



# Education Act 2002

## 2002 CHAPTER 32

### PART 8

#### TEACHERS

##### *Teachers' pay and conditions*

#### **122 Power to prescribe pay and conditions**

- (1) The Secretary of State may by order make provision for the determination of—
  - (a) the remuneration of school teachers;
  - (b) other conditions of employment of school teachers which relate to their professional duties or working time.
- (2) Where an order under this section applies to a school teacher—
  - (a) his remuneration shall be determined and paid in accordance with any provision of the order which applies to him,
  - (b) a provision of the order which relates to a condition of employment other than remuneration and which applies to him shall have effect as a term of his contract of employment, and
  - (c) a term of that contract shall have no effect in so far as it makes provision which is prohibited by the order or which is otherwise inconsistent with a provision of the order.
- (3) A person is a school teacher for the purposes of this section if—
  - (a) he is a qualified teacher,
  - (b) he provides primary or secondary education under a contract of employment or for services,
  - (c) the other party to the contract is a local education authority or the governing body of a foundation, voluntary aided or foundation special school, and
  - (d) the contract requires him to carry out work of a kind which is specified by regulations under section 133(1).

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*Status: This is the original version (as it was originally enacted).*

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- (4) A person is also a school teacher for the purposes of this section if he serves as the head teacher of a school maintained by a local education authority.
- (5) A person is also a school teacher for the purposes of this section if his case satisfies paragraphs (b), (c) and (d) of subsection (3) and—
- (a) he possesses a prescribed qualification,
  - (b) he provides education of a prescribed kind or in prescribed circumstances (or both),
  - (c) he is undertaking training of a prescribed kind, or obtaining experience of a prescribed kind, with a view to becoming a qualified teacher,
  - (d) he is within a prescribed class of persons awaiting assessment for the purpose of becoming a qualified teacher, or
  - (e) he is within a prescribed class of persons awaiting the award of a qualification.
- (6) A person providing education in an establishment maintained by a local authority in the exercise of a social services function is not a school teacher for the purposes of this section.
- (7) In the application of subsection (2)—
- (a) it is immaterial whether someone other than the party mentioned in subsection (3)(c) provides or is responsible for providing all or part of a teacher's remuneration,
  - (b) it is immaterial whether someone other than the party mentioned in subsection (3)(c) is treated wholly or partly as a teacher's employer for some or all purposes by virtue of an enactment, and
  - (c) in relation to a person who provides education under a contract for services, a reference to his contract of employment is a reference to the contract for services.
- (8) In this section "prescribed" means prescribed by an order under this section.