

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Learners

Power to search for prohibited items

Section 242: Power of members of staff to search pupils for prohibited items: England

Section 550ZB: Power of search under section 550ZA: supplementary

758. Section 550ZB sets out who may carry out searches and how searches must be conducted.
759. *Subsections (1), (2) and (3)* provide that only head teachers and authorised members of staff may conduct searches, and that a member of staff may have (a) a general authorisation to search, for example a member of staff may be authorised to search for any prohibited item at any time; (b) be authorised to conduct a particular search, for example given authorisation to search a particular individual in a particular circumstance; or (c) be authorised to conduct particular types of searches, for example given authorisation to conduct searches for some prohibited items (but not others), or where a particular set of circumstances arise. *Subsection (3)* provides that a headteacher may not require anybody other than security staff to conduct a search. This means teachers can never be placed under any obligation to search a pupil.
760. *Subsection (4)* stipulates that a search may be carried only out on school premises or where the member of staff has lawful control or charge of the pupil. These powers apply only in England; they therefore do not apply on school trips to other countries.
761. *Subsection (5)* provides that reasonable force may be used in executing a search.
762. *Subsection (6)* states that a search of a pupil may only be made by a person of the same gender as the pupil and in the presence of another member of staff. Where reasonably practicable, the member of staff witnessing the search must also be of the same gender as the pupil. It also provides that the person carrying out the search may not require the pupil to remove any clothing other than outer clothing (as defined in *subsection (8)*). *Subsection (7)* states that a pupil's possessions may be searched only in the presence of the pupil and another member of staff.
763. *Subsection (8)* defines "member of the security staff" and "outer clothing".