STATUTORY INSTRUMENTS

2001 No. 1284

EDUCATION, ENGLAND AND WALES

The Education (School Teachers' Pay and Conditions) (No. 3) Order 2001

Made - - - -	*29th March 2001*
Laid before Parliament	*30th March 2001*
Coming into force	*23rd April 2001*

Whereas the review body appointed under section 1(1) of the School Teachers' Pay and Conditions Act 1991**(a)** ("the Act") have made a report following the reference to them of certain matters;

And whereas the Secretary of State has consulted, in accordance with section 2(1) of the Act**(b)**, such associations of local education authorities, such bodies representing the interests of governors of foundation, voluntary, and foundation special schools and such bodies representing school teachers as appeared to him to be concerned;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 2(1), (3) and (4) and 5(4) of the Act**(c)** hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Education (School Teachers' Pay and Conditions) (No. 3) Order 2001 and shall come into force on 23rd April 2001.

Application

2. This Order applies to school teachers (as defined in section 5(1) and (2) of the School Teachers' Pay and Conditions Act 1991**(d)**) in England and Wales.

School Teachers' Pay and Conditions

3. The School Teachers' Pay and Conditions Document 2000**(e)** shall be amended with effect from 23rd April 2001 as follows.

4. In paragraph 1.2—

(a) for the definition of "advanced skills teacher" there shall be substituted the following definition—

(a) 1991 c.49.

(b) Section 2(1) is amended by paragraphs 24 and 26(a) of Schedule 30 to the School Standards and Framework Act 1998 (c.31).

(c) Section 2(3) and (4) is amended by paragraphs 24 and 26(c) and (d) of Schedule 30 to the School Standards and Framework Act 1998.

(d) The definition of "school teacher" in section 5(1) is amended by paragraphs 24 and 28(2)(a) of Schedule 30 to the School Standards and Framework Act 1998.

(e) ISBN 0 11 271090 5; the Document was given effect with modification by the Education (School Teachers' Pay and Conditions) (No. 3) Order 2000 (S.I. 2000/2321) and amended by S.I. 2000/3106, S.I. 2001/720 and S.I. 2001/1254.

"advanced skills teacher" means a teacher who—

(a) on or before 31st July 2000 was certified by an assessor appointed by the Secretary of State for Education and Employment as eligible for appointment to an advanced skills teacher post;

(b) has been certified as eligible for appointment to an advanced skills teacher post in accordance with paragraph 31B.5 or paragraph 31C.6; or

(c) has been certified by an assessor as eligible for appointment to an advanced skills teacher post while he was employed in a teaching post other than as a teacher (as defined in paragraph 1.2),

and who has been appointed to an advanced skills teacher post; and

(b) in the definition of "unlawful discrimination" after the words "threshold assessments" there shall be inserted the words "or advanced skills teacher assessments".

5. After paragraph 31 there shall be inserted the following paragraphs—

"**Appointment of assessors in relation to the certification of advanced skills teachers**

31A.1 The Secretary of State shall make arrangements for the appointment of assessors for the purposes of paragraphs 31B and 31C.

31A.2 Where a teacher seeks a review under paragraph 31C of an assessment under paragraph 31B.5, the Secretary of State shall make arrangements for the appointment of a review coordinator and for the allocation of an assessor who has not been involved in the assessment of which a review is sought to act as the review officer.

31A.3 Where a complaint under paragraph 31C.10 of unlawful discrimination in relation to a review is upheld under paragraph 31C, the Secretary of State shall make arrangements for the allocation of an assessor who has not been involved in the assessment or review to act as a replacement review officer.

31A.4 The Secretary of State may make arrangements for the allocation of a new assessor in place of an existing assessor at any time.

31A.5 The Secretary of State shall make arrangements for the quality of assessments under paragraph 31B.5 to be monitored, and for the determination of complaints by head teachers against assessors.

31A.6 An assessor appointed for the purposes of paragraph 31B or 31C shall exercise his functions without unlawful discrimination.

