

Status: Point in time view as at 01/09/1998.

Changes to legislation: Education Act 1996, Chapter II is up to date with all changes known to be in force on or before 14 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Education Act 1996

1996 CHAPTER 56

PART X

MISCELLANEOUS AND GENERAL

CHAPTER II

[^{F1} PUNISHMENT AND RESTRAINT OF PUPILS]

Textual Amendments

- F1** Pt. X Ch. II: Chapter heading and cross-heading substituted for Chapter heading (1.9.1998) by virtue of 1997 c. 44, s. 57(1), [Sch. 7 para. 38](#); S.I. 1998/386, art. 2(4), [Sch. 1 Pt. IV](#)

[^{F2} Corporal punishment]

Textual Amendments

- F2** Pt. X Ch. II: Chapter heading and cross-heading substituted for Chapter heading (1.9.1998) by virtue of 1997 c. 44, s. 57(1), [Sch. 7 para. 38](#); S.I. 1998/386, art. 2(4), [Sch. 1 Pt. IV](#)

548 No right to give corporal punishment.

- (1) Where, in any proceedings, it is shown that corporal punishment has been given to any pupil to whom this subsection applies by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.
- (2) Where, in any proceedings, it is shown that corporal punishment has been given to any pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if it was inhuman or degrading.

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- (3) Subsection (1) applies to—
- (a) any pupil for whom education is provided—
 - (i) at a school maintained by a local education authority,
 - (ii) at a special school not so maintained, or
 - (iii) at a grant-maintained school;
 - (b) any pupil for whom education is provided at an independent school—
 - (i) which is maintained or assisted by a Minister of the Crown (including a school of which a government department is a proprietor) or is assisted by a local education authority, and
 - (ii) which falls within a prescribed class;
 - (c) any pupil for whom education is provided by a local education authority otherwise than at a school; and
 - (d) any pupil who is an assisted person for the purposes of this paragraph and for whom education is provided at an independent school not falling within paragraph (b) above.
- (4) A pupil is an assisted person for the purposes of subsection (3)(d) if—
- (a) he holds an assisted place under the scheme operated by the Secretary of State [^{F3}provided under section 2(1) of the Education (Schools) Act 1997];
 - (b) any of the fees or expenses payable in respect of his attendance at school are paid by—
 - (i) the Secretary of State under section 491, or
 - (ii) a local education authority under section 517, or
 - (iii) the funding authority or a local education authority under paragraph 9 or 10 of Schedule 4;
 - (c) any of the fees payable in respect of his attendance at school are paid by a local education authority under section 518; or
 - (d) he falls within a prescribed category of persons.
- (5) The Secretary of State may prescribe, for the purposes of subsection (4)(d), one or more categories of persons who appear to him to be persons in respect of whom any fees are paid out of public funds.
- (6) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it is done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.

Textual Amendments

F3 Words in s. 548(4)(a) substituted (1.9.1997) by 1997 c. 59, ss. 6(1), 7(3) (with s. 1(3))

549 Interpretation of section 548.

- (1) Subject to subsection (2), references in section 548 to giving corporal punishment are to doing anything for the purpose of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute battery.

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- (2) A person is not to be taken for the purposes of section 548 as giving corporal punishment by virtue of anything done for reasons that include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).
- (3) In determining for the purposes of section 548(2) whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.
- (4) In section 548 “member of the staff” means—
 - (a) in relation to a person who is a pupil by reason of the provision of education for him at a school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there; and
 - (b) in relation to a person who is a pupil by reason of the provision of education for him by a local education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
- (5) In section 548 and this section “pupil” does not include any person who has attained the age of 18.

550 No avoidance of section 548 by refusing admission to school etc.

A person shall not be debarred from receiving education (whether by refusing him admission to a school, suspending his attendance or otherwise) by reason of the fact that any provision of section 548 applies in relation to him or, if he were admitted, might so apply.

[^{F4} Power to restrain pupils]

Textual Amendments

F4 S. 550A and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 4 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

[^{F5}550A Power of members of staff to restrain pupils.

- (1) A member of the staff of a school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely—
 - (a) committing any offence,
 - (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
 - (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.
- (2) Subsection (1) applies where a member of the staff of a school is—

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- (a) on the premises of the school, or
- (b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the pupil concerned;

but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548.

- (3) Subsection (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this section.

- (4) In this section—

“member of the staff”, in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school;

“offence” includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.]

Textual Amendments

F5 S. 550A and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 4 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

[^{F6} Detention]

Textual Amendments

F6 S. 550B and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 5 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

[^{F7} 550B Detention outside school hours lawful despite absence of parental consent.

- (1) Where a pupil to whom this section applies is required on disciplinary grounds to spend a period of time in detention at his school after the end of any school session, his detention shall not be rendered unlawful by virtue of the absence of his parent’s consent to it if the conditions set out in subsection (3) are satisfied.
- (2) This section applies to any pupil who has not attained the age of 18 and is attending—
- (a) a school maintained by a local education authority;
 - (b) a grant-maintained or grant-maintained special school; or
 - (c) a city technology college or city college for the technology of the arts.
- (3) The conditions referred to in subsection (1) are as follows—
- (a) the head teacher of the school must have previously determined, and have—
 - (i) made generally known within the school, and
 - (ii) taken steps to bring to the attention of the parent of every person who is for the time being a registered pupil there,
 that the detention of pupils after the end of a school session is one of the measures that may be taken with a view to regulating the conduct of pupils;

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- (b) the detention must be imposed by the head teacher or by another teacher at the school specifically or generally authorised by him for the purpose;
 - (c) the detention must be reasonable in all the circumstances; and
 - (d) the pupil's parent must have been given at least 24 hours' notice in writing that the detention was due to take place.
- (4) In determining for the purposes of subsection (3)(c) whether a pupil's detention is reasonable, the following matters in particular shall be taken into account—
- (a) whether the detention constitutes a proportionate punishment in the circumstances of the case; and
 - (b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—
 - (i) the pupil's age,
 - (ii) any special educational needs he may have,
 - (iii) any religious requirements affecting him, and
 - (iv) where arrangements have to be made for him to travel from the school to his home, whether suitable alternative arrangements can reasonably be made by his parent.
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude a notice from being given to a pupil's parent under this section by any other effective method.]

Textual Amendments

F7 S. 550B and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 5 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

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