



Education (Scotland) Act 1981

1981 CHAPTER 58

Miscellaneous

14 Remuneration of teaching staff

- (1) For sections 91 to 97 of the principal Act there shall be substituted the following sections—

“Pay and conditions of teaching staff employed in providing school education

91 Committee to consider pay and conditions of teaching staff employed in providing school education.

- (1) There shall be a committee (in this section and in sections 92 and 93 of this Act referred to as " the committee ") the functions of which shall be—
- (a) whenever so required by the Secretary of State, or (in the absence of such requirement) whenever it thinks fit, to consider; and
 - (b) whenever it thinks fit to formulate a settlement as to what shall be, the remuneration payable to, and the terms and conditions of employment of, teaching staff employed by education authorities in Scotland in, or in connection with, the provision of school education.
- (2) The Secretary of State may by order prescribe the maximum number of persons by whom, respectively, he, teaching staff and education authorities may be represented on the committee.
- (3) Any order made under subsection (2) above may be varied or revoked by a subsequent order made by the Secretary of State.
- (4) The committee shall itself determine the name by which it shall be known.

92 Composition of committee established under m 4 section 91.

- (1) Subject to any order made under section 91(2) of this Act, the Secretary of State may, for the purpose of setting up the committee, invite any body which appears to him to be representative of teaching staff or education authorities to nominate a person, or such number of persons as may be specified in the invitation, to membership of the committee ; and the initial members of the committee shall be such persons as are so nominated together with such person or persons as the Secretary of State may first nominate, under subsection (3) (b) below, to represent him.
- (2) At the request, or with the consent, of a member of the committee the body which nominated the member, or the Secretary of State where he nominated the member, may depute a person to attend a meeting of the committee, or of a sub-committee of the committee, in place of the member; and the person shall, for the purposes of that meeting—
 - (a) be deemed to be a member of the committee (or of the sub-committee as the case may be); and
 - (b) have the like powers and duties as the member in place of whom he has been deputed to attend.
- (3) Subject to the provisions of this section and to any order made under section 91(2) of this Act—
 - (a) the members of the committee for the time being representing—
 - (i) teaching staff may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of teaching staff;
 - (ii) education authorities may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of education authorities, to nominate a person to membership of the committee;
 - (b) the Secretary of State may from time to time nominate a person or persons to membership of the committee to represent him;
 - (c) a body which has by virtue of subsection (1) above, or paragraph (a) of this subsection, or under this paragraph of this subsection, nominated a person to membership of the committee may if and when, for any reason other than a determination under subsection (6) below, that person ceases to be a member of the committee nominate a person to membership of the committee in place of that former member;
and any person so nominated shall thereby be a member of the committee.
- (4) A nomination shall not be invited under subsection (3)(a) above unless and until such invitation is approved by the Secretary of State.
- (5) At any time, a nomination made—
 - (a) under paragraph (b) of subsection (3) above may be revoked by the Secretary of State;

- (b) by virtue of subsection (1), or paragraph (a) of subsection (3), above or under paragraph (c) of the said subsection (3) may be revoked by the body which made that nomination ;

and a person whose nomination is so revoked shall thereby cease to be a member of the committee.

- (6) Where a maximum prescribed under section 91(2) of this Act would otherwise be exceeded, the members inviting a nomination under subsection (3)(a) above may, if the Secretary of State and a majority of those members so agree, determine that one of them, whom they shall specify in the determination, shall on the making of the nomination cease to be a member of the committee.

93 Publication of settlements and awards in relation to teaching staff employed in providing school education.

- (1) As soon as practicable after—
 - (a) the committee has, in the exercise of its functions under section 91(1) of this Act, formulated a settlement; or
 - (b) the coming into effect of an award which, under section 97B(8) or (9) of this Act, is to have the same effect as a settlement formulated by the committee,

the committee shall—

- (i) publish ; and
- (ii) transmit to the Secretary of State and to each education authority in Scotland a published copy of,

the settlement or, as the case may be, award.

- (2) The committee shall, from time to time, publish a consolidated collection of all the settlements and awards which it has published under subsection (1) above, and which are currently in force ; and it shall transmit a copy of that collection to the Secretary of State and to each education authority in Scotland.

Pay and conditions of teaching staff employed in providing further education

94 Committee to consider pay and conditions of teaching staff employed in providing further education.

- (1) There shall be a committee (in this section and in sections 95 and 96 of this Act referred to as " the committee ") the functions of which shall be—
 - (a) whenever so required by the Secretary of State, or (in the absence of such requirement) whenever it thinks fit, to consider; and
 - (b) whenever it thinks fit, to formulate a settlement as to what shall be, the remuneration payable to, and the terms and conditions of employment of, teaching staff employed by—
 - (i) education authorities in Scotland ; and
 - (ii) governing bodies of colleges of education, or of central institutions, in Scotland,

in, or in connection with, the provision of further education.

