



Education Act 2005

2005 CHAPTER 18

PART 4

MISCELLANEOUS

Attendance at alternative educational provision

116 Failure of parent to secure regular attendance of child at alternative provision

After section 444 of the Education Act 1996 insert—

“444ZA Application of section 444 to alternative educational provision

(1) Where, in the case of a child of compulsory school age who is not a registered pupil at any school—

- (a) a [^{F1}local authority] has made arrangements under section 19 for the provision of education for him otherwise than at a school or at his home, and
- (b) notice in writing of the arrangements has been given to the child's parent,

subsections (1) to (7) of section 444 have effect as if the place at which the education is provided were a school and the child were a registered pupil at that school.

(2) Where—

- (a) a child of compulsory school age has been excluded from a relevant school,
- (b) he remains for the time being a registered pupil at the school,
- (c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training, and
- (d) notice in writing of the requirement has been given to the child's parent,

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Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Section 116. (See end of Document for details)

subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).

- (3) In relation to a maintained school or a pupil referral unit—
- (a) the reference in subsection (2)(a) to exclusion is a reference to exclusion under section 52 of the Education Act 2002, and
 - (b) the requirement referred to in subsection (2)(c) is a requirement imposed under section 29(3) of that Act.
- (4) A child shall not be taken to have failed to attend regularly—
- (a) in a case falling within subsection (1), at the place at which education is provided for him, or
 - (b) in a case falling within subsection (2), at the place at which he is required to attend,
- unless he has failed to attend regularly since the giving of the notice mentioned in subsection (1)(b) or (2)(d).
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude the notice mentioned in subsection (1)(b) or (2)(d) from being given to a child's parent by any other effective method.
- (6) In proceedings for an offence under section 444 in a case falling within subsection (1) of this section, the parent shall be acquitted if he proves that the child is receiving suitable education otherwise than by regular attendance at a school or at the place mentioned in subsection (1).
- (7) In section 444 “leave”—
- (a) in relation to a place at which education is provided as mentioned in subsection (1) of this section, means leave granted by any person authorised to do so by the [^{F1}local authority];
 - (b) in relation to a place at which a child is required to attend as mentioned in subsection (2)(c) of this section, means leave granted by any person authorised to do so by the appropriate authority for the school.
- (8) In this section—
- (a) “relevant school” means—
 - (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) “appropriate authority” means—
 - (i) in relation to a maintained school, the governing body,
 - (ii) in relation to a pupil referral unit, the [^{F1}local authority], and
 - (iii) in relation to a school falling within paragraph (a)(iii), (iv) or (v), the proprietor of the school.”

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Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 13(2)**
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Commencement Information

- I1** S. 116 wholly in force at 1.9.2006; s. 116 not in force at Royal Assent see s. 125; s. 116 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), **art. 4**; S. 116 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), **art. 3**, Sch. 1

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