

*Status: This version of this cross heading contains provisions that are prospective.*

**Changes to legislation:** Education and Skills Act 2008, Cross Heading: Initial steps is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

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

### CHAPTER 5

#### ATTENDANCE NOTICES

PROSPECTIVE

#### *Initial steps*

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

- (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.

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- (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)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)