



# School Teachers' Pay and Conditions Act 1991

## 1991 CHAPTER 49

### <sup>F1</sup>1 Establishment of review body to consider statutory conditions of employment of school teachers.

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#### Textual Amendments

**F1** Act repealed (1.10.2002 as regards s. 1 and the Schedule and otherwise prosp.) by [Education Act 2002](#) (c. 32), [ss. 130, 216\(2\)](#), [Sch. 22 Pt. 1](#); [S.I. 2002/2439](#) {art. 2}

### 2 Orders relating to statutory conditions of employment.

- (1) Where, following the reference of any matters to them under section 1 above, the review body have made a report, the Secretary of State may, after consulting—
- (a) such associations of local education authorities as appear to him to be concerned and any local education authority with whom consultation appears to him to be desirable,
  - (b) such bodies representing the interests of [<sup>F2</sup>governing bodies of foundation, voluntary and foundation special schools] as appear to him to be concerned, and
  - (c) such bodies representing school teachers as appear to him to be concerned,
- make provision by order giving effect to the recommendations of the review body, with or without modification, or making such other provision with respect to the matters referred to the review body as he thinks fit.

<sup>F3</sup>(2) .....

- (3) An order under this section is in the following provisions of this Act referred to as a “pay and conditions order”, and such an order shall either—
- (a) contain the provision to be made; or

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- (b) refer to provisions set out in a document published [<sup>F4</sup>in accordance with the order] and direct that those provisions shall have effect or, as the case may be, be amended in accordance with the order.
- (4) A pay and conditions order may, in particular, as regards the statutory conditions of employment of school teachers do all or any of the following—
- (a) confer discretion on the local education authority or, <sup>F5</sup>. . . on the governing body of the school with respect to any matter <sup>F6</sup>. . .;
  - (b) make provision as to the aggregate amount of allowances payable to teachers in a school;
  - (c) set lower and upper limits on the number or proportion of teachers in a school to be paid on specified scales or who are at any specified time to be paid any specified allowance;
  - (d) provide for the designation of schools in relation to which special provisions apply;
  - (e) provide for the determination of any questions arising as to the interpretation or application of the provisions set out or referred to in the order;
  - (f) make provision which is retrospective, but not so as to require the reduction of a teacher's remuneration in respect of a past period or so as to alter for any past period any other statutory condition of employment to the detriment of a teacher;
  - (g) provide that, to the extent specified in the order, matters may be settled by agreement between, or in a manner agreed between, teachers and local education authorities [<sup>F7</sup>in accordance with the order];
  - <sup>F8</sup>(h) . . . . .
- (5) Without prejudice to his power to make a pay and conditions order by virtue of subsection (1) above, after consulting the associations, authorities and other bodies referred to in paragraphs (a) to (c) of subsection (1) above <sup>F9</sup>. . ., the Secretary of State may make a pay and conditions order by virtue of this subsection if—
- (a) it appears to the Secretary of State, following consultation with the chairman (or, in his absence, the deputy chairman) of the review body, that the provision proposed to be made by the order is not of so significant a nature that the matter to which it relates should be referred to the review body under section 1 above; and
  - (b) it appears to the Secretary of State to be expedient to make the provision in question.
- (6) Subject to [<sup>F10</sup>sections 3 and 3A] below and to any amendment or revocation by a later pay and conditions order, the effect of a pay and conditions order is that,—
- (a) so far as it relates to remuneration, the remuneration of school teachers to whom the order applies shall be determined, and paid to school teachers by local education authorities <sup>F11</sup>. . . in accordance with the scales and other provisions set out or referred to in the order; and
  - (b) so far as it relates to other statutory conditions of employment, the provisions set out or referred to in the order shall have effect as terms of the contracts of employment of school teachers to whom the order applies.
- (7) Subject to [<sup>F10</sup>sections 3 and 3A] below, so far as concerns his statutory conditions of employment, the contract of employment of a school teacher shall contain no terms other than those which have effect by virtue of a pay and conditions order.

