



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Academic tenure*

#### **204 Powers of Commissioners.**

- (1) For the purpose of performing the duty imposed on them by section 203 of this Act, the Commissioners may make such modifications of the statutes of any qualifying institution as they consider necessary or expedient.
- (2) Modifications made for the purpose of securing that the statutes of a qualifying institution comply with the requirements of section 203(1)(a) of this Act shall not apply in relation to a person unless—
  - (a) his appointment is made, or his contract of employment is entered into, on or after 20th November 1987; or
  - (b) he is promoted on or after that date.
- (3) For the purposes of this section a person shall be taken to be promoted on or after 20th November 1987 if (and only if) immediately before that date he is paid on a scale which provides for a maximum rate of remuneration (his former pay scale) and on or after that date the terms of his appointment, or of his contract of employment, are varied (whether with effect before or after that date) so that—
  - (a) his rate of remuneration is increased to a rate which exceeds the highest point on his former pay scale at the date on which the increase takes effect; or
  - (b) he is paid on another scale on which the highest point at the date the variation takes effect exceeds the highest point on his former pay scale at that date; or
  - (c) he is paid on a basis which does not provide for a maximum rate of remuneration.
- (4) For the purposes of subsection (3) above references, in relation to a pay scale, to the highest point on the scale at any date are references to the maximum rate of

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**Changes to legislation:** Education Reform Act 1988, Section 204 is up to date with all changes known to be in force on or before 14 March 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

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remuneration payable at that date in accordance with the scale whether on a regular or a discretionary basis.

- (5) For the purposes of this section a person holding an office or position of any description shall not be taken to be promoted by reason only of any general variation of the terms of appointment or of contracts of employment of persons holding offices or positions of that description.
- (6) Modifications such as are mentioned in subsection (2) above shall not apply in relation to a person who held an office or position at the institution in question immediately before 20th November 1987 by reason only of the fact that—
  - (a) he is appointed to, or employed in, a different office or position at the institution instead of his former office or position if the terms of his appointment or of his contract of employment which relate to remuneration are the same as those of his former appointment or contract of employment;
  - (b) he is appointed to, or employed in, an additional office or position at the institution which carries no remuneration; or
  - (c) he is promoted or is appointed to, or employed in, a different office or position at the institution if he is so promoted, appointed or employed only on a temporary basis for a particular purpose with an expectation that the promotion will cease to have effect, or that he will resume his former office or position, when that purpose is accomplished.
- (7) Modifications made for the purpose of securing that the statutes of a qualifying institution comply with the requirements of section 203(1)(b) of this Act shall not apply in relation to anything done or omitted to be done before the date on which the instrument making the modifications is approved under subsection (9) below.
- (8) Subject to subsections (2) to (7) above, the Commissioners' powers under this section include power to make such incidental, supplementary and transitional provision as they consider necessary or expedient.
- (9) No instrument made in the exercise of the Commissioners' powers under this section shall have effect unless it has been approved by Her Majesty in Council.

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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. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)