power to amend conferred (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 23(9), 93; S.I. 2003/3300, art. 3(a)(ii)

445 Presumption of age.

(1) This section applies for the purposes of any proceedings for an offence under section 443 or 444.

(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) to presume a child to have been of compulsory school age, section 565(1) (provisions as to evidence) does not apply.

446 Institution of proceedings.

Proceedings for an offence under section 443 or 444 shall not be instituted except by a [F32local authority].
447 Education supervision orders.

(1) Before instituting proceedings for an offence under section 443 or 444, a [F32local 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 443, or
   (b) before which a person is charged with an offence under section 444, may direct the [F32local authority] instituting the proceedings to apply for an education supervision order with respect to the child unless the authority [F115... decide that the child’s welfare will be satisfactorily safeguarded even though no education supervision order is made.

[F116(2A) A local authority may not make a decision as mentioned in subsection (2) unless—
   (a) they are the appropriate local authority, or
   (b) they have consulted that authority.]

(3) Where, following [F117a direction under subsection (2)], a [F32local 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) 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 [F32local 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 [M1Children 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—
   “the appropriate local authority” has the same meaning as in section 36(9) of the [M2Children Act 1989, and
   “education supervision order” means an education supervision order under that Act.
Education Act 1996 (c. 56)
Part VI – School admissions, attendance and charges
Chapter III – Charges in connection with education at maintained schools

Changes to legislation: Education Act 1996, Part VI is up to date with all changes known to be in force on or before 26 May 2019. 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)

Annotations:

Amendments (Textual)
F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))
F115 Words in s. 447(2) repealed (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. 7(8)(a), Sch. 3 Pt. 1
F116 S. 447(2A) inserted (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. 7(8)(b)
F117 Words in s. 447(3) 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. 7(8)(c)

Modifications etc. (not altering text)

Marginal Citations
M1 1989 c. 41.
M2 1989 c. 41.

Exemption

F118 448 .................................

Annotations:

Amendments (Textual)
F118 S. 448 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 118, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

F119 [CHAPTER III

CHARGES IN CONNECTION WITH EDUCATION AT MAINTAINED SCHOOLS]

Annotations:

Amendments (Textual)
F119 Crossheading substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para.119 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

Modifications etc. (not altering text)
C12 Pt. 6 Ch. 3 modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(3)
Changes to legislation: Education Act 1996, Part VI is up to date with all changes known to be in force on or before 26 May 2019. 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)

**Annotations:**

**Amendments (Textual)**

F120 S. 449 and cross-heading substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 119 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F121 Meaning of “maintained school” in Chapter III.

In this Chapter “maintained school” means any school maintained by a local authority.

**Annotations:**

**Amendments (Textual)**

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F121 S. 449 substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 119 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

Prohibition of charges

450 Prohibition of charges for admission.

(1) No charge shall be made in respect of admission to a maintained school.

(2) Subsection (1) does not apply to the admission of any person to any maintained school for the purpose of—

(a) part-time education suitable to the requirements of persons of any age over compulsory school age;

(b) full-time education suitable to the requirements of persons who have attained the age of 19; or

[c122](c) training for members of the school workforce.]

[c123](3) In subsection (2)(c), the reference to training for members of the school workforce is to be read in accordance with sections [c124]96(1) and 100] of the Education Act 2005.

**Annotations:**

**Amendments (Textual)**

F122 S. 450(2)(c) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 17(2)

F123 S. 450(3) inserted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 17(3)

F124 Words in s. 450(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 5 para. 12; S.I. 2012/924, art. 2

**Modifications etc. (not altering text)**

C13 S. 450 modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 9
451 Prohibition of charges for provision of education.

(1) . . ., this section applies in relation to education provided at any maintained school for a registered pupil at the school.

(2) Where the education is provided for the pupil during school hours no charge shall be made in respect of it.

(2A) Regulations may, in relation to England, prescribe circumstances in which subsection (2) does not apply in relation to education which is early years provision (as defined by section 20 of the Childcare Act 2006) other than —

(a) early years provision provided in pursuance of the duty imposed by section 7 of that Act, . . .

(b) early years provision for a pupil who is of compulsory school age.

(3) Regulations may prescribe circumstances in which subsection (2) does not apply in relation to tuition in singing or in playing a musical instrument.

(4) Where the education is provided for the pupil outside school hours no charge shall be made in respect of it if it is—

(a) required as part of a syllabus for a prescribed public examination which is a syllabus for which the pupil is being prepared at the school, or

(b) provided in pursuance of a duty imposed by section 88 or 109 of the Education Act 2002 or section 69 of the School Standards and Framework Act 1998 or

(c) provided in pursuance of the duty imposed by section 7 of the Childcare Act 2006.


