EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL TEACHERS' PAY AND CONDITIONS) (NO. 2) ORDER 2006

2006 No. 2133

1. 1.1 This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

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

2. Description

2.1 The Education (School Teachers' Pay and Conditions) (No. 2) Order 2006, ("the Order") which comes into force on 1 September 2006, makes provision for the remuneration of school teachers and for other conditions of employment which relate to their professional duties and working time by reference to the provisions set out in section 2 of a document entitled "School Teachers' Pay and Conditions Document 2006 and Guidance on School Teachers' Pay and Conditions", otherwise known as "the Document".

2.2 The Document replaces the provisions set out in section 2 of the School Teachers' Pay and Conditions Document 2005 and Guidance on School Teachers' Pay and Conditions from 1 September 2006 ("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 and the pay scales for the various categories of teacher are updated in line with the appropriate pay awards. The Document incorporates the changes which have been made since the previous Document was published and a number of further changes. These further changes cover primarily the introduction of new pay scales from 1 September 2006, amendments to the pay safeguarding arrangements and general updates.

2.2 The Document is laid out in 12 Parts and 6 Annexes. Part 1 deals with commencement and interpretation matters. Parts 2 to 7 set out how pay for the various categories of teacher 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, the list of clerical and administrative tasks which teachers should not be expected to undertake routinely, and details of further changes to teachers' pay arrangements that will have effect from 1 September 2007.

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

3.1 There are no matters of special interest to the Committee.

4. Legislative Background

4.1 The Education (School Teachers' Pay and Conditions) (No. 2) Order 2006 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 comes into force on 1st September 2006. The Order makes provision by reference to the provisions set out in section 2 of a document entitled "School Teachers' Pay and Conditions Document 2006 and Guidance on School Teachers' Pay and Conditions"("the Document"), under section 124(3) of the Act. In accordance with section 125(1) of the Act, the Order makes provision about matters that have been referred to the School Teachers' Review Body ("the STRB") under section 120(1) of the Act, 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 Secretary of State carried out a consultation on the Order in accordance with section 126 of the Act before it was made.

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) of the Act, the remuneration of school teachers to whom the Order applies is to be determined and paid to them in accordance with the pay scales and other provisions of the Document. By virtue of section 122(2)(b) of the Act, the provisions set out in the Document which relate to conditions of employment other than remuneration have effect as terms of the contracts of employment of those school teachers to whom the Order applies.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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 or other conditions of employment of school teachers to the STRB (an independent statutory body established under the School Teachers' Pay and Conditions Act 1991) 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.

7.2 The statutory consultation on the Order had the following outcomes. Six responses were received, all from teacher associations. As a result of comments received from a range of parties, one change was made to the Document to provide greater flexibility to relevant bodies when placing post-threshold teachers who have worked outside the maintained sector on to the upper pay scale, and a further minor

amendment for clarification was made. A number of other minor clarifications, amendments and corrections were also made to the accompanying statutory guidance as a result of points raised in the statutory consultation.

7.3 In tandem with the formal consultation process, the Department conducts an on-going informal dialogue with representatives of the main stakeholders (teachers' unions and employers' organisations), so that the changes largely represent a shared agenda for reform.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 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 education authorities and governing bodies.

9. Contact

Helen Walker at the Department for Education and Skills (tel: 0207 925 6141; e-mail helen.walker@dfes.gsi.gov.uk) can answer any queries regarding the instrument.