



# Education Act 1996

## 1996 CHAPTER 56

### PART VII

#### INDEPENDENT SCHOOLS

#### CHAPTER II

##### REGISTRATION OF INDEPENDENT SCHOOLS

##### *Complaints about registered and provisionally registered schools*

#### **469 Notice of complaint by Secretary of State.**

- (1) This section applies where the Secretary of State is satisfied that one or more of the following grounds of complaint apply in relation to a registered or provisionally registered school—
- (a) the school premises or any parts of them are unsuitable for a school;
  - (b) the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school;
  - (c) efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending it;
  - [<sup>F1</sup>(d) the proprietor of the school or any teacher or other employee employed in the school—
    - (i) is unsuitable to work with children; or
    - (ii) is for any other reason not a proper person to be the proprietor of an independent school or (as the case may be) to be a teacher or other employee in any school;]
  - (e) there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by section 87 of the <sup>M1</sup>Children Act 1989 (welfare of children accommodated in independent schools).

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- (2) The Secretary of State shall serve on the proprietor of the school a notice of complaint stating the grounds of complaint which apply together with full particulars of the matters complained of.
- (3) Unless any of those matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall specify—
  - (a) the measures necessary in the opinion of the Secretary of State to remedy those matters, and
  - (b) the time, not being less than six months after the service of the notice, within which those measures are required to be taken.
- (4) If it is alleged by the notice that a person employed as a teacher or other employee at the school is [<sup>F2</sup>unsuitable to work with children or is for any other reason] not a proper person to be a teacher or other employee in any school—
  - (a) that person shall be named in the notice,
  - (b) the particulars given in the notice shall specify the grounds of the allegation, and
  - (c) a copy of the notice shall be served on him.
- (5) Any notice of complaint, or copy of a notice of complaint, served under this section shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under section 470.
- (6) In this section and sections 470 to 473 “employee” means a person employed in work which brings him regularly into contact with persons who have not attained the age of 19.

#### Textual Amendments

- F1** S. 469(1)(d) substituted (2.10.2000) by 2000 c. 14, s. 100(1); S.I. 2000/2544, art. 2(2)(d)
- F2** Words in s. 469(4) inserted (1. 4.2002) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 24(3); S. I. 2002/920, {art. 2, 3(3)(d)} (subject to savings and transitional provisions in Schs. 1-3)

#### Marginal Citations

- M1** 1989 c. 41.

### 470 Determination of complaint by an Independent Schools Tribunal.

- (1) Any person on whom a notice of complaint or copy of a notice of complaint is served under section 469 may, within the time limited by the notice or copy, appeal against the notice by referring the complaint to an Independent Schools Tribunal.
- (2) On the complaint being so referred, the tribunal, after giving all parties concerned an opportunity of being heard and after considering such evidence as may be tendered by them or on their behalf, may—
  - (a) order that the complaint be annulled;
  - (b) order that the school to which the complaint relates be struck off the register;
  - (c) order that the school be so struck off unless the requirements of the notice (subject to such modifications, if any, as may be specified in the order) are

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complied with to the satisfaction of the Secretary of State before the expiry of such time as may be specified in the order;

- (d) if satisfied—
  - (i) that any premises alleged by the notice to be unsuitable for use as a school are in fact unsuitable for such use, or
  - (ii) that any part of such premises is in fact unsuitable for such use, by order disqualify the premises, or that part, from being so used;
- (e) if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order;
- [<sup>F3</sup>(f) if satisfied that any person alleged by the notice of complaint to be a person who—
  - (i) is unsuitable to work with children; or
  - (ii) is for any other reason not a proper person to be the proprietor of an independent school or to be a teacher or other employee in any school, is in fact such a person, by order disqualify that person from being the proprietor of any independent school or (as the case may be) from being a teacher or other employee in any school.]

#### Textual Amendments

**F3** S. 470(2)(f) substituted (2.10.2000) by 2000 c. 14, s. 100(2); S.I. 2000/2544, art. 2(2)(d)

### 471 Determination of complaint by Secretary of State.

- (1) Where—
  - (a) a notice of complaint has been served on the proprietor of a school under section 469, and
  - (b) the complaint is not referred by him to an Independent Schools Tribunal under section 470 within the time limited by the notice,

the Secretary of State may (subject to subsection (2)) make any order which such a tribunal would have had power to make if the complaint had been so referred.