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- (8) Without prejudice to section 14 of the <sup>M1</sup>Interpretation Act 1978 (power to make an order implies a power, exercisable in the same manner etc, to revoke or amend a previous order made under that power) a pay and conditions order made by virtue of subsection (1) above may revoke or amend, or may be revoked or amended by, a pay and conditions order made by virtue of subsection (5) above.
- (9) A pay and conditions order shall be made by statutory instrument and,—
- (a) if the order gives effect without any material modification to recommendations of the review body or is made by virtue of subsection (5) above, the order shall contain a statement that it does so or, as the case may be, is so made; and
  - (b) in any other case, the statutory instrument by which the order is made shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F2** Words in s. 2(1)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 26(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**
- F3** S. 2(2) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 26(b), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**
- F4** Words in s. 2(3) substituted (1.10.1998) by 1998 c. 31, s. 140(1), **Sch. 30 para. 26(c)**; S.I. 1998/2212, art. 2, **Sch. 1 Pt. I** (with ss. 138(9), 144(6))
- F5** Words in s. 2(4)(a) repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30, para. 26(d)(i), **Sch. 31**; S.I. 1998/2212, art. 2, **Sch. 1 Pt. I** (with ss. 138(9), 144(6))
- F6** Words in s. 2(4)(a) repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 26(d)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**
- F7** Words in s. 2(4)(g) inserted (1.10.1998) by 1998 c. 31, s. 140(1), **Sch. 30 para. 26(d)(ii)**; S.I. 1998/2212, art. 2, **Sch. 1 Pt. I** (with ss. 138(9), 144(6))
- F8** S. 2(4)(h) repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 26(d)(iii), **Sch. 31**; S.I. 1998/2212, art. 2, **Sch. 1 Pt. I** (with ss. 138(9), 144(6))
- F9** Words in s. 2(5) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 26(e), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**
- F10** Words in s. 2(6)(7) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 161**; S.I. 1994/507, art. 4, **Sch. 2** and (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 101(1)(2)** (with ss. 1(4), 561, 562, Sch. 39)
- F11** Words in s. 2(6)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 26(f), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

#### Modifications etc. (not altering text)

- C1** S. 2(6)(7) excluded: (1.9.1993) by S.I. 1993/1976, **art. 2**; (1.9.1995) by S.I. 1995/2087, **art. 2**  
S. 2(6)(7) excluded (1.6.1999) by S.I. 1999/1385, **art. 2**  
S. 2(6)(7) excluded (15.11.1999) by S.I. 1999/2879, **art.2**

#### Commencement Information

- I1** S. 2 wholly in force: s. 2(1)-(6)(8) in force at 6.3.1992 by S.I. 1992/532, **art. 3** (with art. 4); S. 2(9) in force at 30.3.1992 by S.I. 1992/988, **art. 2**; s. 2(7) in force at 4.12.1992 by S.I. 1992/3070, **art. 2**.

#### Marginal Citations

- M1** 1978 c. 30.

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**[3] <sup>F12</sup>Special provisions as to schools in education action zones.**

- (1) A pay and conditions order shall not apply to the statutory conditions of employment of the school teachers in a participating school the governing body of which—
  - (a) have, by notice to the Secretary of State, made an application for exemption; and
  - (b) pursuant to that application are for the time being exempted from subsections (6) and (7) of section 2 above by virtue of an order under subsection (4) below.
- (2) Before making an application under subsection (1) above, the governing body of the participating school concerned shall consult the school teachers employed at the school with respect to the proposed application.
- (3) A notice of application under subsection (1) above shall specify a date, at least three months after the date of the notice, with effect from which the governing body of the participating school concerned intend to make their own provision as to the statutory conditions of employment of the school teachers employed at the school.
- (4) On receipt of a notice of application under subsection (1) above the Secretary of State may, by statutory instrument, make an order—
  - (a) naming the school; and
  - (b) specifying, as the date with effect from which, by virtue of the order, subsections (6) and (7) of section 2 above are not to apply, the date specified in the notice of application or such other date as may be agreed between the governing body and the Secretary of State.
- (5) Where by virtue of an order under subsection (4) above a pay and conditions order ceases to apply in relation to any school, the statutory conditions of employment of the school teachers employed at the school shall be—
  - (a) such as may be determined by the governing body, or
  - (b) so far as the governing body have not made any determination with respect to any such conditions of employment, those having effect under the order immediately before it ceased to apply;
 and (so far as necessary) the local education authority shall give effect to any such determination of the governing body.
- (6) In this section “participating school” means one of the schools for the time being included in an order under section 10(1) of the School Standards and Framework Act 1998 establishing an education action zone.]

**Textual Amendments**

**F12** S. 3 substituted (1.9.1998) by 1998 c. 31, s.13 (with ss. 138(9), 144(6) and with saving in Sch. 32 Pt. II para. 7); S.I. 1998/2048, art.3

**[3A] <sup>F13</sup>Special provisions for teachers on transfer of employment.**

- [ This section applies where—
- <sup>F14</sup>(1) (a) a community, foundation or voluntary or community or foundation special school is established in place of an independent school in pursuance of proposals published under section 28 or 31 of the School Standards and Framework Act 1998, and

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- (b) a school teacher employed to teach at that independent school becomes employed by the local education authority or (as the case may be) the governing body in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981.]
- (2) A pay and conditions order shall not apply to the statutory conditions of employment of such a teacher unless he gives notice in writing to the new employer that the order is to so apply.
- (3) Where the governing body of [<sup>F15</sup>a foundation, voluntary aided or foundation special school] receive notice given under subsection (2) above, they shall inform the local education authority.]

#### Textual Amendments

- F13** S. 3A (which was inserted (1.4.1994) by 1993 c. 35, s. 289; S.I. 1994/507, art. 4, Sch. 2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 101(3) (with ss. 1(4), 561, 562, Sch. 39)
- F14** S. 3A(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 27(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1
- F15** Words in s. 3A(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 27(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

## 4 Financial provisions.

There shall be paid out of money provided by Parliament any expenses of the Secretary of State under this Act and any increase attributable to this Act in the sums so payable under any other Act.

