

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Learners

Power to search for prohibited items

Section 244: Power of members of staff to search students for prohibited items: England

Section 85AC: Power to seize items found during search under section 85AA

792. Section 85AC sets out the powers members of staff will have to seize and dispose of any prohibited items.
793. *Subsections (1) and (2)* provide for the person carrying out the search to seize any prohibited items and any other items suspected to be evidence of an offence found during the search, and to use reasonable force when exercising this power. However, alcohol may not be seized from a student aged 18 or over under this power.
794. *Subsection (3)* provides that where a searcher finds alcohol they may retain or dispose of it, at their discretion.
795. *Subsection (4)* provides that controlled drugs must be delivered to the police as soon as possible but may be disposed of if the person who has seized them considers that there is a good reason to do so.
796. *Subsection (5)* provides that stolen items must be delivered to the police as soon as possible but may be returned to the rightful owner, retained or disposed of if in the view of the person who has seized them, there is good reason to do so.
797. *Subsection (6)* provides that in relation to subsections (4) and (5), the person who has seized the controlled drug or stolen article must have regard to any guidance issued by the Secretary of State, in determining whether there is good reason not to deliver it to the police.
798. *Subsection (7)* provides that where an item is found which has been added to the list of prohibited items by regulations made under section 85AA(3)(f) there is a further regulation making power to prescribe what must or may be done with it.
799. *Subsection (8)* requires any person seizing a knife, offensive weapon or evidence in relation to an offence to deliver the item to the police as soon as reasonably practicable.
800. *Subsection (9)* provides that if an item is seized because it is suspected to be evidence of an offence, it is subject to the provisions on what must or may be done with it in subsections (3), (4), (5) and regulations made under subsection (7).

These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009

801. *Subsection (10)* provides that the powers and duties relating to what must be done with any alcohol, controlled drugs, stolen articles and weapons seized also apply to items reasonably suspected to be alcohol, controlled drugs, stolen articles and weapons.