



Education Reform Act 1988

1988 CHAPTER 40

PART III

EDUCATION IN INNER LONDON

Staff

170 Establishment and functions of staff commission

- (1) The Secretary of State shall establish a staff commission for the purpose of—
 - (a) advising the Secretary of State on the steps necessary to safeguard the interests of the staff employed by relevant authorities so far as affected by any provision made by or under this Part;
 - (b) considering and keeping under review—
 - (i) the arrangements for the recruitment of staff by those authorities in consequence of any such provision; and
 - (ii) the arrangements for any transfer of the staff of those authorities in consequence of any such provision; and
 - (c) considering such staffing problems arising in consequence of, and such other matters relating to staff of any body affected by, any such provision as may be referred to the commission by the Secretary of State.
- (2) The Secretary of State may give directions to the staff commission as to their procedure and to any relevant authority with respect to—
 - (a) the implementation of any advice given by the commission; and
 - (b) the payment by a relevant authority of any expenses incurred by the commission in doing anything requested by the authority;and it shall be the duty of the commission and of a relevant authority to comply with any direction given to it under this subsection.
- (3) Any expenses incurred by the staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State.

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- (4) The relevant authorities for the purposes of this section are—
- (a) ILEA and the inner London councils;
 - (b) the London Residuary Body; and
 - (c) any local authority other than an inner London council to which functions or property of ILEA will be or have been transferred by order under section 168 of this Act.

171 Remuneration of employees

- (1) If—
- (a) ILEA proposes to fix for any employee or class of employees of ILEA a rate of remuneration greater than the rate for the time being applicable to that employee or class of employees; and
 - (b) the new rate is to take effect as from a date (“W”) falling after 30th September 1989;
- ILEA shall notify each inner London council in writing of the proposal and the proposed date of increase.
- (2) The employee or class of employees to whom any such proposal relates shall not be paid at the new rate—
- (a) until the end of the period of four weeks beginning with the date immediately following the notification date; and
 - (b) where a complaint is made in accordance with subsection (3) below, unless payment at the new rate is authorised by the Secretary of State.
- (3) Before the end of the period of two weeks beginning with the date immediately following the notification date, any three or more of the inner London councils may complain to the Secretary of State if they consider that the new rate is excessive having regard to levels of remuneration applicable in the case of persons employed by local authorities on work comparable to that on which the employee or class of employees concerned is employed.
- (4) On receipt of such a complaint the Secretary of State—
- (a) shall notify ILEA in writing of the complaint; and
 - (b) shall afford—
 - (i) to ILEA;
 - (ii) to each of the inner London councils; and
 - (iii) to such persons appearing to him to be representative of employees of ILEA as he considers appropriate in relation to the employee or class of employees concerned;
 an opportunity of making representations to him with respect to the proposal.
- (5) After considering any representations made to him under subsection (4)(b) above, the Secretary of State may—
- (a) authorise payment at the new rate; or
 - (b) refuse to authorise such payment.
- (6) The Secretary of State shall give written notification of his decision to ILEA, to each of the inner London councils, and to any other persons who made representations to him with respect to the proposal under subsection (4)(b) above.

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- (7) Subsection (8) below applies where by virtue of subsection (2) above the employee or class of employees to whom any proposal to which subsection (1) above relates is not paid at the new rate until after the proposed date of increase, and either—
- (a) no complaint is made in accordance with subsection (3) above in respect of the new rate; or
 - (b) such a complaint is made but payment at the new rate is authorised by the Secretary of State.
- (8) In any case to which this subsection applies, for the purpose of determining—
- (a) the terms of any contract affected by section 172 of this Act; and
 - (b) any compensation payable in accordance with section 173 of this Act;
- the employee or class of employees concerned shall be regarded as having been entitled under his or their contracts of employment with ILEA to remuneration at the new rate as from the proposed date of increase.
- (9) In this section “the notification date” means, in relation to any proposal to which subsection (1) above applies, the date by which all the inner London councils have received notification of the proposal under that subsection.

172 Power to transfer staff

- (1) This section applies to any person who—
- (a) immediately before the abolition date is in the service of ILEA under a contract of employment which would have continued but for the abolition of ILEA; and
 - (b) is designated for the purposes of this section by an order made by the Secretary of State.
- (2) The contract of employment between a person to whom this section applies and ILEA shall not be terminated by the abolition of ILEA but shall have effect as from the abolition date as if originally made between him and such successor authority (“W”) as may be specified in relation to that person by the order designating him for the purposes of this section.
- (3) Without prejudice to subsection (2) above—
- (a) all ILEA’s rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred on the abolition date to the new employer; and
 - (b) anything done before that date by or in relation to ILEA in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the new employer.
- (4) Subsections (2) and (3) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (5) An order under this section may designate a person either individually or as a member of a class or description of employees.
- (6) In this section “successor authority” means—
- (a) an inner London council;

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- (b) the London Residuary Body; and
- (c) any local authority other than an inner London council to which functions or property of ILEA are transferred by order under section 168 of this Act.

