

EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL TEACHERS PAY AND CONDITIONS) ORDER 2009

2009 No. 2132

1. 1.1 This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 Article 2 of The Education (School Teachers' Pay and Conditions) Order 2009, ("the Order") which comes into force on 1 September 2009, makes provision for the remuneration and conditions of employment of school teachers to be determined by reference to the provisions set out in section 2 of the "School Teachers' Pay and Conditions Document 2009 and Guidance on School Teachers' Pay and Conditions", ("the Document").

2.2 The Document replaces the provisions set out in the previous year's Document. It applies to teachers employed in local authority maintained schools in England and Wales. Teachers' pay and conditions are reviewed at least annually and the pay scales for the various categories of teachers are updated in line with the appropriate pay awards. The Document reproduces the text of the previous Document but with a number of changes. These changes cover primarily the introduction of new pay scales for all teachers from 1 September 2009, as well as amendments to provisions relating to the pay arrangements for the leadership group and excellent teachers, amendments to provisions relating to assessments against post-threshold teacher standards, updating of provisions relating to unqualified teachers and part-time teachers and the introduction of a gender neutral drafting style. Several out of date provisions have also been removed relating to Management Allowances, Assimilation Safeguarding, Social Priority Allowance and Inner London Area Supplement.

2.3 The Document is laid out in 12 parts and three annexes. Part 1 deals with commencement and interpretation matters. Parts 2 to 7 set out how pay for the various categories of teachers is to be determined. Parts 8 to 12 set out conditions of employment for the various categories of teacher that will have effect as terms of their contracts of employment. The Annexes set out the performance standards related to particular categories of teacher and the list of clerical and administrative tasks which teachers should not be expected to undertake routinely.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Education (School Teachers' Pay and Conditions) Order 2009 is made under section 122(1) of the Education Act 2002 (“the Act”), which provides the Secretary of State with the power to make provision for the remuneration of teachers and other conditions of employment related to their professional duties and working time. The Order makes provision by reference to the provisions of the Document under section 124(3) of the Act. In accordance with section 125(1), the Order makes provision about matters that have been referred to the School Teachers’ Review Body (“the STRB”) under section 120(1), on which the STRB has reported under section 120(3). It also makes provision about matters which have not been referred to the STRB because they have been determined by the Secretary of State to be subsidiary provision under section 125(3) and, as such, are not required to be so referred (section 125(2)). (The STRB is an independent statutory body established under the School Teachers’ Pay and Conditions Act 1991.)

4.2 The Order applies to all school teachers within the meaning of section 122(3) to (5) of the Act in England and Wales. By virtue of section 122(2)(a), their remuneration is to be determined and paid in accordance with the pay scales and other provisions of the Document. By virtue of section 122(2)(b), the provisions of the Document which relate to conditions of employment other than remuneration have effect as terms of their contracts of employment.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Amendments to the Document are the result of a statutory process that requires first of all a formal reference of matters concerning the remuneration and/or other conditions of employment of school teachers to the STRB, which then reports on those matters. The Secretary of State and the national representatives of teachers and teacher employers each have the opportunity to submit evidence and make representations on those matters before the report is finalised. The Secretary of State considers the report and publishes it. The Secretary of State determines how and to what extent the recommendations in the report should be implemented, and then conducts a statutory consultation on the draft Order before it is made.

8. Consultation outcome

8.1 This was a technical consultation to statutory consultees lasting for four weeks, the consultees being accustomed to the short timetable that is consistent with practice over several years. There have been continuing discussions with the national

representatives of teachers and teacher employers throughout. Also an earlier consultation on the recommendations of the STRB and the Secretary of State's response has taken place as outlined at paragraph 7.1 above. Nine individual responses were received, from the following groups: WAG - Welsh Assembly Government, ASCL - Association of School and College Leaders, UCAC - National Association of Teachers of Wales, LGE - Local Government Employers, NUT - National Union of Teachers, ATL - Association of Teachers and Lecturers, NASUWT - National Association of Schoolmasters Union of Women Teachers, Governors Wales and NAHT – National Association of Head Teachers. A number of corrections were made following comments received as well as a number of other minor clarifications. There were no substantive changes to policy. Amendments and corrections were also made to the accompanying statutory guidance as a result of points raised in the consultation.

9. Guidance

9.1 The School Teachers' Pay and Conditions Document 2009 and Guidance on School Teachers' Pay and Conditions contains within section 3 statutory guidance in accordance with section 127(1) of the Act about the procedure to be followed in applying the provisions of the Order.

9.2 Additional guidance is also made available on the Teachernet website titled 'Explanatory Notes for Head Teachers, Governors and Local Authorities'.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector relates to the budgets of maintained schools in England and Wales to the extent that it makes changes to the pay and conditions of teachers employed by local authorities and governing bodies.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Document is updated each year and any changes identified as necessary during the course of a year can be included in the next document. Feedback is received from schools and local authorities as well as the national representatives of teachers and teacher employers and this is taken into consideration when the statutory process for the next year commences.

13. Contact

13.1 Wendy Sheldon at the Department for Children, Schools and Families (tel: 01325 391376; e-mail wendy.sheldon@dcsf.gsi.gov.uk) can answer any queries regarding the instrument.