

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 550ZC: Power to seize items found during search under section 550ZA

764. Section 550ZC sets out the powers members of staff will have to seize and dispose of any prohibited items.
765. *Subsections (1) and (2)* provide for the person carrying out the search to seize any prohibited items and any other items suspected to be evidence of an offence found during the search, and to use reasonable force when exercising this power. This would allow the person conducting the search to not only seize prohibited items such as weapons, drugs, alcohol and stolen items but could for example allow them to seize any non-prohibited items they find whilst conducting the search which might be evidence in relation to any other unconnected offence.
766. *Subsections (3) to (9)* state what may or must be done with items that are seized.
- Where a person conducting a search finds alcohol, they may retain or dispose of it.
 - Where they find controlled drugs, these must be delivered to the police as soon as possible, unless there is a good reason not to do so — in which case the drugs must be disposed of.
 - Where they find stolen articles, these must be delivered to the police unless there is a good reason not to do so — in which case they must be returned to the owner. These articles may be retained or disposed of where returning them to their owner is not practicable.
 - Where they find an item which has been added to the list by regulations made under section 550ZA (3)(f) there is a further regulation making power to prescribe what must or may be done with it.
767. In determining what is a “good reason” for not delivering items to the police, regard must be had to guidance issued by the Secretary of State.
768. Any weapons or items which are evidence of an offence must be passed to the police as soon as possible. Except that, where a person searching for a specific prohibited item, or a prohibited item specified in regulations, finds evidence of an offence in the form of another prohibited item, the item found will be dealt with in accordance with any

These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009

specific provision made for that item or any provision specified in regulations. So, for example, in a case where a person searching for alcohol finds controlled drugs, the drugs must be delivered to the police as soon as possible, but there will also be a discretion to dispose of them.

769. *Subsection (10)* provides that the powers and duties relating to what must be done with any alcohol, controlled drugs, stolen articles and weapons seized apply to items reasonably suspected to be alcohol, controlled drugs, stolen articles and weapons.