

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Learners

Power to search for prohibited items

Section 244: Power of members of staff to search students for prohibited items: England

Section 85AB: Power of search under section 85AA: supplementary

785. Section 85AB sets out who may carry out the searches and how those searches must be conducted.
786. *Subsections (1), (2) and (3)* provide that only principals 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) sets out that a principal may not require anybody other than security staff to conduct a search. This means lecturers can never be placed under any obligation to search a student.
787. *Subsection (4)* stipulates that a search may be carried out only on the premises of the FE institution or where the member of staff has lawful control or charge of the student, such as on a field trip. These powers apply only in England; they therefore do not apply on trips to other countries.
788. *Subsection (5)* provides that reasonable force may be used in executing a search.
789. *Subsection (6)* states that a search of a student may be made only by a person of the same gender as the student 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 student. It also provides that the person carrying out the search may not require the student to remove any clothing other than outer clothing (as defined in *subsection (8)*).
790. *Subsection (7)* states that a student's possessions may be searched only in the presence of the student and another member of staff.
791. *Subsection (8)* defines "member of the security staff" and "outer clothing".