



Education Act 1993

1993 CHAPTER 35

PART IV

SCHOOL ATTENDANCE

School attendance: offences and education supervision orders

198 Offence: failure to comply with school attendance order

- (1) If a parent on whom a school attendance order is served fails to comply with the requirements of the order, he is guilty of an offence, unless he proves that he is causing the child to receive suitable education otherwise than at school.
- (2) If, in proceedings for an offence under this section, the parent is acquitted, the court may direct that the school attendance order shall cease to be in force.
- (3) A direction under subsection (2) above does not affect the duty of the local education authority to take further action under section 192 of this Act if at any time the authority are of the opinion that having regard to any change of circumstances it is expedient to do so.
- (4) In this section, “suitable education” has the meaning given by section 192(8) of this Act.

199 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.
- (2) Subsections (3) 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.
- (3) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school—
 - (a) with leave,

Status: This is the original version (as it was originally enacted).

- (b) at any time when he was prevented from attending by reason of sickness or any unavoidable cause, or
 - (c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.
- (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 or the funding authority for any of the following—
 - (i) his transport to and from the school,
 - (ii) boarding accommodation for him at or near the school, and
 - (iii) enabling him to become a registered pupil at a school nearer to his home.
- (5) In subsection (4) above, “walking distance” means—
- (a) in relation to a child who is under the age of eight years, two miles, and
 - (b) in relation to a child who has attained the age of eight years, three miles,
- in each case measured by the nearest available route.
- (6) If it is proved that the child has no fixed abode, subsection (4) above shall not apply, but the parent shall be acquitted if he proves—
- (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 years, that he has made at least two hundred attendances during the period of twelve 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 at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (8) 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.

200 Presumption of age

- (1) This section applies for the purposes of any proceedings for an offence under section 198 or 199 of this Act.
- (2) In so far as it is material, the child in question shall be presumed to have been of compulsory school age at any time unless the parent proves the contrary.
- (3) Where a court is obliged by virtue of subsection (2) above to presume a child to have been of compulsory school age, section 95(1) of the Education Act 1944 (provisions as to evidence) does not apply.

201 Institution of proceedings and punishment

- (1) Proceedings for an offence under section 198 or 199 of this Act shall not be instituted except by a local education authority.
- (2) A person guilty of an offence under section 198 or 199 of this Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

202 Education supervision orders

- (1) Before instituting proceedings for an offence under section 198 or 199 of this Act, a local education authority shall consider whether it would be appropriate (instead of or as well as instituting the proceedings) to apply for an education supervision order with respect to the child.
- (2) The court—
 - (a) by which a person is convicted of an offence under section 198 of this Act, or
 - (b) before which a person is charged with an offence under section 199 of this Act,may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child's welfare will be satisfactorily safeguarded even though no education supervision order is made.
- (3) Where, following such a direction, a local education authority decide not to apply for an education supervision order they shall inform the court of the reasons for their decision.
- (4) Unless the court has directed otherwise, the information required under subsection (3) above shall be given to the court before the end of the period of eight weeks beginning with the date on which the direction was given.
- (5) Where—
 - (a) a local education authority apply for an education supervision order with respect to a child who is the subject of a school attendance order, and
 - (b) the court decides that section 36(3) of the Children Act 1989 (education supervision orders) prevents it from making the order,the court may direct that the school attendance order shall cease to be in force.
- (6) In this section—
 - “appropriate local authority” has the same meaning as in section 36(9) of the Children Act 1989, and
 - “education supervision order” means an education supervision order under that Act.