



Education (No. 2) Act 1986

1986 CHAPTER 61

PART IV

MISCELLANEOUS

47 Abolition of corporal punishment.

(1) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil [^{F1}to whom this subsection applies] by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.

[^{F2}(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.

[^{F2}(1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.]

(2) Subject to subsection (3) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute battery.

(3) A person is not to be taken for the purposes of this section as giving corporal punishment by virtue of anything done for reasons that include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).

(4) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it is done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.

Status: Point in time view as at 01/04/1995. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Education (No. 2) Act 1986, Section 47. (See end of Document for details)

- (5) ^{F3}Subsection (1) above applies to a pupil
- (a) for whom education is provided—
 - (i) at a school maintained by a local education authority;
 - (ii) at a special school not so maintained; . . . ^{F4}
 - ^{F5}(ia) at a grant-maintained school; or]
 - (iii) at an independent school which is maintained or assisted by a Minister of the Crown (including a school of which a government department is the proprietor) or assisted by a local education authority and which falls within a prescribed class;
 - (b) for whom ^{F6}education], is provided by a local education authority otherwise than at a school; or
 - (c) to whom subsection (6) below applies and for whom education is provided at an independent school which does not fall within paragraph (a)(iii) above;
- ^{F3}and in this section “pupil”] does not include any person who is aged eighteen or over.
- (6) This subsection applies to a person if—
- (a) he holds an assisted place under a scheme operated by the Secretary of State under section 17 of the 1980 Act;
 - (b) any of the fees or expenses payable in respect of his attendance at school are paid by the Secretary of State under section 100 of the 1944 Act or by a local education authority under section 6 of the ^{M1}Education (Miscellaneous Provisions) Act 1953; ^{F7}or by the funding authority or a local education authority under paragraph 9 or 10 of Schedule 2 to the Education Act 1993]
 - (c) any of the fees payable in respect of his attendance at school are paid by a local education authority under section 81 of the 1944 Act; or
 - (d) he falls within a prescribed category of persons.
- (7) The Secretary of State may prescribe, for the purposes of subsection (6)(d) above, one or more categories of persons who appear to him to be persons in respect of whom any fees are paid out of public funds.
- (8) A person shall not be debarred from receiving education (whether by refusing him admission to a school, suspending his attendance or otherwise) by reason of the fact that this section applies in relation to him, or if he were admitted might so apply.
- (9) The power conferred on the Secretary of State by paragraph 4 of Schedule 4 to the 1980 Act to terminate a participation agreement under section 17 of that Act if he is not satisfied that appropriate educational standards are being maintained includes power to do so if he is not satisfied that subsection (8) above is being complied with.
- (10) In this section “member of the staff” means—
- (a) in relation to a person who is a pupil by reason of the provision of education for him at any school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there; and
 - (b) in relation to a person who is a pupil by reason of the provision of education for him by a local education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.

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- (11) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M2}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for the purposes corresponding to those of this section—
- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
 - (b) shall be subject to annulment in pursuance of a resolution of either House.

Extent Information

- E1** S. 47: s. 47(11) extends to Northern Ireland

Textual Amendments

- F1** Words in s. 47(1) inserted (1.10.1993) by 1993 c. 35, s. 293(2); S.I. 1993/1975, art. 9 Sch. 1
- F2** S. 47(1A)(1B) inserted (1.10.1993) by 1993 c. 35, s. 293(2); S.I. 1993/1975, art. 9 Sch. 1
- F3** Words in 47(5) substituted (1.10.1993) by 1993 c. 35, s. 293(3)(a)(b); S.I. 1993/1975, art. 9, Sch. 1
- F4** Word repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), Sch. 13 Pt. II
- F5** S. 47(5)(a)(ia) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 35
- F6** Word in s. 47(5)(b) substituted (1.9.1994) by 1993 c. 35, s. 307(1), Sch. 19 para. 101(a); S.I. 1994/2038, art. 3, Sch. 2
- F7** Words in s. 47(6)(b) added (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para. 101(b); S.I. 1994/507, art. 4, Sch. 2

Marginal Citations

- M1** 1953 c. 33.
- M2** 1974 c. 28.

Status:

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Changes to legislation:

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