



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1 **E+W**

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

PROSPECTIVE

### CHAPTER 5 **E+W**

#### ATTENDANCE NOTICES

##### *Initial steps*

#### **45 Failure to fulfil duty under section 2: initial steps **E+W****

- (1) This section applies where it appears to a <sup>[F1]</sup>local authority that a person to whom this Part applies and who belongs to the authority's area is failing to fulfil the duty imposed by section 2.
- (2) The authority may give a written notice to the person stating—
  - (a) that it appears to the authority that the person—
    - (i) is a person to whom this Part applies, and
    - (ii) is failing without reasonable excuse to fulfil that duty, and
  - (b) that if, after the date specified in the notice, the person appears to the authority to be failing, without reasonable excuse, to fulfil that duty, the authority may issue an attendance notice under section 46, and explaining the effect of an attendance notice.
- (3) The date specified under subsection (2)(b) must not be less than 15 days after the date on which the notice is given.

*Status: Point in time view as at 05/01/2015. This version of this chapter contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Education and Skills Act 2008, Chapter 5. (See end of Document for details)*

- (4) Subsections (5) and (6) apply where an authority proposes to give a notice to a person under subsection (2).
- (5) The authority—
- (a) must take all reasonable steps to secure that relevant support is offered to the person, and
  - (b) may not give the notice unless satisfied that the person has been afforded an opportunity to take advantage of the support offered.
- (6) The authority—
- (a) must give the person an opportunity to make representations, and
  - (b) may not give the notice—
    - (i) in a case within subsection (7), unless, having regard to any representations made, the person appears to the authority to have no reasonable excuse for the failure;
    - (ii) in any other case, if, having regard to any representations made, the person appears to the authority to have a reasonable excuse for the failure.
- (7) This subsection applies where—
- (a) arrangements have been made for the person to participate during the current relevant period in a course or courses constituting relevant training or education,
  - (b) the only failure by the person during that relevant period is that the relevant education and training to which the arrangements relate is not sufficient relevant education and training,
  - (c) the course has not, or the courses have not all, concluded, and
  - (d) further arrangements for relevant training or education after the conclusion of the course or courses could be made which would enable the person to participate in sufficient relevant training or education during the current relevant period.
- (8) In subsection (5), “relevant support” means support provided by means of services made available by the <sup>F1</sup>local authority] in exercise of its functions under section 68.

#### **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. 15(2)**

### *Attendance notices*

#### **46 Attendance notice** E+W

- (1) This section applies where—
- (a) a <sup>F1</sup>local authority] has given a notice to a person under section 45(2),
  - (b) this Part still applies to the person, and
  - (c) at any time after the date specified in the notice under section 45(2)(b), it appears to the <sup>F1</sup>local authority] that the person is, without reasonable excuse, failing to fulfil the duty imposed by section 2.

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- (2) The [F1local authority] may, before the end of the period of 6 months beginning with the day on which the notice under section 45(2) was given to the person, give the person a further notice in accordance with this section (an “attendance notice”) requiring the person to participate in education or training specified in the notice.
- (3) Subsections (6) and (7) of section 45 apply in relation to the giving of attendance notices as they apply in relation to the giving of notices under subsection (2) of that section.
- (4) The education or training specified under subsection (2) must satisfy section 47.
- (5) Where the education or training specified is education or training provided by means of a course, the attendance notice must specify—
  - (a) the school, college or other training or educational establishment at which the education or training is to be provided, and
  - (b) the name and description of the course.
- (6) Where the education or training specified is training provided in accordance with a contract of apprenticeship otherwise than by a course, the attendance notice must specify prescribed details of the contract of apprenticeship.
- (7) An attendance notice given to a person must specify—
  - (a) the place or places at which the person is required to attend,
  - (b) the time or times at which the person is required to attend,
  - (c) the person or persons to whom the person must present himself or herself,
 and may specify other prescribed requirements relating to the description of education or training specified in the notice.
- (8) An attendance notice must state—
  - (a) the period for which the notice has effect,
  - (b) the consequences of failing to comply with any requirement imposed by the notice, and
  - (c) such other matters as may be prescribed.
- (9) An attendance notice given by a [F1local authority] to a person has effect for the period beginning with the day on which it is given and ending with—
  - (a) the last day on which the person is a person to whom this Part applies, or
  - (b) if earlier, the day on which it is revoked.