Annotations:

Amendments (Textual)

F125 Words in s. 451(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 120(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F126 S. 451(2A) inserted (1.10.2007) by Childcare Act 2006 (c. 21), ss. 17(2), 109(2); S.I. 2007/2717, art. 2(a)

F127 Word in s. 451(2A)(a) omitted (10.1.2017) by virtue of The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (S.I. 2016/1257), regs. 1(2), 40(2)(a)

F128 S. 451(2A)(c) and word inserted (10.1.2017) by The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (S.I. 2016/1257), regs. 1(2), 40(2)(b)

F129 S. 451(3) substituted (25.5.2007 for E.) by Education and Inspections Act 2006 (c. 40), ss. 56(1), 188(3); S.I. 2007/935, art. 6(b) (with transitional provisions and savings in S.I. 2007/1271, art. 5)

F130 Words in s. 451(4)(b) substituted (1.10.2002 for E. for certain purposes, 19.12.2002 for W. and otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(1), 216(4), Sch. 21 para. 48(3) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. I

F131 Words in s. 451(4)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 120(c) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F132 S. 451(4)(c) and word inserted (1.10.2007) by Childcare Act 2006 (c. 21), ss. 17(3), 109(2); S.I. 2007/2717, art. 2(a)
452 Application of section 451 where education is provided partly during and partly outside school hours etc.

(1) Where a period allowed for any educational activity at a maintained school falls partly during school hours and partly outside school hours, then—

(a) if 50 per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of section 451 as provided during school hours, and

(b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.

(2) In subsection (1) “connected school travelling time” means time spent during school hours by the pupils taking part in the educational activity concerned in getting to or from the place where the activity takes place.

(3) Where any education provided at a maintained school is provided on a residential trip, then—

(a) if the number of school sessions taken up by the trip is equal to or greater than 50 per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of section 451 as provided during school hours, and

(b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.

(4) In this section “half day” means any period of 12 hours ending with noon or midnight on any day.

(5) For the purposes of subsection (3)—

(a) where 50 per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated as spent on the trip, and

(b) a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip if the time spent on the trip occupies 50 per cent. or more of the time allowed for that session at the school.

(6) Nothing in section 451 shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at a maintained school on a residential trip.
Annotations:

Modifications etc. (not altering text)
C16  S. 452(6) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)

453 Examinations: prohibition of charges and recovery of wasted fees.

(1) No charge shall be made in respect of the entry of a registered pupil at a maintained school for a prescribed public examination in any syllabus for that examination for which the pupil has been prepared at the school.

(2) Despite subsection (1), where—
   (a) the governing body of a maintained school or the [F32 local authority] have paid or are liable to pay a fee in respect of the entry of a registered pupil at the school for a public examination in any syllabus for that examination, and
   (b) the pupil fails without good reason to meet any examination requirement for that syllabus,

   that body or authority may recover the amount of the fee from the pupil’s parent.

(3) It shall be for the body or authority who have paid or are liable to pay the fee in question to determine for the purposes of this section any question whether a pupil who has failed to meet an examination requirement had good reason for the failure.

Annotations:

Amendments (Textual)
F32  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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

Modifications etc. (not altering text)
C17  S. 453 modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)

454 Prohibition of incidental charges.

(1) Neither the parent of a registered pupil at a maintained school nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—
   (a) education provided for the pupil at the school in respect of which, by virtue of section 451, no charge may be made, or
   (b) a syllabus for a prescribed public examination which is a syllabus for which the pupil has been prepared at the school.

(2) Nothing in subsection (1) shall prevent the parent of a pupil from being required to pay for or supply any materials for use for the purposes of the production, in the course of the provision of education for the pupil at the school, of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.
(3) No charge shall be made in respect of transport provided for a registered pupil at a maintained school where the transport is either—
   (a) incidental to education provided for the pupil at the school in respect of which, by virtue of section 451, no charge may be made, or
   (b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for a prescribed public examination which is a syllabus for which he has been prepared at the school.

(4) For the purposes of subsection (3)(a) transport is incidental to education provided for registered pupils at a school if it is provided for the purpose of carrying such pupils—
   (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises, or
   (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the governing body or the local authority, from or to the school premises or any other such place.

