

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 7: Discipline, Behaviour and Exclusion

Section 94: Defence where confiscation lawful

473. This section protects staff against civil or criminal liability where a lawfully confiscated item is retained or disposed of.
474. *Subsection (1)* specifies that this section applies where something a pupil has with him or in his possessions is seized and retained or disposed of.
475. *Subsection (2)* protects any person who seizes, retains or disposes of such an item from liability in any proceedings if he proves that the seizure, retention or disposal was lawful.
476. *Subsection (3)* provides that nothing in this section applies where an item is seized under section 550AA of the 1996 Act. The Violent Crime Reduction Act 2006 contains provision to insert a new section 550AA into the 1996 Act dealing with the seizure of knives, blades or offensive weapons or any other thing which there are reasonable grounds for suspecting is evidence in relation to an offence, found in the course of a search of pupils. The new section 550AA makes provision for what is to be done with an item seized under that section.
477. *Subsection (4)* has the effect that this section does not prevent anyone using any other defence (for example under common law) that they would be entitled to use in any civil or criminal action.