



Education Act 1944 (repealed 1.11.1996)

1944 CHAPTER 31 7 and 8 Geo 6

PART II

THE STATUTORY SYSTEM OF EDUCATION

PRIMARY AND SECONDARY EDUCATION

Compulsory Attendance at Primary and Secondary Schools

40 Enforcement of school attendance.

- (1) Subject to the provisions of this section, any person guilty of an offence against section thirty-seven or section thirty-nine of this Act shall be liable on summary conviction, in the case of a first offence against that section to a fine not exceeding [^{F1}£200], in the case of a second offence against that section to a fine not exceeding [^{F1}£200], and in the case of a third or subsequent offence against that section to a fine not exceeding [^{F1}£200] . . .
- [^{F2}(2) Proceedings for such offences shall not be instituted except by a local education authority.
- (2A) Before instituting such proceedings the local education authority shall consider whether it would be appropriate, instead of or as well as instituting the proceedings, to apply for an education supervision order with respect to the child.]
- [^{F3}(3) The court—
- (a) by which a person is convicted of an offence against section 37 of this Act; or
 - (b) before which a person is charged with an offence under section 39 of this Act,
- may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child's welfare will be satisfactorily safeguarded even though no education supervision order is made.

Status: Point in time view as at 14/10/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996), Section 40. (See end of Document for details)

(3A) Where, following such a direction, a local education authority decide not to apply for an education supervision order they shall inform the court of the reasons for their decision.

(3B) Unless the court has directed otherwise, the information required under subsection (3A) shall be given to the court before the end of the period of eight weeks beginning with the date on which the direction was given.

(4) Where—

- (a) a local education authority apply for an education supervision order with respect to a child who is the subject of a school attendance order; and
- (b) the court decides that section 36(3) of the Children Act 1989 prevents it from making the order;

the court may direct that the school attendance order shall cease to be in force.]

[^{F4}(5) In this section— “appropriate local authority” has the same meaning as in section 36(9) of the Children Act 1989; and “education supervision order” means an education supervision order under that Act.]

Textual Amendments

- F1** Words substituted by [Criminal Law Act 1977 \(c. 45\)](#), s. 31(1), [Sch. 6](#)
- F2** [S. 40\(2\)\(2A\)](#) substituted (14.10.1991) for s. 40(2) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5)(6), [Sch. 13 para. 8\(2\)](#), [Sch. 14 para. 1\(1\)](#); S.I. 1991/828, [art. 3\(2\)](#)
- F3** [S. 40\(3\)\(3A\)\(3B\)\(4\)](#) substituted (14.10.1991) for s. 40(3)(4) by [Children Act 1989 \(c.41, SIF 20\)](#), s. 108(5)(6), [Sch. 13 para. 8\(3\)](#), [Sch. 14 para. 1\(1\)](#); S.I. 1991/828, [art. 3\(2\)](#)
- F4** [S. 40\(5\)](#) inserted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5)(6), [Sch. 13 para. 8\(4\)](#), [Sch. 14 para. 1\(1\)](#); S.I. 1991/828, [art. 3\(2\)](#)

Modifications etc. (not altering text)

- C1** [S. 40\(3\)\(4\)](#) amended (14.10.1991) by S.I. 1991/1395, [rule 31\(1\)](#)

Status:

Point in time view as at 14/10/1991. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Education Act 1944 (repealed 1.11.1996), Section 40.