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# Education Act 1996

## 1996 CHAPTER 56

### PART VI

#### SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

#### [<sup>F1</sup>CHAPTER III

#### CHARGES IN CONNECTION WITH EDUCATION AT MAINTAINED SCHOOLS]

##### Textual Amendments

- F1** 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**.

#### [<sup>F2</sup>Preliminary]

##### Textual Amendments

- F2** 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**

#### [<sup>F3</sup>449 Meaning of “maintained school” in Chapter III.

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

##### Textual Amendments

- F3** 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**.

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### *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
  - (c) teacher training.

#### **451 Prohibition of charges for provision of education.**

- (1)<sup>F4</sup> . . . , 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.
- (3) Subsection (2) does not apply in relation to tuition in playing a musical instrument where the tuition is provided either individually or to a group of not more than four pupils, unless the tuition 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 357(1) [<sup>F5</sup>(implementation of National Curriculum) or section 69 of the School Standards and Framework Act 1998 (duty to secure due provision of religious education)].
- (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 357(1) or [<sup>F6</sup>section 69 of the School Standards and Framework Act 1998].

<sup>F7</sup>(5) . . . . .

#### **Textual Amendments**

- F4** 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**
- F5** Words in s. 451(3)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 120(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F6** 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**
- F7** S. 451(5) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 120(d), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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**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.

**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 local education 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,

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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.

#### **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 education authority, from or to the school premises or any other such place.

#### *Permitted charges*

#### **455 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,

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- (c) transport provided for a registered pupil at a maintained school other than transport in respect of which, by virtue of section 454(3) or 509(2), 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, 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 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”.

#### **456 Regulation of permitted charges.**

- (1) This section applies in relation to any charge permitted under section 455<sup>F8</sup>; 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 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
  - (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 subsection (6), 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 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.
- (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—

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- (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 local education authority.
- (8) The whole or any part of the amount of any charge which the local education 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.

#### Textual Amendments

**F8** 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**

#### 457 Charges and remissions policies.

- (1) Every governing body of a maintained school and every local education 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.
- F9** . . .
- (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 <sup>F10</sup>. . . shall set out any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local education 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 parents are in receipt of—
    - (i) income support,
    - (ii) [<sup>F11</sup>working families’ tax credit],
    - (iii) an income-based jobseeker’s allowance (payable under the <sup>M1</sup>Jobseekers Act 1995), or
    - (iv) disability working allowance,

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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 local education authority by whom it was determined.

#### Textual Amendments

- F9** 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**.
- F10** 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**.
- F11** Words in s. 457(4)(b)(ii) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20, Sch. 1 para. 1, **6(p)**

#### Marginal Citations

- M1** 1995 c. 18.

### 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 [<sup>F12</sup>pupil concerned, to the local education authority, charges] not exceeding the cost to the authority <sup>F13</sup> . . . of providing the board and lodging.

- (2) Where—

<sup>F14</sup>(a) . . . . .

- (b) the local education authority [<sup>F15</sup>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 local education 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.

<sup>F16</sup>(3) . . . . .

- (4) Where the local education 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 local education authority <sup>F17</sup> . . . 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 local education 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

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

#### Textual Amendments

- F12** Words in s. 458(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 123(a)(i)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F13** 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**.
- F14** 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**
- F15** 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**
- F16** 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**
- F17** 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 local education 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.

#### **460 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 education 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—



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- (a) charges made by persons other than the governing body or the local education authority, or
- (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

#### **461 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.

#### **462 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 local education 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.

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