#### 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. 15(2)**

#### 47 Attendance notice: description of education or training **E+W**

- (1) This section must be satisfied in relation to education or training specified in an attendance notice given to a person to whom this Part applies by a [F1local authority].
- (2) The education or training must be provided—
  - (a) at a school, college or other training or educational establishment by means of a course, or

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- (b) in accordance with a contract of apprenticeship.
- (3) The education or training must be such that, by participating in it, the young person would fulfil the duty imposed by section 2.
- (4) For that purpose, account may be taken of any contract of employment of the person or other arrangement under which the person works.
- (5) The education or training must—
- (a) be appropriate full-time education or training, or
  - (b) otherwise be suitable for the person, having regard—
    - (i) to the person's age, ability and aptitude, and
    - (ii) to any [<sup>F2</sup>special educational needs] which the person may have.
- <sup>F3</sup>(6) .....
- (7) Where the education or training is to be provided by means of a course, the [<sup>F1</sup>local authority]—
- (a) must have consulted the governing body or proprietor of the school, college or other training or educational establishment at which the education or training is to be provided, and
  - (b) must have made arrangements, or be satisfied that arrangements have been made, for the education or training to be provided there for the person.
- (8) Where the education or training is training provided in accordance with a contract of apprenticeship, the [<sup>F1</sup>local authority] must have consulted the employer in relation to the contract of apprenticeship.

#### 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. 15(2)**
- F2** Words in s. 47(5)(b)(ii) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 85(a)**; S.I. 2014/889, art. 7(a)
- F3** S. 47(6) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 85(b)**; S.I. 2014/889, art. 7(a)

#### *Attendance panel, appeals and variations etc*

#### **48 Attendance panel** E+W

- (1) A [<sup>F1</sup>local authority] in England must establish a panel (an “attendance panel”), constituted in accordance with regulations.
- (2) An attendance panel of a [<sup>F1</sup>local authority] in England has the following functions—
- (a) functions conferred on it by virtue of section 49 in relation to appeals against attendance notices;
  - (b) functions conferred on it by virtue of section 50(6)(b);
  - (c) functions conferred on it by section 52(5) and (6);
  - (d) functions conferred on it by virtue of section 54 in relation to appeals against fixed penalty notices.

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- (3) Regulations under subsection (1)—
  - (a) must require a [<sup>F1</sup>local authority] to secure that any person who chairs an attendance panel is not a member of the authority; and
  - (b) may make provision for the payment by the [<sup>F1</sup>local authority] of allowances to members of an appeal panel.
- (4) Regulations made by virtue of subsection (3)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (c. 70) [<sup>F4</sup>or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011] (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an attendance panel.

#### 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. 15(2)**
- F4** Words in s. 48(4) inserted (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), s. 178(3), **Sch. 3 para. 7**; S.I. 2012/1187, art. 2(1)(q)

## 49 Appeal arrangements **E+W**

- (1) A [<sup>F1</sup>local authority] in England must make arrangements for enabling a young person to whom an attendance notice is given by the authority to appeal against—
  - (a) the giving of the attendance notice;
  - (b) the description of education or training specified in the attendance notice;
  - (c) any variation of the notice—
    - (i) under subsection (2) of section 50;
    - (ii) by virtue of subsection (5) or (6)(b) of that section.
- (2) The arrangements must provide for any appeal under the arrangements to be to an attendance panel established under section 48.
- (3) Regulations may make provision about the making of appeals under arrangements under this section, including provision—
  - (a) as to the procedure on such appeals; and
  - (b) as to the powers of the attendance panel in relation to such appeals.

