

*Status: This version of this provision is prospective.*

*Changes to legislation: Education and Skills Act 2008, Section 56 is up to date with all changes known to be in force on or before 20 April 2024. 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) View outstanding changes*



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

### CHAPTER 5

#### ATTENDANCE NOTICES

#### *Failure to comply with attendance notice*

PROSPECTIVE

#### **56 Enforcement of non-participation fine etc: person reaching 18**

- (1) This section applies where—
  - (a) a non-participation fine has been imposed on a person aged under 18, and
  - (b) the relevant sum, or any part of it, remains unpaid when the person reaches the age of 18.
- (2) When the person reaches the age of 18, the relevant sum ceases to be enforceable as a sum adjudged to be paid by a conviction of a magistrates' court.
- (3) Accordingly, after the person has reached the age of 18—
  - (a) the normal enforcement provisions do not apply in relation to the relevant sum, and
  - (b) the normal enforcement powers are not exercisable in relation to the relevant sum,  
except so far as necessary to permit current enforcement processes to be concluded.
- (4) Any order or warrant made or issued in relation to the non-participation fine, other than—

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- (a) an order under section 75 of the Magistrates' Courts Act 1980 (c. 43) (power to dispense with immediate payment),
  - (b) an order under section 85A of that Act (variation of instalments of sum adjudged to be paid by conviction), or
  - (c) a current enforcement process,
- ceases to have effect when the person reaches the age of 18.
- (5) A magistrates' court may, after the person has reached the age of 18, order that payment of so much of the relevant sum as remains unpaid may be enforced as if it were a sum due to the relevant [<sup>F1</sup>local authority] in pursuance of a judgment or order of [<sup>F2</sup>the county court].
- (6) An order under subsection (5) may not be made unless—
- (a) the person appears to the court to have sufficient means to pay the sum forthwith, and
  - (b) any current enforcement processes have been concluded.
- (7) For the purposes of this section, “current enforcement process” means an order or warrant mentioned in paragraph (a), (b) or (c) and any reference to its conclusion is to be read in accordance with that paragraph—
- (a) a warrant of control—
    - (i) issued under section 76 of the Magistrates' Courts Act 1980 (warrants of control etc) for the purpose of recovering the relevant sum (or any part of it), and
    - (ii) by virtue of which an enforcement agent has, before the person reaches the age of 18, taken control of any goods of the person under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (taking control of goods),
 is concluded when property in all goods of the person has, in accordance with paragraph 6 of that Schedule, ceased to be bound by virtue of the warrant;
  - (b) an order in force when the person reaches the age of 18 under—
    - (i) section 81(1)(b) of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders), or
    - (ii) [<sup>F3</sup>section 380(1) of the Sentencing Code] (power to order parent or guardian to pay fine, costs, compensation or surcharge),
 requiring that the relevant sum (or any part of it) be paid by a parent or guardian of the person is concluded when it is revoked;
  - (c) an order in force when the person reaches the age of 18 under section 39 of the Criminal Justice and Immigration Act 2008 (c. 4) (youth default orders) in respect of the relevant sum (or any part of it) is concluded when it is revoked.
- (8) Subsection (2) does not affect the exercise of any power, or any order made, in respect of the offence before the person reached the age of 18.
- (9) The Lord Chancellor may by order amend subsection (4) or (7) by—
- (a) adding to it provision about any warrant or order that may be issued or made, or step that may be taken, in relation to a non-participation fine before the person on whom it is imposed reaches the age of 18, or
  - (b) removing any such provision for the time being made by that subsection.

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#### Textual Amendments

- F1** 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. 15(2)**
- F2** Words in s. 56(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** Words in s. 56(7)(b)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 272** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

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**Changes and effects yet to be applied to :**

- s. 56(3) words inserted by [2013 c. 22 s. 26\(8\)](#)

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

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

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)