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

Modifications etc. (not altering text)

C18 S. 454(1) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)

C19 S. 454(3)(4) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)

Permitted charges

(1) Subject to subsection (2), a charge may be made in respect of—
   (a) education provided for a registered pupil at a maintained school other than education in respect of which, by virtue of section 451, no charge may be made,
   (b) the entry of a registered pupil at a maintained school for a public examination in any syllabus for that examination otherwise than in circumstances in which, by virtue of section 453(1), no charge may be made,
   (c) travel arrangements provided under section 6 of the Learner Travel (Wales) Measure 2008 (“the Measure”) for a registered pupil at a maintained school in Wales, other than arrangements in respect of which, by virtue of section 454(3) of this Act or sections 3 or 4 of the Measure, no charge may be made,
   (d) transport provided for a registered pupil at a maintained school in England] other than transport in respect of which, by virtue of section 454(3) or section 508B(1), 508F(3) ..., or section 508E(2)(d) and paragraph 5(2) of Schedule 35C,] , no charge may be made, and
(d) board and lodging provided for a registered pupil at a maintained school on a residential trip.

(2) A charge may not be made—

(a) by virtue of subsection (1)(a) in respect of the provision for a pupil of education,

(b) by virtue of subsection (1)(b) in respect of the entry of a pupil for an examination in any syllabus for that examination, \(^{139}\)

[ba] by virtue of subsection (1)(ba) in respect of the provision for a pupil of travel arrangements, or

(c) by virtue of subsection (1)(c) in respect of the provision for a pupil of transport,

unless the education is provided, the pupil is entered for the examination in that syllabus, or the transport is provided, by agreement with the pupil’s parent.

(3) Any education, examination entry \(^{140}\) travel arrangements, or transport in respect of which a charge may be made by virtue of subsection (1) is referred to in this Chapter as an “optional extra”.

 Annotations:

 Amendments (Textual)

\(^{134}\) S. 455(1)(ba) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(a), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

\(^{135}\) Words in s. 455(1)(c) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(b), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

\(^{136}\) Words in s. 455(1)(c) substituted (1.9.2007 for specified purposes) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 10 para. 3; S.I. 2007/1801, art. 4(l)

\(^{137}\) Words in s. 455(1)(c) repealed (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(b), 28(2), Sch. 2; S.I. 2009/371, art. 2(2), Sch. Pt. 2

\(^{138}\) Word in s. 455(2)(b) repealed (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(c), 28(2), Sch. 2; S.I. 2009/371, art. 2(2), Sch. Pt. 2

\(^{139}\) S. 455(2)(ba) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(d), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

\(^{140}\) Words in s. 455(3) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(2)(e), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

 Modifications etc. (not altering text)

\(^{20}\) S. 455 applied (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 6(3), 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

\(^{21}\) S. 455(1) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)

 Regulation of permitted charges.

(1) This section applies in relation to any charge permitted under section 455 \(^{141}\) ; and a charge to which this section applies is referred to in this section as a “regulated charge”.

(2) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
(3) A regulated charge \[^{F142}\] except any charge permitted by virtue of section 455(1)(ba), shall not exceed the cost of the provision of the optional extra or the board and lodging in question.

(4) Without prejudice to the generality of subsection (3), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—

(a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra, or

\[^{F143}(aa)\] attributable to the provision of the buildings and accommodation used in connection with the provision of the optional extra, or

(b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra, or

(c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.

(5) Subject to \[^{F144}\] subsections (6) and (6A), the cost of the provision of an optional extra shall not be taken to include any costs attributable to the provision of teaching staff other than staff engaged as mentioned in subsection (4)(c).

(6) Where the optional extra in question consists of tuition in \[^{F145}\] singing or in \[^{F146}\] playing a musical instrument, the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.

\[^{F146}(6A)\] Where the optional extra in question consists of education which is early years provision (as defined by section 20 of the Childcare Act 2006), the cost of its provision includes the costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the education.

(7) Where charging is permitted under section 455 and the charge would be a regulated charge, the question whether any charge should be made, and the amount of any charge to be made, shall be determined—

(a) in a case where the cost of the provision of the optional extra or board and lodging in question is met by or from funds at the disposal of the governing body, by the governing body, and

(b) in any other case, by the \[^{F32}\] local authority.

(8) The whole or any part of the amount of any charge which the \[^{F32}\] local authority determine under subsection (7)(b) to make—

(a) shall, if the governing body so determine, be met by or from funds at the disposal of the governing body, and

(b) to the extent that it is so met, shall not be payable by the parent of the pupil concerned.