- (2) If—
  - (a) it is alleged by the notice that a person employed as a teacher or other employee at the school is [<sup>F4</sup>unsuitable to work with children or is for any other reason] not a proper person to be a teacher or other employee in any school, and
  - (b) that person has, within the time limited by the copy of the notice served on him, referred the complaint to an Independent Schools Tribunal under section 470,

the Secretary of State may not make an order disqualifying him from being a teacher or other employee in any school.

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#### Textual Amendments

- F4** Words in s. 471(2)(a) inserted (1.4.2002) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 24(4)**; S. I. 2002/920, {arts. 2, 3(3)(d)} (subject to savings and transitional provisions in Schs. 1-3)

#### **472 Effect of personal disqualification.**

Where, by virtue of an order made—

- (a) by an Independent Schools Tribunal under section 470, or
- (b) by the Secretary of State under section 471,

a person is disqualified either from being the proprietor of an independent school or from being a teacher or other employee in any school, then (unless the order otherwise directs) he shall by virtue of the order be disqualified both from being the proprietor of an independent school and from being a teacher or other employee in any school.

#### **473 Enforcement of disqualification.**

- (1) A person is guilty of an offence if he uses any premises for purposes for which they are disqualified by virtue of an order made under section 470 or 471.
- (2) A person is guilty of an offence if he—
  - (a) acts as the proprietor of an independent school, or
  - (b) accepts or endeavours to obtain employment as a teacher or other employee in any school,

while he is disqualified from so acting or from being so employed by virtue of an order made under section 470 or 471.

#### **[<sup>F5</sup>473A Removal of disqualification: persons no longer unsuitable to work with children.**

- (1) Subject to section 473B, a person to whom this section applies may make an application under this section to the Tribunal.
- (2) This section applies to any person who is disqualified, by an order made under section 470 or 471 on the grounds that he is unsuitable to work with children—
  - (a) from being the proprietor of any independent school; or
  - (b) from being a teacher or other employee in any school.
- (3) On an application under this section the Tribunal shall determine whether or not the individual shall continue to be subject to the order.
- (4) If the Tribunal is satisfied that the individual is no longer unsuitable to work with children, it shall direct that the order shall cease to have effect; otherwise it shall dismiss the application.
- (5) In this section and section 473B, “the Tribunal” means the tribunal established by section 9 of the <sup>M2</sup>Protection of Children Act 1999.]

#### Textual Amendments

- F5** Ss. 473A, 473B inserted (11.1.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 129**; S.I. 2000/3302, **art. 2(b)**

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#### Marginal Citations

M2 1999 c. 14.

#### <sup>F6</sup>473B Conditions for application under section 473A.

- (1) A person may only make an application under section 473A with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the person's case.
- (3) In the case of a person who was a child when the order was made, the appropriate conditions are satisfied if—
  - (a) at least five years have elapsed since the order was made; and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other person, the appropriate conditions are satisfied if—
  - (a) at least ten years have elapsed since the order was made; and
  - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal shall not grant an application under this section unless it considers—
  - (a) that the person's circumstances have changed since the order was made, or, as the case may be, since he last made an application under this section; and
  - (b) that the change is such that leave should be granted.

#### Textual Amendments

F6 Ss. 473A, 473B inserted (11.1.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 129; S.I. 2000/3302. art. 2(b)

#### 474 [<sup>F7</sup>Removal of disqualification: other cases].

- (1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under section 470 or 471 is, by reason of any change of circumstances, no longer necessary, he may by order remove the disqualification .

[<sup>F8</sup>But this subsection does not apply in relation to the disqualification of a person to whom section 473A applies.]

- (2) Any person who is aggrieved by the refusal of the Secretary of State to remove any such disqualification may appeal to an Independent Schools Tribunal within such time after the refusal has been communicated to him as may be limited by rules made under section 476.

#### Textual Amendments

F7 S. 474: sidenote substituted (11.1.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 130(b); S.I. 2000/3302, art. 2(b)

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**F8** Words inserted (11.1.2001) at the end of s. 474(1) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 130(a)**; S.I. 2000/3302, **art. 2(b)**

**475 Duty of Registrar to comply with order for the deletion of a school from the register.**

Where an order directing that a school be struck off the register is made—

- (a) by the Secretary of State under section 468 or 471, or
- (b) by an Independent Schools Tribunal under section 470,

the Registrar of Independent Schools shall strike the school off the register as from the date on which the direction takes effect.

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