EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL TEACHERS' PAY AND CONDITIONS) ORDER 2006

2006 No. 1274

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) Order 2006 amends the School Teachers' Pay and Conditions Document 2005 and brings into force on 1 June 2006 the option for all teachers in maintained schools in England and Wales to participate in salary sacrifice arrangements, whereby they may choose to forego their entitlement to the full salary due to them under the terms of the School Teachers' Pay and Conditions Document in order to benefit from the tax and national insurance advantages achieved where employers provide benefits under recognised salary sacrifice schemes, namely childcare, bicycles and mobile phones.

2.2 The Order also makes changes to the pay scale for Advanced Skills Teachers in the School Teachers' Pay and Conditions Document to come into effect from 1 September 2006 and 1 September 2007. The School Teachers' Pay and Conditions Document applies to teachers employed in local authority maintained schools in England and Wales. It is updated annually in September and from time to time.

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

3.1 The widespread support from teachers and interested parties for introducing the provision for teachers in maintained schools to participate in salary sacrifice arrangements has created pressure to introduce this provision as quickly as possible.

3.2 Amendments to the Document are normally 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 School teachers' Review Body which then reports on those matters. Orders may also be made by the Secretary of State using her subsidiary powers, or after consulting the Chairman of the STRB without reference to the full STRB. This Order is being made following agreement with the Chairman of the STRB because of the need to enable salary sacrifice as quickly as possible, given the consensus of support from the statutory consultees both that this is the best approach, and that the measures are desirable and needed urgently.

4. Legislative Background

4.1 The Education (School Teachers' Pay and Conditions) Order 2006 is made under powers conferred on the Secretary of State by sections 122(1), 123, 124 and 210(7) of the Education Act 2002.

4.2 The School Teachers' Pay and Conditions Document 2005 (the Document) was brought into force by the Education (School Teachers' Pay and Conditions) (No. 2) Order 2005 under section 122 of the Education Act 2002, which provides the Secretary of State with the power to make provision for the pay of teachers and other conditions of employment related to professional duties and working time. The Document is updated regularly to make necessary changes to teachers' pay and conditions.

5. Extent

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 Teachers in maintained schools in England and Wales are paid salary in accordance with the statutory arrangements set out in the School Teachers' Pay and Conditions Document. The Document does not contain provision to enable teachers to give up their entitlement to salary and there has been growing pressure from teachers, and their employers and representatives, to allow participation in salary sacrifice.

7.2 The changes to the pay scale for Advanced Skills Teachers are needed following a recommendation from the STRB in its 13th (Part 2) Report in 2004 that the AST pay spine should be reduced to 18 points parallel with the first 18 points on the leadership spine. They are intended to ensure that AST pay is at an appropriate level within the overall teachers' pay structure.

7.3 This Order has been subject to consultation with the national representatives of teacher and teacher employers, and national representatives of governors and religious organisations with an interest in maintained schools. Only two responses raised specific matters in the Order, as a result of which two small changes were made.

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 schools in England and Wales maintained by local education authorities to the extent that it establishes the ability for the employers to set up salary sacrifice arrangements for teachers for the limited activities identified in the Order. The salary sacrifice changes will have a negligible impact on school budgets. The AST changes work out at an average of £400 per post and only apply to schools with AST posts (about 1% of the teaching workforce).

9. Contact

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