Annotations:

Amendments (Textual)

\[^{F32}\] 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

\[^{F141}\] Words in s. 456(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 121, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
F142 Words in s. 456(3) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(3), 28(2); S.I. 2009/371, Sch. Pt. 2
F143 S. 456(4)(aa) inserted (15.1.2012) by Education Act 2011 (c. 21), ss. 48(2), 82(2)(d)
F144 Words in s. 456(5) substituted (15.1.2012) by Education Act 2011 (c. 21), ss. 48(3), 82(2)(d)
F145 Words in s. 456(6) inserted (25.5.2007 for E.) by Education and Inspections Act 2006 (c. 40), ss. 56(2), 188(3); S.I. 2007/935, Sch. Pt. 2
F146 S. 456(6A) inserted (15.1.2012) by Education Act 2011 (c. 21), ss. 48(4), 82(2)(d)

F147 Words in s. 456(3) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 22(3), 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

F148 Words in s. 456(4)(aa) inserted (15.1.2012) by Education Act 2011 (c. 21), ss. 48(2), 82(2)(d)

F149 Words in s. 456(6) inserted (25.5.2007 for E.) by Education and Inspections Act 2006 (c. 40), ss. 56(2), 188(3); S.I. 2007/935, art. 6(b)

F146 S. 456(6A) inserted (15.1.2012) by Education Act 2011 (c. 21), ss. 48(4), 82(2)(d)

Modifications etc. (not altering text)
C22 S. 456 applied (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), ss. 6(3), 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

457 Charges and remissions policies.

(1) Every governing body of a maintained school and every local authority shall determine and keep under review a policy with respect to—
   (a) the provision of, and
   (b) the classes or descriptions of case in which they propose to make charges for, any optional extra or board and lodging in respect of which charges are permitted by section 455.

(2) No such body or authority shall make such a charge unless they have both—
   (a) determined a policy under subsection (1)(b) (their “charging policy”), and
   (b) determined a policy (their “remissions policy”) setting out any circumstances in which they propose to remit (in whole or in part) any charge which would otherwise be payable to them in accordance with their charging policy.

(3) A remissions policy determined by the governing body of a school shall set out any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local authority, in accordance with the authority’s charging policy, for an optional extra or board and lodging provided for a registered pupil at the school.

(4) A remissions policy shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
   (a) the education provided on the trip is education in respect of which, by virtue of section 451, no charge may be made, and
   (b) the pupil’s parent is—
      (ai) in receipt of universal credit in such circumstances as may be prescribed for the purposes of this paragraph,
      (ii) in receipt of income support,
      (ii) in receipt of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995), or
      (iii) in receipt of an income-related employment and support allowance,
      (iv) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed,
in respect of any period wholly or partly comprised in the time spent on the trip.]

(5) A remissions policy shall be kept under review by the governing body or [F32local authority] by whom it was determined.

Annotations:

Amendments (Textual)
F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))
F147 Words in s. 457(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 122(a), Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
F148 Words in s. 457(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 122(b), Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
F149 S. 457(4)(b) substituted (31.3.2003 for W., 6.4.2003 for E.) by Education Act 2002 (c. 32), ss. 200, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/124, art. 5
F150 S. 457(4)(b)(ai) inserted (29.4.2013) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 2 para. 38; S.I. 2013/983, art. 3(1)(b)(i)
F151 S. 457(4)(b)(iia) inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), s. 70(2), Sch. 3 para. 16(2); S.I. 2008/787, art. 2(4)(f)

Modifications etc. (not altering text)
C23 S. 457(3) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(a)
C24 S. 457(4) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(2)

458 Charges for board and lodging at boarding schools.

(1) Subject to subsections (2) to (5), where a registered pupil at a maintained school is provided at the school with board and lodging, there shall be payable in respect of the board and lodging by the parent of the [F152pupil concerned, to the [F32local authority] charges not exceeding the cost to the authority [F153]... of providing the board and lodging.

(2) Where—
F154(a) ..........................................................

(b) the [F32local authority][F155] for that pupil’s area] are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him, then, where the school is maintained by the [F32local authority] for his area, that authority shall remit the whole of the charges payable under this section and, in any other case, that authority shall pay the whole of the charges payable under this section to the authority which maintain the school.

F156(3) ..........................................................

(4) Where the [F32local authority] for the pupil’s area are satisfied that payment of the full charges payable under this section would involve financial hardship to the parent of the pupil concerned, the authority—
(a) in the case of charges payable to the authority, shall remit so much of those charges as falls in accordance with subsection (5) to be so remitted, and

(b) in the case of charges payable to another [F32 local authority] . . . in respect of board and lodging, shall pay so much of those charges as falls in accordance with subsection (5) to be so paid.