31A.7 In paragraphs 31A to 31C—

"assessor" means an assessor appointed under arrangements made by the Secretary of State for Education and Employment for the purposes set out in paragraphs 31B and 31C on such terms and conditions as the Secretary of State thinks fit;

"completed application" means an application for a certificate of eligibility for appointment to an advanced skills teacher post which has been prepared by a teacher and completed in accordance with paragraph 31B.3.2; and

"line manager" means the person designated by a head teacher's or an unattached teacher's employer as his line manager for the purposes of paragraph 31B.

Certification of advanced skills teachers

31B.1 Subject to paragraph 31B.12, no teacher shall be eligible to be paid as an advanced skills teacher unless he has been certified by an assessor as eligible for appointment to an advanced skills teacher post in accordance with paragraph 31B.5 or paragraph 31C.6 and he has been so appointed.

31B.2 Paragraphs 31B.3 to 31B.11 apply where a teacher who has not previously been certified as eligible for appointment to an advanced skills teacher post under paragraph 31B.5 applies for appointment to such a post.

31B.3.1 The teacher shall prepare a written application for a certificate of eligibility for appointment to an advanced skills teacher post, and he shall give it to—

(a) the head teacher of the school at which he is employed as a teacher;

(b) in the case of a teacher who is not employed as a teacher when he makes his application, the head teacher of the school at which he was most recently employed as a teacher; or

(c) in the case of a head teacher or an unattached teacher, his line manager.

31B.3.2 The head teacher or line manager shall within 20 working days of being given the application complete it by adding his own written comments, including his evaluation of the teacher's suitability for certification under paragraph 31B.5, and shall give the teacher a copy of the completed application promptly after its completion.

31B.4.1 Where a teacher applies for an advanced skills teacher post at the school at which he is employed as a teacher, the head teacher shall submit the completed application to an assessor if the teacher—

(a) is selected for interview for the post; or

(b) is selected, or recommended by the governing body, for appointment to the post without interview.

31B.4.2 Where a teacher applies for an advanced skills teacher post at a school at which he is not employed as a teacher, the head teacher or line manager who completed his application shall give the completed application to the head teacher of the school at which the post is situated. The head teacher of the school at which the post is situated shall submit the completed application to an assessor if the teacher—

(a) is selected for interview for the post; or

(b) is selected, or recommended by the governing body, for appointment to the post without interview.

31B.4.3 Where a teacher applies for an advanced skills teacher post which is not attached to a particular school, the head teacher or line manager who completed his application shall give the completed application to the officer nominated for the purpose of receiving applications by the Chief Education Officer of the authority for the area. That officer shall submit the completed application to an assessor if the teacher—

(a) is selected for interview for the post; or

(b) is selected for appointment to the post without interview.

31B.5 The assessor shall assess whether the teacher whose completed application has been submitted under paragraph 31B.4 has met the standards for appointment to an advanced skills teacher post set out in Annex 2, and if the assessor is satisfied that the teacher has met those standards he shall issue a certificate of eligibility for appointment to an advanced skills teacher post.

31B.6.1 Before making an assessment under paragraph 31B.5 the assessor shall—

(a) consider the completed application;

(b) consider any additional written evidence supplied by the teacher in support of his application;

(c) consider any additional written evidence in relation to the application supplied by the head teacher or line manager who completed the application;

(d) observe the teacher teaching;

(e) interview him; and

(f) interview the head teacher or line manager who completed the application,

and he may seek such additional evidence as he sees fit.

31B.6.2 Paragraph 31B.6.1(d) shall not apply where a teacher is absent from work in exercise of her right to maternity leave conferred by section 71 of the Employment Rights

Act 1996**(a)** or conferred by her contract of employment or because of her pregnancy, and has the right to return to work by virtue of the said section 71 or by virtue of her contract of employment.

31B.7.1 The assessor shall notify the teacher of his decision in writing within four weeks of completing his assessment under paragraph 31B.5, and where he has not certified the teacher as eligible for appointment to an advanced skills teacher post, he shall give reasons for his decision.

