

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 8 – Teachers

Teachers' Pay and Conditions

Section 122: Power to prescribe pay and conditions

257. This section enables the Secretary of State to make orders determining school teachers' pay, working time and professional duties. This replicates the existing structure whereby such orders legally define school teachers' conditions of employment by reference to a document. As at present, school teachers must be paid only in accordance with such orders and nothing in a teacher's contract which is prohibited by or inconsistent with an order will be effective.
258. The section also defines 'school teacher'. A school teacher provides primary or secondary education under a contract of employment or a contract for services, where the other party to the contract is the governing body of a maintained school or an LEA. This includes teachers who are self-employed, but excludes those who are employed by an agency such as a teacher supply agency. A school teacher will either be a qualified teacher, as defined elsewhere under regulation; or unqualified, as prescribed by order. The latter category will encompass overseas-trained teachers, instructors, and those following the Graduate or Registered Teacher Programme routes. The definition also specifically includes anyone serving as a head teacher of a school maintained by a local education authority, which will ensure that all relevant head teachers are covered by pay and conditions orders made under this section. Teachers employed by local authorities for social services purposes are excluded from the definition.