#### 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. 15(2)**

## 50 Variation and revocation of attendance notice **E+W**

- (1) Subsection (2) applies where a [<sup>F1</sup>local authority] has given an attendance notice under section 46 to a person to whom this Part applies.
- (2) If the attendance notice still has effect when—
  - (a) the education or training specified in the notice ends, or

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- (b) it becomes impracticable for the person to comply with the requirements specified in the notice because of a change of residence, the [F1local authority] may by notice to the person specify other education or training.
- (3) Subsections (4) to (7) and (8)(c) of section 46 apply in relation to specifying education or training under subsection (2) as they apply in relation to the giving of an attendance notice.
- (4) Where the [F1local authority] gives a notice under subsection (2), the attendance notice has effect as if it specified the education or training specified in the notice under that subsection.
- (5) Prescribed matters specified in an attendance notice given by a [F1local authority] may be varied by the authority by notice given to the person to whom the attendance notice was given.
- (6) Regulations may provide for other matters specified in an attendance notice given by a [F1local authority] to be varied—
- (a) with the consent of the person to whom the notice was given, or
  - (b) with the consent of an attendance panel established by the [F1local authority] under section 48.
- (7) Regulations under subsection (6)(b) may in particular make provision as to the procedure to be followed in relation to the giving of any consent under the regulations.
- (8) An attendance notice given by a [F1local authority] may be revoked by the authority by notice given to the person to whom the attendance notice was given.

#### 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. 15(2)**

#### *Failure to comply with attendance notice*

#### **51 Offence of failure to comply with attendance notice** **E+W**

- (1) It is an offence for a person to whom an attendance notice has been given to fail, without reasonable excuse, to comply with the requirements of the attendance notice.
- (2) It is a defence for a person charged with an offence under subsection (1) to show that he or she is, and since the giving of the attendance notice has been, fulfilling the duty imposed by section 2.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### **52 Restrictions on proceedings for offences under section 51** **E+W**

- (1) This section applies to proceedings for an alleged offence under section 51 relating to an attendance notice.

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- (2) The proceedings may not be instituted except by the [F1local authority] which gave the attendance notice.
- (3) The proceedings may not be instituted if the attendance notice has been—
  - (a) rescinded on an appeal by virtue of section 49, or
  - (b) revoked under section 50(8).
- (4) The proceedings may not be instituted unless—
  - (a) a penalty notice has been given under section 53 in respect of the alleged offence and has not been rescinded on an appeal by virtue of section 54,
  - (b) the penalty imposed by the notice has not been paid in accordance with the notice, and
  - (c) an attendance panel established by the [F1local authority] under section 48 has, on being consulted by the [F1local authority] about the question whether the proceedings should be instituted, recommended to the authority that the proceedings should be instituted.
- (5) Regulations—
  - (a) must make provision to secure that, before a recommendation under subsection (4)(c) is made by an attendance panel in a person's case, the person has an opportunity to make representations to the panel, and
  - (b) may make other provision as to the procedure to be followed in relation to the making of such recommendations.
- (6) The proceedings may not be instituted after this Part has ceased to apply to the person alleged to have committed the offence under section 51.
- (7) Subsection (6) does not affect proceedings for such an offence by a person which were instituted while this Part applied to the person.

#### 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. 15(2)**

### 53 Failure to comply with attendance notice: penalty notice **E+W**

- (1) Where a [F1local authority] which has given an attendance notice to a person under section 46 has reason to believe that the person has committed an offence under section 51 relating to the notice, the authority may give the person a penalty notice in respect of the offence.
- (2) A penalty notice is a notice offering a person the opportunity of discharging any liability to conviction in respect of the offence to which the notice relates by payment of a penalty in accordance with the notice.
- (3) Where a person is given a penalty notice—
  - (a) proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed; and
  - (b) the person cannot be convicted of the offence to which the notice relates if a penalty is paid in accordance with the notice.

