

## EXPLANATORY MEMORANDUM TO

### THE SCHOOL TEACHERS' INCENTIVE PAYMENTS (ENGLAND) ORDER 2019

2019 No. 1133

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The purpose of this Order is to ensure that incentive payments to school teachers under three schemes (the Mathematics Early-Career Payments Pilot, the Mathematics and Physics Teacher Retention Payments Pilot, and the Teachers' Student Loan Reimbursement Pilot) are not to be treated as remuneration under the School Teachers' Pay and Conditions Document (STPCD). This is necessary to make it clear that these incentive payments are not pensionable nor part of the statutory negotiation process provided for with regard to the STPCD under section 122(1) of the Education Act 2002. This Order revokes the School Teachers' Incentive Payments (England) Order 2018 (SI 2018/998) which concerned the Mathematics Early-Career Payments Pilot but which has now been superseded by this Order.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England.

#### 5. European Convention on Human Rights

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

#### 6. Legislative Context

- 6.1 The Secretary of State may make provision for the determination of the remuneration of school teachers under section 122(1) of the Education Act 2002 and does so by reference to a document called the School Teachers' Pay and Conditions Document (STPCD), which is replaced annually with effect from 1st September.

- 6.2 This Order provides that incentive payments to school teachers under the three schemes are not to be treated as remuneration for the purpose of section 122(1) and, therefore, are not subject to any of the other provisions in the STPCD.

## 7. Policy background

### *What is being done and why?*

- 7.1 The Mathematics Early-Career Payments Pilot is being offered to teachers starting their initial teacher training (ITT) in the 2018/19 and 2019/20 academic years. It is being piloted as part of a “phased bursary” for this cohort of teachers. Eligible teachers will receive a slightly lower bursary during training (£20,000 compared to the £26,000 bursary available for other high priority subjects) but will then receive early-career payments of £5,000 each in their third and fifth year of teaching. Teachers in 39 local authorities will receive uplifted early-career payments of £7,500 each. To be eligible for the Mathematics Early-Career Payments Pilot teachers must meet the specified eligibility criteria. Full guidance on the mathematics early-career payments can be found here: <https://www.gov.uk/guidance/mathematics-early-career-payments-guidance-for-teachers-and-schools>
- 7.2 A statutory instrument was made last year, the School Teachers’ Incentive Payments (England) Order 2018, following the setting up of the Mathematics Early-Career Payments Pilot, on the basis that the incentive payments were going to be made by local authorities or governing bodies of schools. However, this policy changed and the payments under this Pilot, and the two Pilots referred to below, will now be made by the Department for Education on behalf of the Secretary of State directly to teachers as provided for in this Order. Therefore, the 2018 Order has been superseded and is being revoked – this Order contains the necessary provision for the Mathematics Early-Careers Payments Pilot and makes the required reference to the payments being made by the Secretary of State, as well as providing for the two other schemes. No incentive payments have been made under the 2018 Order.
- 7.3 The Mathematics and Physics Teacher Retention Payments Pilot is being offered to teachers in the 2019/20 and 2020/21 academic years. It is being piloted for teachers in the first 5 years of their career who are employed in the North East, Yorkshire and Humber or Opportunity Areas. Eligible teachers will receive a £2,000 retention payment in either or both academic years. To be eligible for the Mathematics and Physics Teacher Retention Payments Pilot teachers must meet the specified eligibility criteria. Full guidance on the mathematics and physics teacher retention payments can be found here: <https://www.gov.uk/guidance/apply-for-mathematics-and-physics-teacher-retention-payments>
- 7.4 The Teachers’ Student Loan Reimbursement Pilot is being offered to teachers from the 2019/20 academic year onwards. It is being piloted for teachers who have been awarded qualified teacher status (QTS) or qualified teacher learning and skills (QTLS) who completed initial teacher training (ITT) between the 2013/14 and 2019/20 academic years. Teachers must be employed in one of 25 local authorities. Eligible teachers will receive a reimbursement of the student loan repayments they made in the preceding financial year. To be eligible for the Teachers’ Student Loan Reimbursement Pilot teachers must meet the specified eligibility criteria. Full guidance on teachers’ student loan reimbursement can be found here: <https://www.gov.uk/guidance/teachers-student-loan-reimbursement-guidance-for-teachers-and-schools>