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- (2) The Secretary of State may by order prescribe the maximum number of persons by whom, respectively, he, teaching staff, education authorities, governing bodies of colleges of education and governing bodies of central institutions may be represented on the committee.
- (3) Any order made under subsection (2) above may be varied or revoked by a subsequent order made by the Secretary of State.
- (4) The committee shall itself determine the name by which it shall be known.

95 Composition of committee established under section 94.

- (1) Subject to any order made under section 94(2) of this Act, the Secretary of State may, for the purpose of setting up the committee, invite any body which appears to him to be representative of teaching staff, education authorities, or governing bodies of colleges of education or of central institutions to nominate a person, or such number of persons as may be specified in the invitation, to membership of the committee ; and the initial members of the committee shall be such persons as are so nominated together with such person or persons as the Secretary of State may first nominate, under subsection (3)(b) below, to represent him.
- (2) At the request, or with the consent, of a member of the committee the body which nominated the member, or the Secretary of State where he nominated the member, may depute a person to attend a meeting of the committee, or of a subcommittee of the committee, in place of the member; and the person shall, for the purposes of that meeting—
 - (a) be deemed to be a member of the committee (or of the sub-committee as the case may be); and
 - (b) have the like powers and duties as the member in place of whom he has been deputed to attend.
- (3) Subject to the provisions of this section and to any order made under section 94(2) of this Act—
 - (a) the members of the committee for the time being representing—
 - (i) teaching staff may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appears to them to be representative of teaching staff;
 - (ii) education authorities and governing bodies of colleges of education and of central institutions may from time to time, if a majority of those members so agree, invite a body (whether or not a body by which one or more of those members was nominated) which appear* to them to be representative of education authorities, or governing bodies of colleges of education or of central institutions,
to nominate a person to membership of the committee;
 - (b) the Secretary of State may from time to time nominate a person or persons to membership of the committee to represent him;
 - (c) a body which has by virtue of subsection (1) above, or paragraph (a) of this subsection, or under this paragraph of this subsection, nominated a person to membership of the committee may if and when, for any

reason other than a determination under subsection (6) below, that person ceases to be a member of the committee nominate a person to membership of the committee in place of that former member; and any person so nominated shall thereby be a member of the committee.

- (4) A nomination shall not be invited under subsection (3)(a) above unless and until such invitation is approved by the Secretary of State.
- (5) At any time, a nomination made—
- (a) under paragraph (b) of subsection (3) above may be revoked by the Secretary of State;
 - (b) by virtue of subsection (1), or paragraph (a) of subsection (3), above or under paragraph (c) of the said subsection (3) may be revoked by the body which made that nomination;
- and a person whose nomination is so revoked shall thereby cease to be a member of the committee.
- (6) Where a maximum prescribed under section 94(2) of this Act would otherwise be exceeded, the members inviting a nomination under subsection (3)(a) above may, if the Secretary of State and a majority of those members so agree, determine that one of them, whom they shall specify in the determination, shall on the making of the nomination cease to be a member of the committee.

96 Publication of settlements and awards in relation to teaching staff employed in providing further education.

- (1) As soon as practicable after—
- (a) the committee has, in the exercise of its functions under section 94(1) of this Act, formulated a settlement; or
 - (b) the coming into effect of an award which, under section 97B(8) or (9) of this Act, is to have the same effect as a settlement formulated by the committee,
- the committee shall—
- (i) publish; and
 - (ii) transmit to each education authority in Scotland and to the governing body of each college of education or central institution in Scotland a published copy of,
- the settlement or, as the case may be, award.
- (2) The committee shall, from time to time, publish a consolidated collection of all the settlements and awards which it has published under subsection (1) above and which are currently in force; and it shall transmit a copy of that collection to the Secretary of State and to each of the authorities and bodies mentioned in paragraph (ii) of subsection (1) above.

Provisions common to the two committees

97 Effect and interpretation of sections 97 to 97B and Schedule 1B.

The provisions of this section and sections 97A and 97B of this Act and of Schedule 1B to this Act shall have effect with regard to each of the committees

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established under sections 91 and 94 of this Act; and in this section and the said sections 97A and 97B, in the said Schedule and in section 97C of this Act, unless the context otherwise requires, references to " the committee " shall be construed as references either to the committee established under the said section 91 or to that established under the said section 94, as the case may be.

97A Effect of settlement.

