



# School Teachers' Pay and Conditions Act 1991

## 1991 CHAPTER 49

### 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>F1</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>F2</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
  - (b) refer to provisions set out in a document published [<sup>F3</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>F4</sup>. . . on the governing body of the school with respect to any matter <sup>F5</sup>. . . ;
  - (b) make provision as to the aggregate amount of allowances payable to teachers in a school;

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- (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>F6</sup>in accordance with the order];
  - <sup>F7</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>F8</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>F9</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>F10</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>F9</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.
- (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

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- (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

- F1** 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**
- F2** 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**
- F3** 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))
- F4** 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))
- 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** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**
- F6** 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))
- F7** 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))
- F8** 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**
- F9** 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)
- F10** 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.

**Changes to legislation:**

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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)