



Anti-social Behaviour Act 2003

2003 CHAPTER 38

PART 3

PARENTAL RESPONSIBILITIES

Tuancy and exclusion from school

23 Penalty notices for parents in cases of truancy

- (1) After section 444 of the Education Act 1996 (c. 56) (failure to secure regular attendance at school of registered pupil) insert—

“444A Penalty notice in respect of failure to secure regular attendance at school of registered pupil

- (1) Where an authorised officer has reason to believe—
- (a) that a person has committed an offence under section 444(1), and
 - (b) that the school to which the offence relates is a relevant school in England,
- he 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 for the offence under section 444(1) to which the notice relates by payment of a penalty in accordance with the notice.
- (3) Where a person is given a penalty notice, proceedings for the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) may not be instituted before the end of such period as may be prescribed.
- (4) Where a person is given a penalty notice, he cannot be convicted of the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) if he pays a penalty in accordance with the notice.

Status: This is the original version (as it was originally enacted).

- (5) Penalties under this section shall be payable to local education authorities in England.
- (6) Sums received by a local education authority under this section may be used by the authority for the purposes of any of its functions which may be specified in regulations.

444B Penalty notices: supplemental

- (1) Regulations may make—
 - (a) provision as to the form and content of penalty notices,
 - (b) provision as to the monetary amount of any penalty and the time by which it is to be paid,
 - (c) provision for determining the local education authority to which a penalty is payable,
 - (d) provision as to the methods by which penalties may be paid,
 - (e) provision as to the records which are to be kept in relation to penalty notices,
 - (f) provision as to the persons who may be authorised by a local education authority or a head teacher to give penalty notices,
 - (g) provision limiting the circumstances in which authorised officers of a prescribed description may give penalty notices,
 - (h) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
 - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
 - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates (and any offence under section 444(1A) arising out of the same circumstances),
 - (i) 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,
 - (j) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice,
 - (k) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices,
 - (l) such other provision in relation to penalties or penalty notices as the Secretary of State thinks necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) or section 569(4), regulations under subsection (1)(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).

- (3) Local education authorities, head teachers and authorised officers shall, in carrying out their functions in relation to penalty notices, have regard to any guidance which is published by the Secretary of State from time to time in relation to penalty notices.
- (4) In this section and section 444A—
- “authorised officer” means—
 - (a) a constable,
 - (b) an officer of a local education authority in England who is authorised by the authority to give penalty notices, or
 - (c) an authorised staff member,
 - “authorised staff member” means—
 - (a) a head teacher of a relevant school in England, or
 - (b) a member of the staff of a relevant school in England who is authorised by the head teacher of the school to give penalty notices,
 - “penalty” means a penalty under a penalty notice,
 - “penalty notice” has the meaning given by section 444A(2),
 - “relevant school” means—
 - (a) a maintained school,
 - (b) a pupil referral unit,
 - (c) an Academy,
 - (d) a city technology college, or
 - (e) a city college for the technology of the arts.”
- (2) In section 572 of that Act (service of notices and other documents) for “served on any person may be served” substitute “served on, or given to, any person may be served or given”.
- (3) In paragraph 1(2) of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers of community support officers to issue fixed penalty notices) after paragraph (a) insert—
- “(aa) the power of a constable to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil);”.
- (4) After paragraph 1(3) of that Schedule insert—
- “(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in sub-paragraph (2)(aa), sub-paragraph (1) shall have effect as if for the words from “who he has reason to believe” to the end there were substituted “in the relevant police area who he has reason to believe has committed a relevant fixed penalty offence”.”
- (5) In paragraph 2 of that Schedule (power to detain etc) after sub-paragraph (6) insert—
- “(7) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in paragraph 1(2)(aa), sub-paragraph (2) of this paragraph shall have effect as if for the words “has committed a relevant offence in the relevant police area” there were substituted “in the relevant police area has committed a relevant offence”.”

Status: This is the original version (as it was originally enacted).

- (6) In paragraph 1(2) of Schedule 5 to that Act (powers of accredited persons to issue fixed penalty notices) before paragraph (b) insert—

“(ab) the power of a constable to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil);”.

- (7) After paragraph 1(3) of that Schedule insert—

“(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in sub-paragraph (2)(ab), sub-paragraph (1) shall have effect as if for the words from “who he has reason to believe” to the end there were substituted “in the relevant police area who he has reason to believe has committed or is committing a relevant fixed penalty offence”.”

- (8) In paragraph 2 of that Schedule (power to require giving of name and address) after sub-paragraph (3) insert—

“(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in paragraph 1(2)(ab), sub-paragraph (1) of this paragraph shall have effect as if for the words “has committed a relevant offence in the relevant police area” there were substituted “in the relevant police area has committed a relevant offence”.”

- (9) The National Assembly for Wales may by order amend sections 444A and 444B of the Education Act 1996 (c. 56) by removing the words “in England” in each place where they occur.

- (10) Where an order is made under subsection (9), any functions of the Secretary of State under sections 444A and 444B of the Education Act 1996 which by virtue of the order become exercisable in relation to Wales are to be treated as if they had been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).