



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 7

#### DISCIPLINE, BEHAVIOUR AND EXCLUSION

### CHAPTER 2

#### PARENTAL RESPONSIBILITIES AND EXCLUDED PUPILS

#### *School attendance*

#### **109 Failure to secure school attendance**

- (1) In section 444 of EA 1996 (offence of failing to secure regular attendance at school of registered pupil), in subsection (1A), omit “without reasonable justification”.
- (2) After that subsection insert—

“(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.”
- (3) In subsection (2) of that section, for “(3)” substitute “(2A)”.
- (4) After that subsection insert—

“(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.”
- (5) In subsection (3) of that section—
  - (a) at the end of paragraph (a) insert “ or ”, and
  - (b) omit paragraph (b) and the “or” immediately following it.

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**Changes to legislation:** *Education and Inspections Act 2006, Cross Heading: School attendance is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (6) In subsection (6) of that section, for “the parent shall be acquitted if he proves” substitute “ it is a defence for the parent to prove ”.
- (7) In subsection (7) of that section, for “at a time when he was not” substitute “ unless the parent proves that at that time the child was ”.
- (8) After that subsection insert—
- “(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 [<sup>F1</sup>local authority], and
- (c) in relation to any school mentioned in subsection (7A)(a)(iii) to (v), the proprietor of the school.”
- (9) In subsection (6) of section 444ZA of EA 1996 (application of section 444 to alternative educational provision), for “the parent shall be acquitted if he proves” substitute “ it is a defence for the parent to prove ”.
- (10) In section 16 of the Crime and Disorder Act 1998 (c. 37), in subsection (4) for the words from “unless” to the end substitute “ unless the child or young person is prevented from attending by sickness or other unavoidable cause or the absence falls within subsection (3) (leave or day set apart for religious observance) of section 444 of the Education Act 1996 ”.
- (11) The amendments made by this section, and the entry in Part 1 of Schedule 18 relating to section 444 of EA 1996, do not apply in relation to any failure to attend at a school, or other place in relation to which that section applies, which occurs before the commencement of the amendment in question.

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#### **Textual Amendments**

- F1** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 14(2)**

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**Commencement Information**

**I1** S. 109(8) in force at 1.9.2007 by [S.I. 2007/1801](#), [art. 4\(i\)](#)

**110 Sums received under section 444A of EA 1996**

In section 444A of EA 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil) for subsection (6) substitute—

“(6) Sums received by a [<sup>F1</sup>local authority] under this section may be used by the authority for the purposes of any of its functions which may be specified in regulations but, to the extent that they are not so used, must be paid in accordance with regulations to the Secretary of State.”

**Textual Amendments**

**F1** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [art. 1](#), [Sch. 2 para. 14\(2\)](#)

**Commencement Information**

**I2** S. 110 in force at 1.9.2007 by [S.I. 2007/1801](#), [art. 4\(i\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)