31B.7.2 The assessor shall notify—

(a) the head teacher or line manager who completed the application; and

(b) the head teacher of the school at which the post is situated, or where the post is not attached to a particular school the officer nominated by the Chief Education Officer for the purpose of paragraph 31B.4.3,

of his decision in writing.

31B.8.1 Where a teacher wishing to make an application for appointment to an advanced skills teacher post is simultaneously employed as a teacher at two or more schools, a designated head teacher shall be appointed to fulfil the head teacher's functions under paragraph 31B, who shall be—

(a) the head teacher of the school at which the teacher is employed for the greatest number of hours;

(b) where the teacher is employed for the same number of hours at all the schools at which he is employed, the head teacher of the school at which he has been employed for the longest period of time; or

(c) where the head teachers of all the schools concerned agree, any one of those head teachers.

31B.8.2 Before he completes an application under paragraph 31B.3.2, the designated head teacher shall consult the head teachers of the other schools at which the teacher is employed.

31B.8.3 References in paragraph 31B to the head teacher of a school at which a teacher is employed as a teacher shall be read in relation to a teacher simultaneously employed as a teacher at two or more schools as references to the designated head teacher.

31B.9.1 Where under arrangements made by the Secretary of State an assessor is replaced by another assessor as a result of a complaint being upheld against the original assessor—

(a) the assessor allocated as a replacement shall start the assessment under paragraph 31B.5 afresh; and

(b) any certificate issued by the original assessor under paragraph 31B.5 shall be void.

31B.9.2 Except as provided for in paragraph 31B.9.1, where an assessor is replaced by another assessor at any time, the replacement assessor may continue the assessment without repeating any steps taken by the original assessor.

31B.10 The assessor shall keep a copy of each teacher's completed application and all other documents pertaining to his assessment under paragraph 31B.5, and he shall make copies of the application and assessment documents available only to—

(a) the teacher;

(b) the head teacher or line manager who completed the application;

(c) the head teacher of the school at which the post is situated, or where the post is not attached to a particular school the officer nominated by the Chief Education Officer for the purpose of paragraph 31B.4.3;

(d) another assessor;

(e) a person responsible under arrangements made by the Secretary of State for monitoring the quality of threshold assessments at the school; or

(a) 1996 c.18.

(f) an authority or school governing body to whom a complaint has been made under paragraph 31C.10 by the teacher.

31B.11 With effect from 1st April 2002, no application for a certificate under paragraph 31B.5 shall be submitted to an assessor unless the teacher who made the application has passed the threshold.

31B.12 Nothing in paragraph 31B applies to a teacher who—

(a) was certified on or before 31st July 2000 by an assessor appointed by the Secretary of State for Education and Employment as eligible for appointment to an advanced skills teacher post; or

(b) has been certified by an assessor as eligible for appointment to an advanced skills teacher post while he was employed in a teaching post other than as a teacher (as defined in paragraph 1.2).

Review of advanced skills teacher assessment

31C.1 A teacher who, having had his application assessed under paragraph 31B.5, is not certified as eligible for appointment to an advanced skills teacher post shall no later than the end of the period of 40 working days starting on the day on which he received written notice of the result of his assessment be entitled to seek a review of his assessment under paragraph 31B.5 upon the grounds set out in paragraph 31C.2 (but no other grounds).

31C.2 The grounds for review are that the teacher would have been certified as eligible for appointment to an advanced skills teacher post if the assessor—

(a) had taken proper account of relevant evidence; or

(b) had not taken account of irrelevant or inaccurate evidence; or

(c) had not been biased or had not unlawfully discriminated against the teacher in question.

31C.3 An application for review shall be made in writing, and shall contain, or refer to, evidence relating to the grounds upon which review is sought.

31C.4 An application for review shall be given to the review coordinator, who shall give it to the allocated review officer.

31C.5 The review coordinator shall promptly give a copy of the application to the assessor, and the assessor may submit his written comments on the application.

