

*Status: Point in time view as at 01/11/1996.*

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# School Teachers' Pay and Conditions Act 1991

## 1991 CHAPTER 49

An Act to make provision with respect to the remuneration and other conditions of employment of school teachers; and for connected purposes. [25th July 1991]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

- E1** Act extends to England and Wales only, except Sch. 1 para. 5 which extends to the whole of the United Kingdom see [s. 6\(4\)](#)

### Modifications etc. (not altering text)

- C1** Act modified: (1.4.1994) by [1993 c. 35, s. 69\(5\)](#) (with [s. 155\(11\)](#)); [S.I. 1994/507, art.3](#); and (1.11.1996) by [1996 c. 56, ss. 232\(5\), 583\(2\)](#) (with [ss. 1\(4\), 561, 562, Sch. 39](#))
- C2** Act applied: (1.4.1994) by [S.I. 1994/653, reg. 42\(1\)](#), [Sch. Pt.I](#); (9.5.1994) by [S.I. 1994/1084, reg. 8\(1\)](#), [Sch. 2 Pt.I](#)
- Act applied (1.6.2001) by [S.I. 2001/1507, reg. 2](#), [Sch. 2 art. 2](#)

### Commencement Information

- I1** Act wholly in force at 4.12.1992 see [s. 6\(5\)](#)

## 1 Establishment of review body to consider statutory conditions of employment of school teachers.

- (1) The Prime Minister shall appoint a body (in this Act referred to as “the review body”) to examine and report on such matters relating to the statutory conditions of employment of school teachers in England and Wales as may from time to time be referred to the review body by the Secretary of State.

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- (2) In this Act “statutory conditions of employment”, in relation to any school teachers, means their remuneration and such of their other conditions of employment as relate to their professional duties and working time.
- (3) Schedule 1 to this Act shall have effect with respect to the constitution and proceedings of the review body.
- (4) With respect to matters referred to the review body by him, the Secretary of State may give directions to the review body as to considerations to which they are to have regard and as to the time within which they are to report; and any such directions may be varied or revoked by further directions under this section.
- (5) Where a matter has been referred to the review body, they shall give notice of the matter and of any relevant direction—
  - (a) to such associations of local education authorities as appear to them to be concerned and to any local education authority with whom consultation appears to them to be desirable,
  - (b) to such bodies representing the interests of governors of voluntary schools and, subject to subsection (6) below, grant-maintained schools as appear to them to be concerned, and
  - (c) to such bodies representing school teachers as appear to them to be concerned, and shall afford every such association, authority and other body and, where subsection (6) below applies, the persons referred to in that subsection a reasonable opportunity of submitting evidence and representations with respect to the issues arising.
- (6) If, in a case where the review body are required to give notice as mentioned in subsection (5) above, it appears to them that there is neither a body which represents nor bodies which collectively represent the interests of those governors of grant-maintained schools who appear to the review body to be concerned, then, so far as concerns the interests of those governors, it shall be a sufficient compliance with the duty of the review body under paragraph (b) of that subsection if the notice is given to such persons, being governors of grant-maintained schools, as appear to the review body to be appropriate to be representative of all the governors concerned.
- (7) Where a matter has been referred to the review body, their report shall contain their recommendations on that matter and such other advice relating to that matter as they think fit.
- (8) The review body shall send any report made by them under this section to the Prime Minister and to the Secretary of State and, upon receiving a report, the Secretary of State shall arrange for it to be published.

#### **Commencement Information**

**I2** S. 1 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, 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—

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- (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 governors of voluntary schools and, subject to subsection (2) below, grant-maintained 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.
- (2) If, in any case where the Secretary of State is required to consult as mentioned in subsection (1) above, it appears to him that there is neither a body which represents nor bodies which collectively represent the interests of those governors of grant-maintained schools who appear to him to be concerned, then, so far as concerns the interests of those governors, it shall be a sufficient compliance with his duty under paragraph (b) of that subsection if he consults such persons, being governors of grant-maintained schools, as appear to him to be appropriate to be representative of all the governors concerned.
- (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 by Her Majesty's Stationery Office 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, in the case of a grant-maintained school, on the governing body of the school with respect to any matter and provide for the exercise of any such discretion, in relation to a school which has a delegated budget, by the governing body of the school;
  - (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;

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- (h) provide, in the case of grant-maintained schools, that, to the extent specified in the order, matters may be settled by agreement between, or in a manner agreed between, teachers in such schools and the governing bodies of such schools.
- (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 and, where appropriate, such persons as are referred to in subsection (2) above, 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 [F1sections 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 or, in the case of school teachers in grant-maintained schools, by the governing bodies of such schools, 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 [F1sections 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 M1Interpretation 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

- F1** 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**)

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

**C3** 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

#### Commencement Information

**I3** 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.

### 3 Special provisions as to grant-maintained schools.

- (1) A pay and conditions order shall not apply to the statutory conditions of employment of the school teachers in a grant-maintained 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 grant-maintained school concerned shall consult the school teachers employed by them 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 grant-maintained school concerned intend to make their own provision as to the statutory conditions of employment of the school teachers employed by them.
- (4) On receipt of a notice of application under subsection (1) above the Secretary of State shall, 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.

