



Education Act 1996

1996 CHAPTER 56

PART VI

SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

CHAPTER II

SCHOOL ATTENDANCE

School attendance: offences and education supervision orders

444 Offence: failure to secure regular attendance at school of registered pupil.

(1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence.

[^{F1}(1A) If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails ^{F2}... to cause him to do so, he is guilty of an offence.]

[^{F3}(1B) It is a defence for a person charged with an offence under subsection (1A) to prove that he had a reasonable justification for his failure to cause the child to attend regularly at the school.]

(2) Subsections [^{F4}(2A)] to (6) below apply in proceedings for an offence under this section in respect of a child who is not a boarder at the school at which he is a registered pupil.

[^{F5}(2A) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school at any time if the parent proves that at that time the child was prevented from attending by reason of sickness or any unavoidable cause.]

(3) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school—

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- (a) with leave, [^{F6} or]
- ^{F7}(b)
- (c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.

[^{F8}(3A) Subsections (3B) and (3D) apply where the child's home is in England.

(3B) The child shall not be taken to have failed to attend regularly at the school if the parent proves that—

- (a) the local education authority have a duty to make travel arrangements in relation to the child under section 508B(1) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty, or
- (b) the local education authority have a duty to make travel arrangements in relation to the child by virtue of subsection (2)(c) of section 508E (school travel schemes) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty.

(3C) For the purposes of subsection (3B)—

- (a) the reference to “travel arrangements” in paragraph (a) has the same meaning as in section 508B, and
- (b) the reference to “travel arrangements” in paragraph (b) has the same meaning as in paragraph 3 of Schedule 35C.

(3D) Where the school is an independent school which is not a qualifying school, the child shall not be taken to have failed to attend regularly at the school if the parent proves—

- (a) that the school is not within walking distance of the child's home,
- (b) that no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near the school, and
- (c) that no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(3E) For the purposes of subsection (3D), “qualifying school” has the same meaning as it has for the purposes of Schedule 35B (meaning of “eligible child” for the purposes of section 508B).

(3F) Subsection (4) applies where the child's home is in Wales.]

(4) The child shall not be taken to have failed to attend regularly at the school if the parent proves—

- (a) that the school at which the child is a registered pupil is not within walking distance of the child's home, and
- (b) that no suitable arrangements have been made by the local education authority ^{F9} . . . for any of the following—
 - (i) his transport to and from the school,
 - (ii) boarding accommodation for him at or near the school, or
 - (iii) enabling him to become a registered pupil at a school nearer to his home.

(5) In [^{F10}subsections (3D) and (4)] “walking distance”—

- (a) in relation to a child who is under the age of eight, means 3.218688 kilometres (two miles), and

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- (b) in relation to a child who has attained the age of eight, means 4.828032 kilometres (three miles),
in each case measured by the nearest available route.
- (6) If it is proved that the child has no fixed abode, [^{F11}subsections (3B), (3D) and (4)] shall not apply, but [^{F12}it is a defence for the parent to prove] —
- (a) that he is engaged in a trade or business of such a nature as to require him to travel from place to place,
(b) that the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits, and
(c) if the child has attained the age of six, that he has made at least 200 attendances during the period of 12 months ending with the date on which the proceedings were instituted.
- (7) In proceedings for an offence under this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be taken to have failed to attend regularly at the school if he is absent from it without leave during any part of the school term [^{F13}unless the parent proves that at that time the child was] prevented from being present by reason of sickness or any unavoidable cause.

[^{F14}(7A) Where—

- (a) a child of compulsory school age has been excluded for a fixed period on disciplinary grounds from a school in England which is—
- (i) a maintained school,
(ii) a pupil referral unit,
(iii) an Academy,
(iv) a city technology college, or
(v) a city college for the technology of the arts,
- (b) he remains for the time being a registered pupil at the school,
(c) the appropriate authority make arrangements for the provision of full-time education for him at the school during the period of exclusion, and
(d) notice in writing of the arrangements has been given to the child's parent,
- the exclusion does not affect the application of subsections (1) to (7) to the child's attendance at the school on any day to which the arrangements relate.

(7B) In subsection (7A)(c) “the appropriate authority” means—

- (a) in relation to a maintained school, the governing body of the school,
(b) in relation to a pupil referral unit, the local education authority, and
(c) in relation to any school mentioned in subsection (7A)(a)(iii) to (v), the proprietor of the school.]

(8) A person guilty of an offence under [^{F15}subsection (1)] is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[^{F16}(8A) A person guilty of an offence under subsection (1A) is liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale, or
(b) to imprisonment for a term not exceeding three months,
or both.

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- (8B) If, on the trial of an offence under subsection (1A), the court finds the defendant not guilty of that offence but is satisfied that he is guilty of an offence under subsection (1), the court may find him guilty of that offence.]
- (9) In this section “leave”, in relation to a school, means leave granted by any person authorised to do so by the governing body or proprietor of the school.

Textual Amendments

- F1** S. 444(1A) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(a)(2); S.I. 2001/562, art. 2
- F2** Words in s. 444(1A) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(1), 188(1), **Sch. 18 Pt. 1** (with s. 109(11))
- F3** S. 444(1B) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(2), 188(1) (with s. 109(11))
- F4** Word in s. 444(2) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(3), 188(1) (with s. 109(11))
- F5** S. 444(2A) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(4), 188(1) (with s. 109(11))
- F6** Word in s. 444(3)(a) inserted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(5)(a), 188(1) (with s. 109(11))
- F7** S. 444(3)(b) repealed (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(5)(b), 188(1), **Sch. 18 Pt. 1** (with s. 109(11))
- F8** S. 444(3A)-(3F) inserted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 82(2), 188(3) (with s. 82(5)); S.I. 2007/1801, art. 4(d)
- F9** Words in S. 444(4)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 117, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F10** Words in s. 444(5) substituted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 82(3), 188(3) (with s. 82(5)); S.I. 2007/1801, art. 4(d)
- F11** Words in s. 444(6) substituted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 82(4), 188(3) (with s. 82(5)); S.I. 2007/1801, art. 4(d)
- F12** Words in s. 444(6) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(6), 188(1) (with s. 109(11))
- F13** Words in s. 444(7) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), ss. 109(7), 188(1) (with s. 109(11))
- F14** S. 444(7A)(7B) inserted (1.9.2007) by Education and Inspections Act 2006 (c. 40), ss. 109(8), 188(3) (with s. 109(11)); S.I. 2007/1801, art. 4(i)
- F15** Words in s. 444(8) substituted (1.3.2001) by 2000 c. 43, s. 72(1)(b)(2); S.I. 2001/562, art. 2
- F16** S. 444(8A)(8B) inserted (1.3.2001) by 2000 c. 43, s. 72(1)(c)(2); S.I. 2001/562, art. 2

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