(5) The amount that falls to be remitted or paid by a [F32 local authority] by virtue of subsection (4)(a) or (b) is—

(a) such part of the charges in question as the authority consider ought not to be paid by the pupil’s parent in order to avoid such hardship as is mentioned in subsection (4), or

(b) the whole of those charges if, in their opinion, such hardship cannot otherwise be avoided.

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

F152 Words in s. 458(1) substituted (1.9.1999) by 1998 c. 31, Sch. 30 para. 123(a)(i) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F153 Words in s. 458(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(a)(ii), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

F154 S. 458(2)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(b)(i), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

F155 Words in s. 458(2)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 123(b)(ii) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F156 S. 458(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(c), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F157 Words in s. 458(4)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(d), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

Supplementary

459 Provision of information.

Regulations may require, in relation to every maintained school, the [F32 local authority], the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed

—

(a) such information relevant for the purposes of this Chapter as to the school hours at the school, and

(b) such information as to the policies determined under section 457 which apply in relation to the school,

as may be prescribed.
Contributions and charges unaffected by Chapter III.

(1) Nothing in this Chapter shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the governing body of a maintained school or a local authority for voluntary contributions for the benefit of the school or any school activities.

(2) Any request or invitation made by or on behalf of such a body or authority for contributions for the benefit of a school or school activities shall not be regarded for the purposes of subsection (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—

(a) that there is no obligation to make any contribution, and

(b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.

(3) Nothing in this Chapter relating to charges in respect of a registered pupil at a maintained school shall be read as relating to—

(a) charges made by persons other than the governing body or the local authority, or

(b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

Recovery of sums as civil debt.

Any sum payable under section 453(2), 455 or 458 by the parent of a registered pupil at a maintained school shall be recoverable summarily as a civil debt.

Interpretation of Chapter III.

(1) In this Chapter—

“equipment” does not include clothing;
“examination requirement”, in relation to a syllabus for an examination, means a requirement which a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that syllabus.

(2) In this Chapter “residential trip” means any trip—
   (a) which is arranged for registered pupils at a maintained school by or on behalf of the governing body or the \footnote{local authority}, and
   (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.

(3) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a syllabus for a prescribed public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

(4) In this Chapter references to a public examination (or a prescribed public examination) are references to such an examination as it applies in relation to persons who are entered for a syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment takes place.

(5) For the purposes of subsection (4)—
   (a) “an assessment” means an assessment for the purposes of determining the achievements of persons entered for the examination in question; and
   (b) such an assessment is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus—
      (i) whether he has passed or failed, and
      (ii) if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

Annotations:

Amendments (Textual)

F32 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), Sch. 2 para. 7(2) (with Sch. 2 para. 7(4)(5))

Modifications etc. (not altering text)

C26 S. 462(2) modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), 6(1)(b)
Changes to legislation:
Education Act 1996, Part VI is up to date with all changes known to be in force on or before 26 May 2019. 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.

<table>
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<tr>
<th>Changes and effects yet to be applied to:</th>
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<tr>
<td>– s. 441 heading words omitted by 2018 anaw 2 Sch. 1 para. 4(16)(f)</td>
</tr>
<tr>
<td>– s. 438 heading words substituted by 2018 anaw 2 Sch. 1 para. 4(14)(c)</td>
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<tr>
<td>– s. 440 heading words substituted by 2018 anaw 2 Sch. 1 para. 4(15)(c)</td>
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<th>Changes and effects yet to be applied to the whole Act associated Parts and Chapters:</th>
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<td>– s. 17A functions made exercisable concurrently by S.I. 2014/1012 art. 12(1)Sch. 2 para. 3</td>
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<td>– s. 17A functions made exercisable concurrently by S.I. 2014/865 Sch. 2 para. 3</td>
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<td>– s. 17A-17D inserted by 2009 c. 22 s. 45</td>
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<td>– s. 438(6)(c)(i)(ii) substituted for words by 2018 anaw 2 Sch. 1 para. 4(14)(b)</td>
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<td>– s. 442(6) inserted by 2018 anaw 2 Sch. 1 para. 4(18)(b)</td>
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<td>– s. 457(4)(i)-(iiia) repealed by 2012 c. 5 Sch. 14 Pt. 1</td>
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<td>– s. 457(4)(iii) words repealed by 2012 c. 5 Sch. 14 Pt. 1</td>
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<td>– s. 579(3C) inserted by 2018 anaw 2 s. 95(c)</td>
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<td>– Sch. 7 para. 11(b)(c) words substituted by 2002 c. 9 Sch. 11 para. 36(b) (This amendment not applied to legislation.gov.uk. Sch. 7 already repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 185, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1)</td>
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