EXPLANATORY MEMORANDUM TO THE

EDUCATION (SCHOOL TEACHERS' PAY AND CONDITIONS) ORDER 2005

2005 No. 539

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

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

2. **Description**

   2.1 The Education (School Teachers' Pay and Conditions) Order 2005 no [ ] which comes into force on 1 April 2005, amends the School Teachers' Pay and Conditions Document 2004 (which was given legal effect by SI 2004/2142), allowing the few teachers previously placed on the now withdrawn Upper Pay Scale points 4 or 5 to be treated as if placed on Upper Pay Scale 3 and the difference between that and their former salary to be safeguarded for three years.

3. **Matters of special interest to the Joint Committee**

   3.1 The Department regrets the breach of the 21 day rule in respect of the Order.

   3.2 The Order implements one of the recommendations made by the School Teachers' Review Body (an independent statutory body established under the School Teachers' Pay and Conditions Act 1991) in its annual report on matters referred to it by the Secretary of State under section120(1) of the Education Act 2002 ("the Act") . The Secretary of State is required to publish the report in accordance with section 120(4) of the Act, consider the STRB's recommendations (section 125(1) of the Act) and then to consult key stakeholders, namely the employers' organisations and teachers union about the proposed content of any Order that would make changes to the remuneration and conditions of employment of school teachers (section 126 of the Act).

   3.3 The report was published on 22 February 2005. Formal consultation on the draft Order ran from 22 February - 1 March 2005.

   3.4 The coming into force date cannot be delayed because the changes to the Document are needed to ensure that the teachers concerned take the full benefit of the annual inflation-related increase in teachers' salary scales that occurs on 1st April 2005.

4. **Legislative Background**

4.1 The Education (School Teachers' Pay and Conditions) Order 2005 is made under section 122 of the Act , which confers on the Secretary of State the power to make provision for the pay of teachers and other conditions of their employment related to professional duties and working time. The Order comes into force on 1st April 2005. In accordance with section 125 of the Act, it makes provision about matters that have been referred to the School Teachers' Review Body ("STRB") under section 120(1) of the Act and on which STRB has reported under section 120(3). Before the Order was made, the Secretary of State carried out a consultation in accordance with section 126 of the Act.

5. **Extent**

5.1 This instrument applies to England and Wales

6. **European Convention on Human Rights**

6.1 Not applicable.

7. **Policy Background**

7.1 Amendments to the School Teachers' Pay and Conditions Document are determined following statutory consultation by the Secretary of State, following consideration by her of the report of the STRB, an independent statutory body established under the School Teachers' Pay and Conditions Act 1991.

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. This order makes negligible impact on budgets.

9. **Contact**

9.1 Helen Walker at the Department for Education and Skills (tel: 0207 925 6141 or email helen.walker@dfes.gsi.gov.uk) can answer any questions regarding the instrument.