

EXPLANATORY MEMORANDUM TO
THE SCHOOL TEACHERS' PAY AND CONDITIONS ORDER 2012

2012 No. 2051

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 Article 2 of the School Teachers' Pay and Conditions Order 2012 ("the Order"), which comes into force on 1 September 2012, 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 2012 and Guidance on School Teachers' Pay and Conditions" ("the Document").

2.2 Section 2 of the Document replaces the provisions set out in section 2 of the School Teachers' Pay and Conditions Document 2011 and Guidance on School Teachers' Pay and Conditions ("the previous Document"). It applies to teachers employed in local authority maintained schools in England and Wales. Teachers' pay and conditions are reviewed at least annually. Section 2 of the Document reproduces the text in section 2 of the previous Document but with a number of changes which reflect changes that have been made to legislation in England and Wales during the course of the year. The changes include referring to the Teachers' Standards (which apply to England only) rather than the Core Standards; adding references which reflect the new arrangements for teacher appraisal in both England and Wales; removing references to the General Teaching Council for England (GTCE) due to the abolition of the GTCE; and reverting the number of working days annually to 195 and specified working hours to 1265.

2.3 Section 2 of the Document is laid out in 10 parts and four 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 10 set out conditions of employment for the various categories of teacher that will have effect as terms of their contracts of employment. The Annexes to Section 2 of the Document 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 Order 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. It also makes provision about matters which have not been referred to the School Teachers’ Review Body (“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.) The provisions are subsidiary for the purposes of section 125(3) because the Document only makes minor and consequential amendments to the previous Document. The Secretary of State considers either that the provisions in the Document concern the implementation and application of systems and principles on which the STRB has already reported (those provisions are within the definition of subsidiary in section 125(3)(c)) or that the differences are only minor and consequential (those provisions fall within the definition of subsidiary in section 125(3)(f)).
- 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 The provisions in section 2 of the Document that differ to those from section 2 of the previous Document are the result of legislative changes in England and Wales only. As the Secretary of State has determined the changes to be subsidiary, they have not been referred to the STRB.

8. Consultation outcome

- 8.1 This was a consultation to statutory consultees lasting for four weeks, the consultees being accustomed to the short timetable. Responses were received from the following seven groups: ASCL - Association of School and College Leaders,

who provided a combined response with NAHT – National Association of Head Teachers; ATL - Association of Teachers and Lecturers; NASUWT - National Association of Schoolmasters Union of Women Teachers; NEOST – National Employers of School Teachers; NUT - National Union of Teachers; UCAC - National Association of Teachers of Wales; the Welsh Government. A number of corrections were made following comments received as well as a number of other minor clarifications.

9. Guidance

9.1 Section 3 of the Document contains guidance (including statutory guidance in accordance with section 127(1) of the Act) about the procedure to be followed in applying the provisions of the Order.

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 sets 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 A new Document is prepared 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 Anna Ward at the Department for Education (tel: 01325 735688; e-mail anna.ward@education.gsi.gov.uk) can answer any queries regarding the Order.