

ANTI-SOCIAL BEHAVIOUR ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Parental Responsibilities

Section 23: Penalty notices for parents in cases of truancy

65. Parents of a registered pupil whose child fails to attend school regularly are guilty of an offence. At present, prosecution is the only available sanction. Fixed penalty notices will provide an alternative. This section enables authorised local education authority and school staff and the police to issue such notices, although there is no requirement for them to do so.
66. Section 444 of the Education Act 1996 provides that a parent commits an offence if his or her compulsory school age child who is a registered pupil fails to attend school regularly. Subsection (1) of this section adds two new sections (444A and 444B) after section 444.
67. New section 444A(1) enables an authorised officer to issue a penalty notice where he believes that a parent has committed an offence under section 444 and that the pupil in question is registered at a relevant school. New section 444A(2) specifies that a penalty notice offers the parent the opportunity of discharging any liability to conviction for the offence by paying a penalty in accordance with the notice (the notice will specify the amount to be paid and deadlines for payment). New sections 444A(3) and 444A(4) prevent the parent from being prosecuted for the particular offence for which the notice was issued until after the final deadline for payment has passed and from being convicted of that offence if he pays a penalty in accordance with the notice. New section 444A(5) provides for penalties to be paid to local education authorities. New section 444A(6) enables local authorities to use revenue for purposes specified in regulations. Local authorities will be able to use such revenue to pay for the administration and enforcement of penalty notices.
68. New section 444B(1) enables the Secretary of State to make regulations governing the form and content of penalty notices, the monetary value of penalties, how the local authority to which a penalty is payable will be decided, methods by which penalties may be paid, records to be kept and the types of staff whom local education authorities or headteachers may authorise to issue notices. The regulations will also govern the circumstances in which penalty notices may be issued, the withdrawal of penalty notices in prescribed circumstances and preventing or stopping prosecution for the particular offence for which the notice was issued, the issuing certificates confirming payment of the penalty, the action to be taken if a penalty is not paid and codes of conduct relating to penalty notices.
69. The Department for Education and Skills will consult local authorities, headteachers and the police about implementation before determining these details. Section 444B(2) allows the regulations provide for different penalty levels for different circumstances and payment periods. Among other things, this makes lower penalties for early payment possible. Section 444B(3) requires local education authorities, headteachers and all

*These notes refer to the Anti-Social Behaviour Act 2003
(c.38) which received Royal Assent on 20 November 2003*

authorised officers to have regard to guidance on penalty notices published by the Secretary of State for Education and Skills.

70. *Subsection (2)* amends section 572 of the Education Act 1996 (which deals with the service of notices) to make it clear that a penalty notice may be handed to a parent as well as delivered to his home.
71. *Subsections (3) to (8)* amend Schedules 4 and 5 of the Police Reform Act 2002 to enable community support officers and accredited persons to issue penalty notices for truancy. They will be able to issue fixed penalty notices to parents in their police area regardless of where the child is at school. *Subsections (9) and (10)* allow the National Assembly for Wales to make an order applying these provisions to Wales. If such an order is made regulations for Wales will be made and guidance issued by the National Assembly.