EXPLANATORY MEMORANDUM TO

THE REDUNDANCY PAYMENTS (CONTINUITY OF EMPLOYMENT IN LOCAL GOVERNMENT, ETC) (MODIFICATION) (AMENDMENT) ORDER 2015

2015 No. 916

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 This Order amends the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 ("the 1999 Order") so that it is updated to include a person who performs a function of a local authority pursuant to a direction given by the Secretary of State under section 497A(4) or (4A) of the Education Act 1996 ("the Education Act").

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

3.1 None.

4. Legislative Context

4.1 The 1999 Order modifies certain provisions of the Employment Rights Act 1996 concerning redundancy payments to individuals employed by local authorities or certain other bodies in related sectors. The effect of the modifications is that an individual's service with a succession of employers is treated as continuous for the purpose of determining issues relating to redundancy payments.

4.2 Section 497A of the Education Act (inserted by section 8 of the School Standards and Framework Act 1998) gives the Secretary of State powers of intervention when a local authority is failing to perform any of its education functions to an adequate standard (or at all).

4.3 Section 497A(4) of the Education Act (as substituted by section 60(6) of the Education Act 2002) gives the Secretary of State the power to direct that a local authority's education functions should be performed on behalf of the local authority by such person as the direction specifies. Such a direction may also specify the nature of the terms and conditions of the local authority's contract or other arrangement with that person.

4.4 Section 497A(4A) of the Education Act (inserted by section 60(7) of the Education Act 2002) gives the Secretary of State the power to direct that a local authority's education functions be exercised by the Secretary of State or a person nominated by the Secretary of State.

4.4 The Secretary of State's powers of intervention contained in section 497A of the Education Act have been applied to local authority functions relating to children's social care and childcare (by section 50 of the Children Act 2004 and section 15 of the Childcare Act 2006 respectively).

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

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

What is being done and why

7.1 Paragraph 20 of section 4 of Part 2 of Schedule 2 to the 1999 Order already includes a person performing an education function of a local authority under a direction given by the Secretary of State pursuant to section 497A(4) of the Education Act. This existing provision needs to be brought up to date to include directions made under section 497A(4A) of the Education Act. In addition, it needs to reflect the fact that the Secretary of State's powers of intervention have been extended to cover local authorities' children's social care and childcare functions. This Order updates the 1999 Order in line with these legislative changes. It does so by adding a new paragraph to Schedule 1 to the 1999 Order so that employees of such persons exercising local authority functions under direction are covered by the 1999 Order. Accordingly, the Order also omits paragraph 20 of section 4 of Part 2 of Schedule 2 to the 1999 Order because it is no longer necessary: all those persons covered by Schedule 1 to the 1999 Order are included in Schedule 2 to the 1999 Order by virtue of section 1 of that Schedule.

Consolidation

7.2 The Department for Communities and Local Government has responsibility for the maintenance of the 1999 Order and will seek to consolidate amendments to the Order in due course.

8. Consultation outcome

8.1 The Department does not consider that consultation is necessary given that this Order only makes minor amendments to the 1999 Order so as to align it with the current legislative framework and does not mark a change in policy.

9. Guidance

9.1 Guidance covering this Order will not be required as this Order only makes minor amendments so as to update the 1999 Order.

10. Impact

10.1 No significant impact on the private or voluntary sectors is expected. There will only be an impact when a body listed in Schedule 1 to the 1999 Order decides to make statutory redundancy payments to one or more of its employees.

10.2 No significant impact on the public sector is expected. There will only be an impact when a body listed in Schedule 1 to the 1999 Order decides to make statutory redundancy payments to one or more of its employees.

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 Due to the limited extent of the amendments made to the 1999 Order, there is no intention to review the impact of this Order.

13. Contact

Louise Lawrence at the Department for Education, tel: 020 7783 8088 or email: louise.lawrence@education.gsi.gov.uk, can answer any queries regarding the instrument.