31C.6.1 Where the review officer is satisfied that the teacher would have been certified as eligible for appointment to an advanced skills teacher post if the assessor—

(a) had taken proper account of relevant evidence; or

(b) had not taken account of irrelevant or inaccurate evidence; or

(c) had not been biased or had not unlawfully discriminated against the teacher in question,

he shall certify that the teacher is eligible for such an appointment.

31C.6.2 Where the review officer is not satisfied that the teacher would have been certified as eligible for appointment to an advanced skills teacher post if the assessor—

(a) had taken proper account of relevant evidence; or

(b) had not taken account of irrelevant or inaccurate evidence; or

(c) had not been biased or had not unlawfully discriminated against the teacher in question,

he shall order the assessment under paragraph 31B.5 to stand.

31C.7.1 Before determining a review the review officer—

(a) shall consider the completed application and the application for review; and

(b) may—

(i) request the assessor to provide copies of any of his records in relation to the assessment, and consider such documents as he supplies pursuant to the request,

(ii) seek comments from the teacher, the head teacher or line manager who completed the application or the assessor, and

(iii) do anything an assessor could do under paragraph 31B.6.1.

31C.8 The assessor shall provide to the review officer copies of such of his records in relation to the assessment under paragraph 31B.5 as the review officer requests.

31C.9.1 The review officer shall notify in writing the teacher and the assessor of his decision under paragraph 31C.6 and of the reasons for it no later than the end of the period of 40 days starting on the day on which the review officer received the review application.

31C.9.2 The review officer shall notify in writing of his decision under paragraph 31C.6—

(a) the head teacher or line manager who completed the application; and

(b) the head teacher of the school at which the post is situated, or where the post is not attached to a particular school the officer nominated by the Chief Education Officer for the purpose of paragraph 31B.4.3.

31C.10 Paragraphs 31C.11 to 31C.17 apply where—

(a) the review officer orders that an assessment under paragraph 31B.5 is to stand; and

(b) the teacher who made the review application complains to the authority or school governing body which employ him that the review officer who carried out the review unlawfully discriminated against him.

31C.11.1 A complaint under paragraph 31C.10 may be brought no later than the end of the period of 40 working days starting with the date on which the teacher received the notification under paragraph 31C.9.

31C.11.2 A complaint under paragraph 31C.10 shall be made in writing and shall contain, or refer to, evidence relating to the discrimination complained of.

31C.11.3 The teacher shall give a copy of the complaint under paragraph 31C.10 to the review coordinator.

31C.12 The teacher, the assessor and the review officer shall at the request of the teacher's employers supply them with such records, information or evidence as the employers reasonably request.

31C.13 Where the employers are satisfied that—

(a) the teacher's complaint under paragraph 31C.10 is justified; and

(b) the discrimination may have affected the review officer's decision that the assessment under paragraph 31B.5 stood,

they shall inform the review coordinator in writing of their conclusions and the reasons for their decision. The review coordinator shall refer the case to a replacement review officer for a further review.

31C.14 The employers shall promptly notify in writing the teacher and the assessor that they have referred the case to a replacement review officer and of the reasons for their decision.

31C.15 Where a reference is made to him under paragraph 31C.13, the replacement review officer shall carry out a further review taking account of the employers' conclusions and the reasons for their decision, and paragraphs 31C.6 to 31C.17 shall apply to the further review.

31C.16 When the replacement review officer has determined the further review, he shall in addition to fulfilling the requirements of paragraph 31C.9 notify the employers in writing of his decision and of the reasons for it.

31C.17 Where the employers—

(a) are not satisfied that the teacher's complaint under paragraph 31C.10 is justified; or

(b) if they are so satisfied, they are not satisfied that the discrimination may have affected the review officer's decision that the assessment under paragraph 31B.5 stood,

they shall dismiss the complaint, and notify the teacher and assessor in writing of their decision and the reasons for it, such notification to be given no later than the end of the period of 40 working days starting with the day on which the employers received the complaint under paragraph 31C.10.

31C.18 In paragraph 31C—

"assessor" means the assessor who made the assessment under paragraph 31B.5 of which a review is sought; and

"working day" means any day other than a Saturday, a Sunday or a day which is a bank holiday.".

