STATUTORY INSTRUMENTS

2001 No. 720

EDUCATION, ENGLAND AND WALES

The Education (School Teachers' Pay and Conditions) Order 2001

Made - - - -	*5th March 2001*
Laid before Parliament	*6th March 2001*
Coming into force	*28th March 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) Order 2001 and shall come into force on 28th March 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)** ("the Document") shall be amended with effect from 28th March 2001 as follows.

4. In paragraph 1.2 in the appropriate position there shall be inserted 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 modifications by the Education (School Teachers' Pay and Conditions) (No. 3) Order 2000 (S.I. 2000/2321 amended by S.I. 2000/3106).

" "unlawful discrimination" means any discrimination against a teacher by an assessor in relation to threshold assessments which if the assessor were the teacher's employers would constitute unlawful discrimination, and "unlawfully discriminate" shall be construed accordingly;".

5. After paragraph 19A.2 there shall be inserted the following paragraph—

"19A.2A Where a complaint under paragraph 19D.8 of unlawful discrimination in relation to a review is upheld, 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.".

6. In paragraph 19A.3 for "appointment" there shall be substituted "allocation".

7. In paragraph 19A.5 for the words from "sex discrimination" to the end of the paragraph there shall be substituted "unlawful discrimination".

8. In paragraph 19B.9.1(a) after "19B.4" there shall be inserted "or 19B.14 (as the case may be)".

9. In paragraph 19B.10—

(a) at the end of sub-paragraph (d) "or" shall be deleted; and

(b) after sub-paragraph (e) there shall be inserted the following sub-paragraphs—

"(f) an authority or school governing body to whom a complaint has been made under paragraph 19D.8 by a teacher they employ;

(g) the head teacher of a school to which an application is transferred under paragraph 19B.13.2 and a member of the leadership group at such a school; or

(h) the designated line manager to whom an application is transferred under paragraph 19B.13.3.".

10. In paragraph 19B.11(a) after "19C" there shall be inserted "or 19B.14.2".

11. After paragraph 19B.12 there shall be inserted the following paragraphs—

"19B.13.1 This paragraph applies where a school closes before all the procedures referred to in paragraph 19B or 19D in relation to the threshold assessment of a teacher are completed.

19B.13.2 In the case of a teacher who takes up his next post at another school ("the new school"), the head teacher of the closing school, the assessor allocated to the closing school, the head teacher of the new school and the assessor allocated to the new school shall make such arrangements as they see fit for and in connection with—

(a) the transfer of the teacher's application for threshold assessment and other documents pertaining to his assessment to the new school; and

(b) the completion of the procedures in relation to the teacher's assessment referred to in paragraphs 19B and 19D.

19B.13.3 In the case of a teacher who takes up his next post as an unattached teacher, the head teacher of the closing school, the assessor allocated to the closing school, the Chief Education Officer of the authority which will employ the teacher in his new post, any person nominated by the Chief Education Officer to act as the teacher's designated line manager for the purposes of paragraph 19C and the assessor allocated to the authority shall make such arrangements as they see fit for and in connection with—

(a) the transfer of the teacher's application for threshold assessment and other documents pertaining to his assessment to his designated line manager, and where no designated line manager has been nominated, to the assessor allocated to the authority; and

(b) the completion of the procedures in relation to the teacher's assessment referred to in paragraphs 19B, 19C and 19D.

19B.14.1 Where paragraph 19B would otherwise operate so as to require a head teacher to make an assessment of his own application for threshold assessment—

(a) paragraphs 19B.14.2 to 19B.14.5 shall apply in relation to the assessment of such teacher's application in place of paragraphs 19B.2 to 19B.4; and

(b) the other provisions of paragraphs 19B and 19D shall apply in relation to that assessment with the modifications specified in paragraphs 19B.14.6 to 19B.14.9.

19B.14.2 The teacher shall prepare an application for threshold assessment complying with the requirements of paragraph 19B.2.2 (subject to paragraph 19B.2.3), and he shall give it to the assessor allocated to the school.

19B.14.3 The assessor shall consider the application and such of the evidence mentioned in the application and such other evidence as he thinks appropriate, and he may—

(a) consult or seek further information from the teacher who made the application, the previous head teacher of his school or the head teacher of his previous school, and any person with management responsibility for him;

(b) observe the teacher teaching.

19B.14.4 The assessor shall determine whether the teacher—

(a) has met each of the performance threshold standards throughout the relevant period, and so has passed the threshold; or

(b) has not met each of the performance threshold standards throughout the relevant period, and so has not passed the threshold.

19B.14.5 The assessor shall record in writing on the application—

(a) what evidence in addition to that relied upon by the teacher he took into account;

(b) his assessment of whether or not the teacher has met each of the performance threshold standards throughout the relevant period; and

(c) his assessment of whether the teacher has passed the threshold.

19B.14.6 The assessor shall issue a certificate under paragraph 19B.5 in relation to the teacher.

19B.14.7 Paragraphs 19B.6.1 and 19B.6.2 shall not apply, and following the issue of a certificate under paragraph 19B.5 the assessor shall promptly send—

(a) the certificate and the application to the head teacher; and

(b) notification of whether the teacher has passed the threshold to the chairman of the governing body of the school.

19B.14.8 The functions of the head teacher under paragraphs 19B.6.3 and 19B.6.4 shall be fulfilled by the assessor, and references in those paragraphs to the head teacher shall be read as references to the assessor.

19B.14.9 Paragraph 19D.3.4 shall not apply.

