

**EXPLANATORY MEMORANDUM TO**  
**THE SCHOOL TEACHERS' PAY AND CONDITIONS (ENGLAND) (NO. 2)**  
**(AMENDMENT) ORDER 2023**

**2023 No. 386**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 This Order modifies the School Teachers' Pay and Conditions Document 2022 and Guidance on School Teachers' Pay and Conditions" ("the Document") which makes provision for the remuneration and conditions of employment of school teachers. The provisions of the Document have effect from 1st September 2022.
- 2.2 The modification will reduce by one the number of days for which a teacher must be available to teach pupils and perform other duties, and the number of hours they can be directed to work, in that school year as a result of the additional bank holiday on Monday 8th May 2023, to mark the coronation of His Majesty King Charles III.
- 2.3 The Document applies to teachers employed in local authority maintained schools in England.

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

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

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 Order amends the School Teachers' Pay and Conditions Order (England) (No.2) 2022 (S.I. 2022/1043) ("the 2022 Order").
- 6.1 It 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 school teachers in England as defined in section 122(3) to (6) of the Act and other conditions of employment related to their professional duties and working time. By virtue of section 122(2)(b) of the Act, the provisions of the Document which relate to

conditions of employment other than remuneration have effect as terms of their contracts of employment.

- 6.2 Section 123 of the Act makes provision about the scope of orders under section 122 including permitting such an order to confer a discretion on a local authority or governing body and permitting such an order to make retrospective provision. Section 124 makes supplemental provision about orders under section 122 including permitting an order under section 122(1).
- 6.3 Section 125 requires the referral of matters included in orders under section 122 to the School Teachers' Review Body other than where the conditions in section 125(2) of the Act are met. This Order makes provision in respect of which the Chair of the School Teachers' Review Body (STRB) has been consulted about disapplying section 125(1) of the Act as permitted by section 125(2)(b).
- 6.4 In accordance with section 126 of the Act the Secretary of State has consulted such of the persons and bodies referred to in that section as appeared to the Secretary of State to be appropriate.

## **7. Policy background**

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

- 7.1 The Document sets out the number of days per year that teachers must be available to teach and perform other duties and the number of hours that they can be directed by the headteacher during those days. The bank holiday means that these number of days will be reduced by one and the number of hours accordingly adjusted. The number of days and hours has already been adjusted this year in the 2022 Order to take account of the funeral of Her Majesty Queen Elizabeth II. In order to provide this additional bank holiday for the Coronation without breach of the contractual terms imposed by the Document, an amendment to the 2022 Order modifying the application of the Document is necessary.
- 7.2 The Education (School Day and School Year) (England) Regulations 1999 require most schools maintained by local authorities and special schools not maintained by local authorities in England to meet for at least 380 sessions every school year. Each school day typically consists of two sessions. Those [regulations](#) have also been amended to provide for this additional Bank Holiday.
- 7.3 This Order comes into force on 20<sup>th</sup> April 2023 with the effect of its provisions back-dated to 1<sup>st</sup> September 2022.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 The issue of consolidation is not relevant because this instrument is a stand-alone order.

## **10. Consultation outcome**

- 10.1 The Chair of the STRB was consulted on the proposed amendment to the 2022 Order and to disapply the requirement for a full referral to the STRB and had no objection to the proposed amendments.

10.2 A focused consultation has also been undertaken in relation to the proposed amendment with the appropriate statutory consultees. All consultees were content with this explanation and approach.

## **11. Guidance**

11.1 The Department does not intend to publish additional guidance and the modification to sections 2 and 3 of the Document will be published on the government's website alongside the [2022 Document](#).

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector. The impact on the public sector relates to maintained schools in England to the extent that it makes changes to the conditions of teachers employed by local authorities and governing bodies.

12.3 A full Impact Assessment has not been prepared for this instrument because its impact is minimal and no impact upon the private or voluntary sectors is foreseen.

## **13. Regulating small business**

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

## **14. Monitoring & review**

14.1 There will be no formal monitoring or review of this legislation.

## **15. Contact**

15.1 Dominic Mahon at the Department for Education: dominic.mahon@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Amy Collins and Katie Tyson, Deputy Directors for teachers' pay and conditions, 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 at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.