6. After paragraph 51.8A there shall be inserted the following paragraph—

"51.8B **Advanced skills teacher assessment**

51.8B.1 where requested by him to do so, completing under paragraph 31B.3.2 the application for a certificate of eligibility for appointment to an advanced skills teacher's post of a teacher at the school or a teacher who was last employed at the school;

51.8B.2 where requested by him to do so, providing assistance to an assessor in relation to advanced skills teacher assessments at the school;

51.8B.3 the professional duties of a head teacher under paragraph 58.8B shall not be delegated to a deputy or assistant head teacher, although pursuant to paragraph 53.3 they may be exercised by a deputy head teacher in the head teacher's absence from the school;".

7. After Annex 1 there shall be inserted the following annex—

"**Annex 2**
Standards for advanced skills teachers

Excellent results or outcomes

1. As a result of the advanced skills teachers' teaching, pupils show consistent improvement in relation to prior and expected attainment; are highly motivated, enthusiastic and respond positively to challenge and high expectations; exhibit consistently high standards of discipline and behaviour; show a consistent track record of parental involvement and satisfaction.

Excellent subject or specialist knowledge

2. Advanced skills teachers must keep up to date in their subject or specialism; have a full understanding of connections and progression in the subject and use this in their teaching to ensure pupils make good progress; quickly understand pupils' perceptions and misconceptions from their questions and responses; understand information and communications technology in the teaching of their subject or specialism.

Excellent ability to plan

3. Advanced skills teachers must prepare lessons and sequences of lessons with clear objectives to ensure successful learning by all pupils; set consistently high expectations for pupils in their class and homework; plan their teaching to ensure it builds on the current and previous achievement of pupils.

Excellent ability to teach, manage pupils and maintain discipline

4. Advanced skills teachers must understand and use the most effective teaching methods to achieve the teaching objectives in hand; must display flair and creativity in

engaging, enthusing and challenging groups of pupils; use questioning and explanation skilfully to secure maximum progress; must develop pupils' literacy, numeracy and information and communications technology skills as appropriate within their phase and context; are able to provide positive and targeted support for pupils who have special educational needs, are very able, are from ethnic minorities, lack confidence, have behavioural difficulties or are disaffected; must maintain respect and discipline; are consistent and fair.

Excellent ability to assess and evaluate

5. Advanced skills teachers must use assessment as part of their teaching to diagnose pupils' needs, set realistic and challenging targets for improvement and plan future teaching; improve their teaching through evaluating their own practice in relation to pupils' progress, school targets and inspection evidence.

Excellent ability to advise and support other teachers

6. Advanced skills teachers must provide clear feedback, good support and sound advice to others; are able to provide examples, coaching and training to help others become more effective in their teaching; can help others to evaluate the impact of their teaching on raising pupils' achievements; are able to analyse teaching and understand how improvements can be made; have highly developed inter-personal skills which allow them to be effective in schools and situations other than their own; provide a role model for pupils and other staff through their personal and professional conduct; know how to plan and prioritise their own time and activity effectively; are highly respected and able to motivate others.".

Estelle Morris
Minister of State,
29th March 2001 Department for Education and Employment

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the School Teachers' Pay and Conditions Document 2000 ("the Document"), to which the Education (School Teachers' Pay and Conditions) (No. 3) Order 2000 (S.I. 2000/2321) gave effect with modifications on 1st September 2000. The amendments take effect on 23rd April 2001.

The Order provides for teachers who apply for an advanced skills teacher post (other than those who have previously been certified as eligible for appointment to an advanced skills teacher post) to be assessed against the standards set out in a new Annex 2 to the Document. Teachers who are successful are eligible to be paid as advanced skills teachers if they are subsequently appointed to an advanced skills teacher post.

The Order gives teachers who are not certified as eligible for appointment to an advanced skills teacher post the right to have the decision reviewed by a different assessor. It also makes provision about complaints by teachers of unlawful discrimination in the determination of an application for review.

The Document is published by Her Majesty's Stationery Office and is obtainable from book shops of The Stationery Office Limited and through booksellers.

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