#### Commencement Information

**I4** S. 3 wholly in force at 6.3.1992 see s. 6(5) and S.I. 1992/532, art. 3.

### [3A] <sup>F2</sup>Special provisions for teachers on transfer of employment.

- (1) This section applies where a school teacher employed to teach at an independent school—
  - (a) which becomes a county or voluntary school in pursuance of proposals published under section 35(1)(b) or, as the case may be, 41(1) of the Education Act 1996, or
  - (b) in place of which a grant-maintained school is established in pursuance of proposals published under section 212 of that Act,

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becomes employed (in the case of a county or voluntary school) by the local education authority or the governing body or (in the case of a grant-maintained school) by 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 an aided school receive notice given under subsection (2) above, they shall inform the local education authority.]

#### Textual Amendments

- F2** 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)

#### 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

- I5** S. 4 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

#### 5 Interpretation, orders and application of provisions of Education Act 1944.

- (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 voluntary or grant-maintained school,

in the provision of primary or secondary education;

“school which has a delegated budget” has the same meaning as in [<sup>F3</sup>Part II of the Education Act 1996]; and

“statutory conditions of employment” has (subject to subsection (3) below) the meaning given by section 1(2) above;

and other expressions used in this Act have the same meaning as in [<sup>F4</sup>that Act].

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- (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>F5</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

- F3** Words in s. 5(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 101(4)(a)(i)** (with ss. 1(4), 561, 562, Sch. 39)
- F4** Words in s. 5(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 101(4)(a)(ii)** (with ss. 1(4), 561, 562, Sch. 39)
- F5** 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

- I6** S. 5 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, **art. 2**

## 6 Citation, repeals, extent and commencement.

- (1) This Act may be cited as the School Teachers' Pay and Conditions Act 1991.
- <sup>F6</sup>(2) .....
- (3) This Act has effect in place of the <sup>M2</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.

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### 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

- F6** 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

- I7** 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

- M2** 1987 c. 1.



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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE REVIEW BODY

##### Commencement Information

**I8** Sch. 1 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

##### *Membership*

- 1
- (1) The review body shall consist of not less than five and not more than nine members, who may be appointed as full-time or part-time members.
  - (2) Members shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
  - (3) A member may resign his membership by notice in writing to the Prime Minister.
  - (4) The Prime Minister may by notice in writing to the member concerned remove from office a member who—
    - (a) has become bankrupt or made an arrangement with his creditors,
    - (b) is incapacitated by physical or mental illness, or
    - (c) has been absent from two or more consecutive meetings of the review body otherwise than for a reason approved by them,or who is in the opinion of the Prime Minister otherwise unable or unfit to perform his duties as member.

##### Commencement Information

**I9** Sch. 1 para. 1 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

##### *Chairman and deputy chairman*

- 2
- (1) The Prime Minister shall appoint one of the members of the review body to be chairman and may appoint one of them to be deputy chairman.
  - (2) The persons so appointed shall hold and vacate those offices in accordance with their terms of appointment, subject to the following provisions.
  - (3) The chairman or deputy chairman may resign his office by notice in writing to the Prime Minister.
  - (4) If the chairman or deputy chairman ceases to be a member of the review body, he also ceases to be chairman or deputy chairman.

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#### Commencement Information

**I10** Sch. 1 para. 2 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

#### *Financial provisions*

- 3
- (1) The Secretary of State may pay the chairman, deputy chairman and members of the review body such remuneration, and such allowances in respect of expenses properly incurred by them in the performance of their duties, as he may determine.
  - (2) The Secretary of State may determine to pay in respect of a person's office as chairman, deputy chairman or member of the review body—
    - (a) such pension, allowance or gratuity to or in respect of that person on his retirement or death, or
    - (b) such contributions or other payment towards the provision of such a pension, allowance or gratuity,
 as the Secretary of State may determine.
  - (3) Where a person ceases to be a member of the review body otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Secretary of State may determine to make a payment to him by way of compensation of such amount as the Secretary of State may determine.
  - (4) As soon as may be after making a determination under sub-paragraph (2) or sub-paragraph (3) above the Secretary of State shall lay before each House of Parliament a statement of the amount payable in pursuance of the determination.
  - (5) The consent of the Treasury is required for any determination of the Secretary of State under this paragraph.

#### Commencement Information

**I11** Sch. 1 para. 3 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

#### *Proceedings*

- 4
- (1) The quorum of the review body and the arrangements relating to their meetings shall be such as the review body may determine.
  - (2) The validity of proceedings of the review body is not affected by any vacancy among the members or any defect in the appointment of any member.

#### Commencement Information

**I12** Sch. 1 para. 4 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, art. 2

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### *House of Commons disqualification*

- 5 In Schedule 1 to the <sup>M3</sup>House of Commons Disqualification Act 1975 (offices disqualifying for membership of the House of Commons), in Part III there shall be inserted at the appropriate place the following entry—

“Member, in receipt of remuneration, of the review body appointed under section 1 the School Teachers' pay and Conditions Act 1991.”

#### **Commencement Information**

**I13** Sch. 1 para. 5 wholly in force at 22.8.1991 see s. 6(5) and S.I. 1991/1874, **art. 2**

#### **Marginal Citations**

**M3** 1975 c. 24.

## SCHEDULE 2

Section 6.

### ENACTMENTS REPEALED

#### **Commencement Information**

**I14** Sch. 2 wholly in force at 6.3.1992 see s. 6(5) and S.I. 1992/532, **art. 3**.

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1987 c. 1.	The Teachers' Pay and Conditions Act 1987.	The whole Act.
1988 c. 40.	The Education Reform Act 1988.	Section 46(1). In Schedule 12, paragraphs 38 and 39.

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