



# 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 [F1local 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).

*Changes to legislation: Education Act 2002, Section 122 is up to date with all changes known to be in force on or before 24 April 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*

- (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 <sup>F1</sup>local 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.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**

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

- C1** Ss. 122-124: functions transferred (30.9.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), **arts. 1(2), 39(3)**
- C2** S. 122(1) excluded (3.9.2018) by [The School Teachers Incentive Payments \(England\) Order 2018 \(S.I. 2018/933\)](#), **arts. 1(1), 2**
- C3** S. 122(3)(d) excluded (W.) (temp. from 19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\)](#), **reg. 6(2)**

#### Commencement Information

- I1** S. 122 in force at 1.8.2003 by [S.I. 2003/1667](#), **art. 2**

**Changes to legislation:**

Education Act 2002, Section 122 is up to date with all changes known to be in force on or before 24 April 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.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

**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. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)