



# Education Act 1996

## 1996 CHAPTER 56

### PART VI

#### SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES

#### [<sup>F1</sup>CHAPTER III

#### CHARGES IN CONNECTION WITH EDUCATION AT MAINTAINED SCHOOLS]

#### *Permitted charges*

#### 455 Permitted charges.

- (1) Subject to subsection (2), a charge may be made in respect of—
- (a) education provided for a registered pupil at a maintained school other than education in respect of which, by virtue of section 451, no charge may be made,
  - (b) the entry of a registered pupil at a maintained school for a public examination in any syllabus for that examination otherwise than in circumstances in which, by virtue of section 453(1), no charge may be made,
  - [<sup>F1</sup>(ba) travel arrangements provided under section 6 of the Learner Travel (Wales) Measure 2008 (“the Measure”) for a registered pupil at a maintained school in Wales, other than arrangements in respect of which, by virtue of section 454(3) of this Act or sections 3 or 4 of the Measure, no charge may be made,]
  - (c) transport provided for a registered pupil at a maintained school [<sup>F2</sup> in England] other than transport in respect of which, by virtue of section 454(3) or [<sup>F3</sup>508B(1), 508F(3) <sup>F4</sup>..., or section 508E(2)(d) and paragraph 5(2) of Schedule 35C,], no charge may be made, and
  - (d) board and lodging provided for a registered pupil at a maintained school on a residential trip.
- (2) A charge may not be made—

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- (a) by virtue of subsection (1)(a) in respect of the provision for a pupil of education,
  - (b) by virtue of subsection (1)(b) in respect of the entry of a pupil for an examination in any syllabus for that examination, <sup>F5</sup>...
  - [<sup>F6</sup>(ba) by virtue of subsection (1)(ba) in respect of the provision for a pupil of travel arrangements, or]
  - (c) by virtue of subsection (1)(c) in respect of the provision for a pupil of transport,
- unless the education is provided, the pupil is entered for the examination in that syllabus, or the transport is provided, by agreement with the pupil's parent.
- (3) Any education, examination entry [<sup>F7</sup> travel arrangements, ] or transport in respect of which a charge may be made by virtue of subsection (1) is referred to in this Chapter as an “optional extra”.

#### Textual Amendments

- F1** S. 455(1)(ba) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(a)**, 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F2** Words in s. 455(1)(c) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(b)**, 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F3** Words in s. 455(1)(c) substituted (1.9.2007 for specified purposes) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 10 para. 3**; S.I. 2007/1801, art. 4(l)
- F4** Words in s. 455(1)(c) repealed (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(b)**, 28(2), **Sch. 2**; S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F5** Word in s. 455(2)(b) repealed (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(c)**, 28(2), **Sch. 2**; S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F6** S. 455(2)(ba) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(d)**, 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F7** Words in s. 455(3) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 22(2)(e)**, 28(2); S.I. 2009/371, art. 2(2), Sch. Pt. 2

#### Modifications etc. (not altering text)

- C1** S. 455 applied (6.3.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 6(3)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

## 456 Regulation of permitted charges.

- (1) This section applies in relation to any charge permitted under section 455 <sup>F8</sup>. . . ; and a charge to which this section applies is referred to in this section as a “regulated charge”.
- (2) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
- (3) A regulated charge [<sup>F9</sup>, except any charge permitted by virtue of section 455(1)(ba), ] shall not exceed the cost of the provision of the optional extra or the board and lodging in question.
- (4) Without prejudice to the generality of subsection (3), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—

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- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra, or
  - (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra, or
  - (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.
- (5) Subject to subsection (6), the cost of the provision of an optional extra shall not be taken to include any costs attributable to the provision of teaching staff other than staff engaged as mentioned in subsection (4)(c).
- (6) Where the optional extra in question consists of tuition in [<sup>F10</sup> singing or in] playing a musical instrument, the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.
- (7) Where charging is permitted under section 455 and the charge would be a regulated charge, the question whether any charge should be made, and the amount of any charge to be made, shall be determined—
- (a) in a case where the cost of the provision of the optional extra or board and lodging in question is met by or from funds at the disposal of the governing body, by the governing body, and
  - (b) in any other case, by the local education authority.
- (8) The whole or any part of the amount of any charge which the local education authority determine under subsection (7)(b) to make—
- (a) shall, if the governing body so determine, be met by or from funds at the disposal of the governing body, and
  - (b) to the extent that it is so met, shall not be payable by the parent of the pupil concerned.