#### Commencement Information

- I2** S. 4 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

## 5 [<sup>F16</sup>Interpretation, orders and application of provisions of Education Acts.]

- (1) In this Act—

“contract of employment”, in relation to a school teacher, means the contract, whether a contract of service or for services, under which he performs his duties as teacher;

“pay and conditions order” has the meaning given by section 2(3) above;

“the review body” has the meaning given by section 1(1) above;

“school teacher” means, subject to subsection (2) below, a teacher employed by—

(a) a local education authority, or

(b) the governing body of a [<sup>F17</sup>foundation, voluntary aided or foundation special] school,

in the provision of primary or secondary education;

<sup>F18</sup> . . .; and

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- “statutory conditions of employment” has (subject to subsection (3) below) the meaning given by section 1(2) above;
- and [<sup>F19</sup>where any other expression used in this Act is defined for the purposes of the <sup>M2</sup>Education Act 1996 or the School Standards and Framework Act 1998, it shall have the same meaning in this Act as in that Act.].
- (2) A person employed as a teacher 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 Act.
  - (3) For the purposes of this Act, the Secretary of State may by order made by statutory instrument provide that, with effect from the date on which the order comes into force or such later date as may be specified in or determined under the order,—
    - (a) any payment or other benefit specified in the order is, or as the case may be is not, to be regarded as remuneration; or
    - (b) any matter is, or as the case may be is not, to be regarded as falling within the professional duties or working time of school teachers.
  - (4) An order under any provision of this Act may—
    - (a) make different provision for different cases, including different provision for different areas; and
    - (b) contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.
  - (5) In [<sup>F20</sup>sections 496 and 497 of the Education Act 1996] (powers of Secretary of State in relation to functions of certain bodies under that Act), any reference to that Act includes a reference to this Act.

#### Textual Amendments

- F16** S. 5 sidenote substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 28(3)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F17** Words in s. 5(1) substituted (1.6.1999 for certain purposes and otherwise 1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 28(2)(a)** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(2), **Sch. 2**; S.I. 1999/2323, art. 2(1), **Sch. 1**
- F18** S. 5: definition of "school which has a delegated budget" omitted (1.4.1999) by virtue of S.I. 1999/638, **reg. 3**
- F19** Words in s. 5(1) substituted (1.6.1999 for certain purposes and otherwise 1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 28(2)(c)** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(2), **Sch. 2**; S.I. 1999/2323, art. 2(1), **Sch. 1**
- F20** Words in s. 5(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 101(4)(b)** (with ss. 1(4), 561, 562, **Sch. 39**)

#### Commencement Information

- I3** S. 5 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, **art. 2**

#### Marginal Citations

- M2** 1996 c. 56.

## 6 Citation, repeals, extent and commencement.

- (1) This Act may be cited as the School Teachers' Pay and Conditions Act 1991.

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- <sup>F21</sup>(2) .....
- (3) This Act has effect in place of the <sup>M3</sup>Teachers' Pay and Conditions Act 1987 and, accordingly, the enactments in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) This Act, except paragraph 5 of Schedule 1 to this Act (House of Commons disqualification), extends to England and Wales only; and that paragraph extends to the whole of the United Kingdom.
- (5) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and, without prejudice to section 5(4) above, different days may be so appointed for different provisions and for different purposes.

**Subordinate Legislation Made**

**P1** [S. 6\(5\)](#) power exercised (15.8.1991): 22.8.1991 appointed for specified provisions by [S.I. 1991/1874](#);  
[S. 6\(5\)](#) power exercised (5.3.1992): 6.3.1992 appointed for specified provisions by [S.I. 1992/532](#);  
[S. 6\(5\)](#) power exercised (27.3.1992): 30.3.1992 appointed for s. 2(9) by [S.I. 1992/988](#);  
[S. 6\(5\)](#) power exercised (3.12.1992): 4.12.1992 appointed for s. 2(7) by [S.I. 1992/3070](#)

**Textual Amendments**

**F21** [S. 6\(2\)](#) repealed (1.11.1996) by [1996 c. 56](#), ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

**Commencement Information**

**I4** [S. 6](#) wholly in force: [S. 6\(1\)\(2\)\(4\)\(5\)](#) in force at 22.8.1991 see [s. 6\(5\)](#) and [S.I. 1991/1874](#), **art. 2**; [s. 6\(3\)](#) in force at 6.3.1992 by [S.I. 1992/532](#), **art. 3**.

**Marginal Citations**

**M3** [1987 c. 1](#).

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**Commencement Orders yet to be applied to the School Teachers' Pay and Conditions Act 1991**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2003/1115 art. 23](#) commences (2002 c. 32)
- [S.I. 2003/1667 art. 2-5](#) commences (2002 c. 32)