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- (4) Regulations may make—
- (a) provision as to the form and content of penalty notices;
  - (b) provision as to the amount of any penalty and the time by which it is to be paid (but subject to subsection (6));
  - (c) provision as to the methods by which penalties may be paid;
  - (d) provision as to the records which are to be kept in relation to penalty notices;
  - (e) provision for or in connection with the withdrawal of a penalty notice, or its ceasing to have effect, in prescribed circumstances, including—
    - (i) provision about repayment of any amount paid by way of penalty under a penalty notice which is withdrawn or ceases to have effect; and
    - (ii) provision prohibiting the institution or continuation of proceedings for the offence to which such a notice relates;
  - (f) provision for a certificate—
    - (i) purporting to be signed by or on behalf of a prescribed person, and
    - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,
 to be received in evidence of the matters so stated;
  - (g) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice;
  - (h) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices;
  - (i) such other provision in relation to penalties under penalty notices or in relation to penalty notices as the Secretary of State thinks necessary or expedient.
- (5) Without prejudice to section 166(6), regulations under subsection (4)(b) may make provision for penalties of different amounts to be payable in different cases or circumstances (including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid).
- (6) The amount of any penalty payable by virtue of regulations under subsection (4)(b) must not exceed the amount for the time being specified as level 1 on the standard scale of fines for summary offences.

#### **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. 15(2)**

## **54 Penalty notices: appeal arrangements** E+W

- (1) A [<sup>F1</sup>local authority] in England must make arrangements for enabling a young person to whom a penalty notice is given by the authority under section 53 to appeal against the notice.
- (2) The arrangements must provide for any appeal under the arrangements to be to an attendance panel established under section 48.



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- (3) Regulations may make provision about the making of appeals under arrangements under this section, including provision—
- (a) as to the procedure on such appeals; and
  - (b) as to the powers of an attendance panel in relation to such appeals.

#### 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. 15(2)**

### 55 Non-participation fines: interpretation **E+W**

- (1) In this section and sections 56 to 59—
- “non-participation fine” means a fine imposed—
- (a) for an offence under section 51, or
  - (b) in respect of a failure to comply with any sentence imposed for such an offence;
- “the relevant sum”, in relation to a non-participation fine, means—
- (a) the non-participation fine,
  - (b) any surcharge ordered under <sup>[F5]</sup>section 42 of the Sentencing Code ] (surcharges) to be paid solely in relation to the offence, and
  - (c) any costs ordered by a court to be paid by the person on whom the fine was imposed in connection with the offence or proceedings relating to the offence or any sentence imposed (including proceedings on appeal);
- “relevant <sup>[F1]</sup>local authority”, in relation to a non-participation fine, means the <sup>[F1]</sup>local authority] which issued the penalty notice under section 53 in respect of the offence to which the fine relates.
- (2) References in those sections to a fine being imposed are, in the case of a fine varied or confirmed on appeal, references to its being varied or confirmed.

#### 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. 15(2)**
- F5** Words in s. 55(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 271** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### 56 Enforcement of non-participation fine etc: person reaching 18 **E+W**

- (1) This section applies where—
- (a) a non-participation fine has been imposed on a person aged under 18, and
  - (b) the relevant sum, or any part of it, remains unpaid when the person reaches the age of 18.
- (2) When the person reaches the age of 18, the relevant sum ceases to be enforceable as a sum adjudged to be paid by a conviction of a magistrates' court.
- (3) Accordingly, after the person has reached the age of 18—