#### Textual Amendments

- F8** Words in s. 456(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 121, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F9** Words in s. 456(3) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 22(3), 28(2)**; S.I. 2009/371, art. 2(2), Sch. Pt. 2
- F10** Words in s. 456(6) inserted (25.5.2007 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 56(2), 188(3)**; S.I. 2007/935, art. 6(b)

#### Modifications etc. (not altering text)

- C2** S. 456 applied (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 6(3), 28(2)**; S.I. 2009/371, art. 2(1), Sch. Pt. 1

### 457 Charges and remissions policies.

- (1) Every governing body of a maintained school and every local education authority shall determine and keep under review a policy with respect to—
- (a) the provision of, and
  - (b) the classes or descriptions of case in which they propose to make charges for,

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any optional extra or board and lodging in respect of which charges are permitted by section 455.

<sup>F11</sup> . . .

- (2) No such body or authority shall make such a charge unless they have both—
- (a) determined a policy under subsection (1)(b) (their “charging policy”), and
  - (b) determined a policy (their “remissions policy”) setting out any circumstances in which they propose to remit (in whole or in part) any charge which would otherwise be payable to them in accordance with their charging policy.
- (3) A remissions policy determined by the governing body of a school <sup>F12</sup> . . . shall set out any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local education authority, in accordance with the authority’s charging policy, for an optional extra or board and lodging provided for a registered pupil at the school.
- (4) A remissions policy shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which, by virtue of section 451, no charge may be made, and
  - <sup>F13</sup>(b) the pupil’s parent is—
    - (i) in receipt of income support,
    - (ii) in receipt of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995), or
    - <sup>F14</sup>(ia) in receipt of an income-related employment and support allowance,]
    - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed,
 in respect of any period wholly or partly comprised in the time spent on the trip.]
- (5) A remissions policy shall be kept under review by the governing body or local education authority by whom it was determined.

#### Textual Amendments

- F11** Words in s. 457(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 122(a), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F12** Words in s. 457(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 122(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F13** S. 457(4)(b) substituted (31.3.2003 for W., 6.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 200**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/124, art. 5
- F14** S. 457(4)(b)(ia) inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 16(2)**; S.I. 2008/787, art. 2(4)(f)

#### 458 Charges for board and lodging at boarding schools.

- (1) Subject to subsections (2) to (5), where a registered pupil at a maintained school is provided at the school with board and lodging, there shall be payable in respect of the board and lodging by the parent of the <sup>F15</sup> pupil concerned, to the local education

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authority, charges] not exceeding the cost to the authority<sup>F16</sup> . . . of providing the board and lodging.

(2) Where—

<sup>F17</sup>(a) . . . . .

(b) the local education authority [<sup>F18</sup>for that pupil’s area] are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him,

then, where the school is maintained by the local education authority for his area, that authority shall remit the whole of the charges payable under this section and, in any other case, that authority shall pay the whole of the charges payable under this section to the authority which maintain the school.

<sup>F19</sup>(3) . . . . .

(4) Where the local education authority for the pupil’s area are satisfied that payment of the full charges payable under this section would involve financial hardship to the parent of the pupil concerned, the authority—

(a) in the case of charges payable to the authority, shall remit so much of those charges as falls in accordance with subsection (5) to be so remitted, and

(b) in the case of charges payable to another local education authority<sup>F20</sup> . . . in respect of board and lodging, shall pay so much of those charges as falls in accordance with subsection (5) to be so paid.

(5) The amount that falls to be remitted or paid by a local education authority by virtue of subsection (4)(a) or (b) is—

(a) such part of the charges in question as the authority consider ought not to be paid by the pupil’s parent in order to avoid such hardship as is mentioned in subsection (4), or

(b) the whole of those charges if, in their opinion, such hardship cannot otherwise be avoided.

#### Textual Amendments

**F15** Words in s. 458(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 123(a)(i)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F16** Words in s. 458(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(a)(ii), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

**F17** S. 458(2)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(b)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F18** Words in s. 458(2)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 123(b)(ii)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F19** S. 458(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F20** Words in s. 458(4)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 123(d), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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