173 Compensation for loss of employment or loss or diminution of emoluments

- (1) This section applies to any person who suffers loss of employment or loss or diminution of emoluments which—
 - (a) is attributable to any provision made by or under this Part; and
 - (b) occurs in the circumstances mentioned in subsection (2) below.
- (2) Those circumstances are—
 - (a) in the case of loss of employment, the employment in question is employment with ILEA or the London Residuary Body and the loss is suffered on or after the abolition date; and
 - (b) in the case of loss or diminution of emoluments, the loss or diminution arises from the termination of the employment of the person concerned with ILEA or that Body and is suffered on or after such date as may be specified in regulations made for the purposes of this section under section 24 of the Superannuation Act 1972 (“W”).
- (3) Compensation in respect of any such loss or diminution suffered by a person to whom this section applies shall, subject to subsection (4) below, be paid only in accordance with compensation regulations; and accordingly neither ILEA nor the London Residuary Body shall pay any such compensation under any other statutory provision, by virtue of any provision in a contract or otherwise.
- (4) Subsection (3) above shall not preclude the making of any payment to which a person is entitled by virtue of contractual rights acquired by him before 21st November 1987.
- (5) Compensation regulations shall not provide compensation for a person to whom this section applies in respect of any such loss or diminution as is mentioned in subsection (1) above so far as attributable to the termination on or before the abolition date of a contract made after 17th February 1988 which provides for the employment of that person for a fixed term extending beyond the abolition date.
- (6) For the purpose of determining under section 82(5) or (6) or 84(3) of the Employment Protection (Consolidation) Act 1978—
 - (a) whether the provisions of a new contract offered to a person employed by ILEA or the London Residuary Body differ from the corresponding provisions of his previous contract; and
 - (b) whether employment under the new contract is suitable in relation to that person;
 there shall be treated as forming part of the remuneration payable under the new contract any compensation to which that person is or, if he accepted the offer, would be entitled in accordance with this section.
- (7) Except as provided in subsection (6) above, nothing in this section shall be construed as affecting any entitlement to a redundancy payment under Part VI of the Act of 1978 mentioned above or to any payment by virtue of any provision of the Act of 1972 mentioned above other than section 24.

174 Continuity of employment in certain cases of voluntary transfer

- (1) This section applies to a person who at any time on or after such date as may be specified by order made by the Secretary of State ceases to be employed by ILEA or the London Residuary Body (his “W”) if—
 - (a) the termination of his employment is attributable to any provision made by or under this Part;
 - (b) he is subsequently employed by another person (his “W”); and
 - (c) by virtue of section 84, 94 or 95 of the Employment Protection (Consolidation) Act 1978 (renewal or re-engagement) that subsequent employment precludes his receiving any redundancy payment under Part VI of that Act.
- (2) Where this section applies to a person Schedule 13 to that Act (computation of period of employment for the purposes of that Act) shall have effect in relation to that person as if it included the following provisions, that is to say—
 - (a) the period of employment of that person with his former employer shall count as a period of employment with his new employer; and
 - (b) the change of employer shall not break the continuity of the period of employment.
- (3) Where this section applies to a person the period of his employment with his former employer shall count as a period of employment with his new employer for the purposes of any provision of his contract of employment with his new employer which depends on his length of service with that employer.

175 Offers of employment by inner London councils

- (1) If at any time after such date as may be specified for the purposes of this section by an order made by the Secretary of State (“W”) an inner London council proposes to engage a person who is currently in the employment of ILEA it shall, if reasonably practicable, enter into, or offer to enter into, a contract of employment with him that meets the requirements of subsection (2) below.
- (2) The contract must be such that the employment of the person concerned by the council will or would take effect either immediately on the ending of his employment by ILEA or after an interval of not more than four weeks after the ending of that employment.
- (3) If an inner London council enters into a contract of employment with a person who has received or is entitled to receive a redundancy payment under Part VI of the Employment Protection (Consolidation) Act 1978—
 - (a) by reason of his dismissal by ILEA at any time after the specified date; or
 - (b) by virtue of section 178(1) of this Act;the council shall, if the Secretary of State so directs, pay to the London Residuary Body an amount equal to that payment.
- (4) The Secretary of State shall not give a direction under subsection (3) above in respect of the employment of any person by an inner London council if the council satisfies him—
 - (a) that it could not reasonably have made that person an offer of employment on the terms and conditions of the contract mentioned in that subsection which, if accepted by him, would have precluded his entitlement to the redundancy payment; or

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- (b) that the council has made such an offer but that the person concerned acted reasonably in refusing it or that he could reasonably have refused such an offer if it had been made by the council.
- (5) In any case in which an amount is payable by a council under subsection (3) above the council shall also pay to the London Residuary Body an amount equal to any compensation under the regulations referred to in section 173(2) of this Act which has been paid or is payable to the person concerned before the time when he enters into the contract.
- (6) A former member of an inner London council shall not be disqualified by virtue of section 116 of the Local Government Act 1972 for being appointed by that council to a paid office if—
 - (a) he is, or at any time between the passing of this Act and the abolition date has been, in the employment of ILEA; and
 - (b) he is appointed not later than twelve months after that date and with the consent of the Secretary of State.
- (7) For the purposes of subsection (2) above employment ending on a Friday or a Saturday shall be treated as ending immediately before the following Monday and the interval of four weeks shall be calculated as if any such employment had ended at that time.