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- (a) the normal enforcement provisions do not apply in relation to the relevant sum, and
  - (b) the normal enforcement powers are not exercisable in relation to the relevant sum,
- except so far as necessary to permit current enforcement processes to be concluded.
- (4) Any order or warrant made or issued in relation to the non-participation fine, other than—
- (a) an order under section 75 of the Magistrates' Courts Act 1980 (c. 43) (power to dispense with immediate payment),
  - (b) an order under section 85A of that Act (variation of instalments of sum adjudged to be paid by conviction), or
  - (c) a current enforcement process,
- ceases to have effect when the person reaches the age of 18.
- (5) A magistrates' court may, after the person has reached the age of 18, order that payment of so much of the relevant sum as remains unpaid may be enforced as if it were a sum due to the relevant [<sup>F1</sup>local authority] in pursuance of a judgment or order of [<sup>F6</sup>the county court].
- (6) An order under subsection (5) may not be made unless—
- (a) the person appears to the court to have sufficient means to pay the sum forthwith, and
  - (b) any current enforcement processes have been concluded.
- (7) For the purposes of this section, “current enforcement process” means an order or warrant mentioned in paragraph (a), (b) or (c) and any reference to its conclusion is to be read in accordance with that paragraph—
- (a) a warrant of control—
    - (i) issued under section 76 of the Magistrates' Courts Act 1980 (warrants of control etc) for the purpose of recovering the relevant sum (or any part of it), and
    - (ii) by virtue of which an enforcement agent has, before the person reaches the age of 18, taken control of any goods of the person under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (taking control of goods),

is concluded when property in all goods of the person has, in accordance with paragraph 6 of that Schedule, ceased to be bound by virtue of the warrant;
  - (b) an order in force when the person reaches the age of 18 under—
    - (i) section 81(1)(b) of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders), or
    - (ii) [<sup>F7</sup>section 380(1) of the Sentencing Code] (power to order parent or guardian to pay fine, costs, compensation or surcharge),

requiring that the relevant sum (or any part of it) be paid by a parent or guardian of the person is concluded when it is revoked;
  - (c) an order in force when the person reaches the age of 18 under section 39 of the Criminal Justice and Immigration Act 2008 (c. 4) (youth default orders) in respect of the relevant sum (or any part of it) is concluded when it is revoked.
- (8) Subsection (2) does not affect the exercise of any power, or any order made, in respect of the offence before the person reached the age of 18.

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- (9) The Lord Chancellor may by order amend subsection (4) or (7) by—
- (a) adding to it provision about any warrant or order that may be issued or made, or step that may be taken, in relation to a non-participation fine before the person on whom it is imposed reaches the age of 18, or
  - (b) removing any such provision for the time being made by that subsection.

#### 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. 15(2)**
- F6** Words in s. 56(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F7** Words in s. 56(7)(b)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 272** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### 57 Enforcement of non-participation fine etc: fine imposed on person aged 18 or over **E+W**

- (1) This section applies where a non-participation fine is imposed on a person who has reached the age of 18.
- (2) Payment of the relevant sum may be enforced as if it were a sum due to the relevant [<sup>F1</sup>local authority] in pursuance of a judgment or order of [<sup>F8</sup>the county court].
- (3) The relevant sum is not enforceable as a sum adjudged to be paid by a conviction of a magistrates' court.
- (4) Accordingly—
  - (a) the normal enforcement provisions do not apply in relation to the relevant sum, and
  - (b) the normal enforcement powers are not exercisable in relation to the relevant sum.
- (5) But subsections (3) and (4) do not prevent a magistrates' court, on imposing the fine, from—
  - (a) making an order under section 75 of the Magistrates' Courts Act 1980 (c. 43) (power to dispense with immediate payment), or
  - (b) making an order under section 80 of that Act (application of money found on defaulter to satisfy sum adjudged) for the person to be searched before leaving the precincts of the court-house; and subsections (2) and (3) of that section apply in relation to a search in pursuance of any such order.