- (1) A settlement formulated by the committee shall specify the date (which may be a date prior to the said formulation) as from which the settlement shall have effect; and the settlement shall remain in effect unless and until superseded by a subsequent such settlement;

Provided that nothing in sections 91 to 97D of this Act shall authorise the retrospective—

- (i) reduction of the remuneration of a member of teaching staff ; or
 - (ii) alteration of the terms and conditions of employment of such a member if that alteration would be to his detriment.
- (2) In the case of a settlement formulated by the committee established under—
- (a) section 91 of this Act, every education authority shall give effect to the settlement in so far as it relates to any member of the teaching staff employed by the authority in the provision of school education ;
 - (b) section 94 of this Act, every education authority and every governing body of a college of education or of a central institution shall give effect to the settlement in so far as it relates to any member of the teaching staff employed by the authority, or as the case may be body, in the provision of further education,

and, without prejudice to subsections (4) and (5) of section 18 of the Trade Union and Labour Relations Act 1974 (which make provision in relation to the right of workers to engage in industrial action), while the settlement is in effect—

- (i) the provisions of the settlement shall be deemed to be incorporated in any contract of employment which that member has or may enter into with the employing authority or body; and
 - (ii) that contract shall have effect only in so far as consistent with those provisions.
- (3) Subsections (1) to (3) of section 18 of the said Act of 1974 (which relate to the enforceability of collective agreements) shall not apply to a settlement formulated by the committee.
- (4) The remuneration payable to, and the terms and conditions of employment of, any person to whom this subsection applies may, subject to the provisions of any other enactment and to that person's contract of employment, be such as his employer thinks fit.
- (5) Subsection (4) above applies to teaching staff in relation to whom there is in effect neither a settlement formulated under the provisions of this Act nor an order made prior to the commencement of this section under section 92 of this Act (as originally enacted and not as substituted by the Education (Scotland) Act 1981) or that section as applied by section 94 of this Act (as so enacted and not as so substituted).

97B Provision for arbitration.

- (1) The Secretary of State shall make arrangements whereby, in such circumstances and subject to such exceptions as may be provided by the arrangements, matters in respect of which the committee has failed to reach agreement or to formulate a settlement may be referred to arbitration in such manner as may be so provided.
- (2) Before making any arrangements under subsection (1) above in relation to the committee, the Secretary of State shall consult the bodies referred to in section 92(1) or, as the case may be, section 95(1) of this Act.
- (3) Any such arrangements may include provision for the appointment of arbiters by the Advisory, Conciliation and Arbitration Service for the purposes of any reference under this section.
- (4) The Secretary of State may vary or revoke any arrangements made by him under subsection (1) above by new arrangements which shall be subject to subsection (2) above.
- (5) The award of an arbiter in relation to any referral, in pursuance of arrangements under subsection (1) above, in respect of a failure to formulate a settlement shall—
 - (a) be intimated forthwith to the Secretary of State by the committee ; and
 - (b) specify the date (which may be a date prior to the award) as from which the provisions of the award should have effect.
- (6) Within 21 days of receiving, under subsection (5)(a) above, intimation of an award the Secretary of State shall inform the committee either—
 - (a) that he accepts the award ; or
 - (b) that he does not accept the award ;and where he so informs the committee that he does not accept the award he may within 35 days of receiving the said intimation make an order preventing the award from having effect.
- (7) Any order under subsection (6) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Where the Secretary of State has made an order under subsection (6) above he shall, after consultation with the committee, determine what changes (if any) in the remuneration of teaching staff as it then exists are appropriate in the circumstances, and such determination shall have effect as if it were a settlement formulated by the committee and sections 97A and 97D of this Act shall be construed accordingly.
- (9) Where in respect of an award the Secretary of State—
 - (a) informs the committee, under subsection (6)(a) above, that he accepts the award;
 - (b) does not so inform the committee but does not make an order under subsection (6) above; or
 - (c) makes an order under subsection (6) above but either House resolves, within the period specified in section 5(1) of the Statutory Instruments

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Act 1946, that an Address be presented to Her Majesty praying that the instrument laid before Parliament be annulled,

the award shall have the same effect, as from the date which under subsection (5)(b) above it specifies, as a settlement formulated by the committee; and sections 97A and 97D of this Act shall be construed accordingly.

- (10) Subsections (1) to (4) above shall not apply in respect of any matter relating to procedure only.

97C Interpretation of sections 91 to 97B.

In sections 91 to 97B of this Act, unless the context otherwise requires—

- (a) "teaching staff" means such teachers and such other persons as the Secretary of State, after consultation—
- (i) with the committee ; or
 - (ii) where the committee is not yet set up, with such bodies as he considers appropriate,
- may by order determine; and
- (b) "terms and conditions of employment" does not include—
- (i) pensions, gratuities or allowances payable on retirement or death ;
 - (ii) compensation for loss of office or employment or for loss or diminution of emoluments; or
 - (iii) provision for such benefits.

97D Remuneration of teaching staff: transitional provisions.

Any order made under section 92 of this Act (as originally enacted and not as substituted by the Education (Scotland) Act 1981) or that section as applied by section 94 of this Act (as so enacted and not as so substituted) prior to the commencement of this section and presently in force shall remain in force unless and until the scales and other provisions set out in the memorandum referred to in that order are superseded by the provisions of a settlement formulated under this Act.”

- (2) After Schedule 1 to the principal Act there shall be inserted the Schedule set out in Schedule 5 to this Act which shall form Schedule 1B to that Act.