19B.15 The assessor allocated to the school shall at the request of a head teacher first appointed to a post of head teacher on or after 1st September 2000 or of an acting head teacher give him assistance with his function under paragraph 19B.3.1.

19B.16 In paragraphs 19A to 19D "classroom teacher" includes a head teacher, deputy head teacher or assistant head teacher who was a classroom teacher at the time he made his application for threshold assessment.".

12.—(1) In paragraph 19C.5.1 after "19B.2.2" there shall be inserted "(subject to paragraph 19B.2.3)".

(2) In paragraph 19C.5.2(a) "who has provided information in relation to his threshold assessment" shall be omitted.

(3) In paragraph 19C.5.9—

(a) at the end of sub-paragraph (c) "or" shall be deleted;

(b) at the end of sub-paragraph (d) "or" shall be inserted; and

(c) after sub-paragraph (d) there shall be inserted the following sub-paragraph—

"(e) an authority or school governing body to whom a complaint has been made under paragraph 19D.8 by a teacher they employ.".

13. In paragraph 19D.1 for the words from "the end" to "19C.5.8" there shall be substituted the following words—

"the later of—

(a) 31st March 2001; or

(b) the end of the period of 40 working days starting on the day on which he receives written feedback under paragraph 19B.6.4 or 19C.5.8,".

14. In paragraph 19D.6—

(a) after "notify" there shall be inserted "in writing"; and

(b) after "19D.4" there shall be inserted "and of the reasons for it".

15. Paragraph 19D.8 shall be renumbered paragraph 19D.16.

16. After paragraph 19D.7 there shall be inserted the following paragraphs—

"19D.8 Paragraphs 19D.9 to 19D.15 apply where—

(a) the review officer orders that the threshold assessment of a classroom teacher is to stand; and

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

19D.9.1 A complaint under paragraph 19D.8 may be brought no later than the end of the period of 40 working days starting with the day on which the classroom teacher received notification under paragraph 19D.6 of the review officer's decision that his threshold assessment is to stand.

19D.9.2 A complaint under paragraph 19D.8 shall be made in writing and shall contain, or refer to, evidence relating to the discrimination complained of.

19D.9.3 The classroom teacher who made the complaint under paragraph 19D.8 shall give a copy of it to the head teacher who made the assessment.

19D.10 The classroom teacher who made the complaint under paragraph 19D.8, the head teacher or assessor who made the assessment and the review officer shall at the request of that teacher's employers supply them with such records, information or evidence as the employers reasonably request.

19D.11.1 Where the employers are satisfied that—

(a) the classroom teacher's complaint under paragraph 19D.8 is justified; and

(b) the unlawful discrimination may have affected the review officer's decision that the threshold assessment stood,

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

19D.11.2 The employers shall notify in writing the classroom teacher who made the complaint and the head teacher who made the assessment that they have referred the case to a replacement review officer and of the reasons for their decision.

19D.12 Where a reference is made to him under paragraph 19D.11.1, the replacement review officer shall carry out a further review taking account of the employers' conclusions and the reasons for their decision, and paragraphs 19D.3.2 and 19D.4 to 19D.15 shall apply to the further review.

19D.13 When the replacement review officer has determined the further review, he shall in addition to fulfilling the requirements of paragraph 19D.6 notify the employers in writing of his decision and of the reasons for it.

19D.14 Where the employers—

(a) are not satisfied that the classroom teacher's complaint under paragraph 19D.8 is justified; or

(b) if they are so satisfied, they are not satisfied that the unlawful discrimination may have affected the review officer's decision that the threshold assessment stood,

they shall dismiss the complaint, and notify the classroom teacher who made the complaint and the head teacher who made the assessment in writing of their decision and the reasons for it.

19D.15 The employers shall notify the classroom teacher who made the complaint and the head teacher who made the assessment in writing of their decision and the reasons for it under paragraph 19D.11.2 or 19D.14 (as the case may be) 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 19D.8.".

17. After paragraph 39.4 there shall be inserted the following paragraph—

"39.5 Nothing in paragraph 39 shall be taken to authorise—

(a) paragraphs 19A to 19D to be disapplied in the case of an unattached teacher; or

(b) an unattached teacher to whom paragraph 19.2 applies to be paid a salary based on the pay scale set out in paragraph 17.3.".

Estelle Morris
Minister of State,
Department for Education and Employment

5th March 2001

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the School Teachers' Pay and Conditions Document 2000 ("the Document") with effect from 28th March 2001. The Document was given effect by the Education (School Teachers' Pay and Conditions) (No. 3) Order 2000 (S.I. 2000/2321) with modifications on 1st September 2000 and it was amended by the Education (School Teachers' Pay and Conditions) (No. 4) Order 2000 (S.I. 2000/3106).

The Order makes provision about complaints by classroom teachers of unlawful discrimination in the determination of an application for review of a threshold assessment decision. A classroom teacher who does not pass the threshold and whose review application is not successful may complain to his employers if he suffered such discrimination by the review officer who determined his review application. Where the employers uphold a teacher's complaint they have power to remit the teacher's review application for re-determination by a different review officer.

The Order makes arrangements for threshold assessments to be carried out directly by an assessor where a head teacher has himself applied for threshold assessment. Provision is also made for the transfer of threshold assessment applications to teachers' new schools or local education authorities where the school at which the assessment process started closes.

The Order also makes consequential and minor amendments to the Document.

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

STATUTORY INSTRUMENTS

2001 No. 720

EDUCATION, ENGLAND AND WALES

The Education (School Teachers' Pay and Conditions) Order 2001

£2.00

© Crown copyright 2001

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E 0642 04/01 ON (MFK)