- 7.5 The Department is offering all three schemes to incentivise the retention of eligible teachers. The schemes are targeted at priority subject teachers and weighted towards areas of high need, as determined by our published data covering standards and capacity to improve. The Department is completing evaluations of all three schemes to assess the impact of the payments on the retention of eligible teachers. The schemes may be expanded and offered to more teachers in future.
- 7.6 In line with commitments made to the Joint Committee on Statutory Instruments in October 2010, the Department usually adopts 1 September as the commencement date for schools-related statutory instruments and lays those instruments by 1 April to give schools one full-term's lead in-time between the notification of a new requirement in a statutory instrument and the commencement of that requirement. This lead-in time is not required or appropriate in the present case as schools will have a limited role in the operation of all schemes, as the payments will be made by the Department directly to the teacher. Schools will only be required to verify some of the information that the teacher has provided in their application to the Department for the payment. Furthermore, schools are already aware that all three schemes have been set up.
- 7.7 The Department is funding these payments in their entirety – local authorities or governing bodies of schools will not bear any cost.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union.
- 9. Consolidation**
- 9.1 The issue of consolidation does not arise as this is a stand-alone incentive payments order.
- 10. Consultation outcome**
- 10.1 The Department advised that the payments being made under all three schemes are not part of a teacher's pay and should not be treated as pensionable payments when each policy was announced.
- 10.2 A formal public consultation has not been carried out prior to the making of this Order. While short public consultations have been carried out in connection with previous incentive orders the Department did not consider that one was required in this case for the following reasons. Firstly, the Department has completed a significant amount of informal stakeholder engagement with school leaders and organisations representing teachers regarding the schemes, including how the payments will be administered. This has included visits to schools and detailed engagement with teachers regarding the online application process and digital service which will deliver the payments to teachers.
- 10.3 Secondly, the purpose of this instrument is to enable the payments to be paid outside the statutory pay framework and to ensure that the payments are not treated as pensionable – the Order is of a technical nature. The instrument is not needed to establish the schemes themselves or to allow the Department to make the payments – the Secretary of State has power under section 14 of the Education Act 2002 to provide this type of financial provision and does not need to make a statutory instrument for that purpose. A public consultation would not have added to or assisted

any policy development or decisions on how the schemes should be administered and their mechanics. The Department is committed to continuing to engage with stakeholders in future with regard to both the policy and mechanics of all three schemes. Finally, there is not a statutory duty to consult.

## **11. Guidance**

- 11.1 The Department has provided guidance on all three schemes, including the role of the teacher in claiming these payments:

<https://www.gov.uk/guidance/mathematics-early-career-payments-guidance-for-teachers-and-schools>

<https://www.gov.uk/guidance/apply-for-mathematics-and-physics-teacher-retention-payments>

<https://www.gov.uk/guidance/teachers-student-loan-reimbursement-guidance-for-teachers-and-schools>

- 11.2 Further guidance will be made available to teachers and schools prior to applications for each scheme opening.

## **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The payment of these incentives to further cohorts of teachers or teachers employed in other areas of the country will be subject to an internal review.
- 14.2 The regulation does not include a statutory review clause.

## **15. Contact**

- 15.1 Chris Cuff at the Department for Education (telephone: 01610 600 1323 or email: [chris.cuff@education.gov.uk](mailto:chris.cuff@education.gov.uk)) can be contacted with any queries regarding the instrument.
- 15.2 Stephen Baker, Deputy Director for Teacher Reward and Incentives at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt. Hon Nick Gibb MP, Minister of State for School Standards at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.