#### 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. 15(2)**
- F8** Words in s. 57(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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## 58 Enforcement of non-participation fine: further provisions E+W

- (1) In sections 56 and 57, “the normal enforcement provisions” means—
- (a) Part 3 of the Magistrates' Courts Act 1980 (satisfaction and enforcement);
  - (b) sections 135 and 136 of that Act (committal and detention for short period);
  - (c) section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (detention of persons aged at least 18 but under 21 for default or contempt);
  - (d) Schedules 5 and 6 to the Courts Act 2003 (c. 39) (collection of fines etc and discharge of fines by unpaid work); and
  - (e) section 300 of the Criminal Justice Act 2003 (c. 44) (power to impose unpaid work requirement or curfew requirement on fine defaulter).
- (2) In sections 56 and 57, “the normal enforcement powers”, in relation to any sum, means—
- (a) any power of a magistrates' court or an officer of such a court—
    - (i) to enforce payment of the sum; or
    - (ii) which is exercisable in consequence of a default in payment of the sum or any part of it;
  - (b) in the case of a fine imposed, varied or confirmed by a decision of any other court on an appeal, any power of that other court to enforce the decision.
- (3) The Lord Chancellor may by order amend subsection (1) or (2) by—
- (a) adding a reference to any statutory provision which relates to enforcement of fines, costs or surcharges, or to any power to enforce payment of such sums, or
  - (b) removing a reference to any provision or power for the time being listed in that section.
- (4) Where—
- (a) a sum is payable at a time or times specified by—
    - (i) an order under section 75 of the Magistrates' Courts Act 1980 (c. 43) (power to dispense with immediate payment), or
    - (ii) orders under that section and section 85A of that Act (variation of instalments of sum adjudged to be paid by conviction), and
  - (b) the sum would (but for this subsection) be treated by virtue of section 56 or 57 as due to a <sup>[F1]</sup>local authority] in pursuance of a judgment or order of <sup>[F9]</sup>the county court],

the sum is to be treated as so payable to that authority at the time or times referred to in paragraph (a) by virtue of an order of the county court under section 71(1) of the County Courts Act 1984 (c. 28) (satisfaction of judgments and orders for payment of money).

### 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. 15(2)**
- F9** Words in s. 58(4)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

*Status:* Point in time view as at 05/01/2015. This version of this chapter contains provisions that are prospective.

*Changes to legislation:* There are currently no known outstanding effects for the Education and Skills Act 2008, Chapter 5. (See end of Document for details)

## 59 Application of sums recovered by virtue of section 56 or 57 **E+W**

- (1) The Lord Chancellor may by regulations make provision as to the application of amounts recovered by [<sup>F1</sup>local authorities] by virtue of sections 56 and 57.
- (2) Any such regulations must make provision for securing that any such amount recovered, so far as not—
  - (a) attributable to county court enforcement costs, or
  - (b) paid to a magistrates' court, or to an officer of such a court,is repaid to the person on whom the non-participation fine to which it relates was imposed (or other person who paid the amount).
- (3) Regulations under this section may make provision, in particular, as to—
  - (a) the extent to which amounts recovered by virtue of section 56 or 57 are attributable to county court enforcement costs;
  - (b) further payments, or repayments, to be made in consequence of any appeal, or of any remission or variation of a non-participation fine or any other amount required to be paid.
- (4) In this section, “county court enforcement costs” in relation to a non-participation fine means costs incurred by a [<sup>F1</sup>local authority] in connection with the recovery of the relevant sum in [<sup>F10</sup>the county court].

### 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. 15(2)**
- F10** Words in s. 59(4) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### Supplementary

## 60 Review of initial operation of Chapter **E+W**

- (1) The Secretary of State must appoint a person to conduct a review of the initial operation of this Chapter.
- (2) The person appointed must make a report to the Secretary of State on the review within a reasonable period after the school leaving date for 2016.
- (3) The Secretary of State must lay a copy of the report before Parliament.
- (4) The Secretary of State may pay to the person appointed such remuneration and expenses as the Secretary of State may determine.

**Status:**

Point in time view as at 05/01/2015. This version of this chapter contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Education and Skills Act 2008, Chapter 5.