EXPLANATORY MEMORANDUM TO

THE SCHOOL TEACHERS INCENTIVE PAYMENTS (ENGLAND) (AMENDMENT) ORDER 2022

2022 No. 786

1. Introduction

1.1 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 The purpose of this Order is to ensure that incentive payments to school teachers under a scheme known as the Levelling Up Premium are not to be treated as remuneration under the School Teachers' Pay and Conditions Document (STPCD), which provides the statutory requirements for teachers' pay and conditions for maintained schools in England.

2.2 This is necessary to make it clear that these incentive payments are not pensionable nor part of the statutory process for the determination of teachers pay under section 122(1) of the Education Act 2002.

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 territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument 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 Secretary of State may make provision for the determination of the remuneration of school teachers under section 122(1) of the Education Act 2002 and does so by reference to the STPCD, which is replaced annually with effect from 1st September.

6.2 This Order amends the School Teacher Incentive Payments Order 2019 (SI 2019/11/33) to provide that incentive payments to school teachers under the Levelling Up Premium are not to be treated as remuneration for the purpose of section 122(1) and, therefore, are not subject to any of the other provisions in the STPCD.

6.3 The 2019 Order (SI 2019/1133) listed a number of schemes which are to be exempt from being treated as remuneration under the STPCD. In 2020, the 2019 Order was amended to reflect a change in name of "the Mathematics Early-Career Payments Pilot" to "the Early-Career Payments Pilot" by SI 2020/690. This Order further

amends the 2019 Order to add "the Levelling Up Premium" for the reasons explained above.

7. Policy background

What is being done and why?

7.1 The Levelling Up Premium is designed to incentivise the recruitment and retention of specialist teachers in schools and areas that need them most. It is worth up to £3,000 tax-free annually for mathematics, physics, chemistry and computing teachers in the first five years of their careers who choose to work in disadvantaged schools.

7.2 Teachers will be able to claim a one-off payment each year from academic year 2022/23 through to 2024/25. Higher payments are available to teachers working in Education Investment Areas (EIA) and the most disadvantaged schools nationally. The offer applies both to teachers already working in eligible schools and those who move to eligible schools in time to claim the payments.

7.3 Teachers in the most disadvantaged 30% of schools nationally (based on proportion of pupils eligible for Pupil Premium) can claim £3,000 tax-free annually in an EIA, or £2,000 tax-free annually if outside an EIA. In the next most disadvantaged 20% of schools, teachers can claim £2,500 in an EIA, or £1,500 outside an EIA. A further 20% of the next most disadvantaged schools in EIAs only can claim £2,000.

7.4 The Levelling Up Premium builds on previous financial incentives for school teachers (Early Career Payments Pilot, Teachers' Student Loan Reimbursement and Mathematics and Physics Teacher Retention Payments) and is targeted at disadvantaged schools across the country, using Pupil Premium data to determine which schools are eligible. Our data shows that schools with disadvantaged pupil intakes have the greatest teacher workforce challenges so the Levelling Up Premium is designed to incentivise specialist teachers to teach where they are needed most, whilst widening the pool of teachers for all schools to recruit from by attracting and retaining more teachers overall.

7.5 Teachers who are eligible for both the Levelling Up Premium and Early Career Payments are only eligible to claim one of these in the same academic year.

7.6 The Department will be evaluating the impact of the Levelling Up Premium payments on the recruitment and retention of eligible teachers. The scheme may be expanded and offered to more teachers in future.

7.7 The Department is funding these payments in their entirety – local authorities or governing bodies of schools will not bear any cost.

7.8 This Order provides that incentive payments to school teachers under the Levelling Up Premium are not to be treated as remuneration for the purpose of section 122(1) and, therefore, are not subject to any of the other provisions in the STPCD.

7.9 This is necessary to make it clear that these incentive payments are not pensionable nor part of the statutory process for the determination of teachers pay under section 122(1) of the Education Act 2002. This avoids the teacher and their employer having to make any contributions to the payments.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 No issue arises as to consolidation.

10. Consultation outcome

10.1 A formal public consultation has not been carried out in relation to the contents of this Order. However, the Department has completed informal stakeholder engagement with teachers and organisations representing teachers regarding the payments, including how the payments will be administered. This has included detailed engagement with teachers regarding the online application process and digital service which will deliver the payments to teachers. There has been no feedback on the specific purpose of this Order.

10.2 The Department has not consulted on the making of this Order as its purpose is to enable the payments to be paid outside the statutory pay framework and to ensure that the payments are not treated as pensionable – the Order is of a technical nature and is not needed to establish the scheme itself. The Department is committed to continuing to engage with stakeholders in future with regards to both the policy and mechanics of the Levelling Up Premium.

11. Guidance

11.1 The Department has provided guidance on the Levelling Up Premium, including the role of the teacher in claiming these payments:

Levelling up premium payments for teachers - GOV.UK (www.gov.uk)

11.2 Further guidance will be made available to teachers when they are able to claim payments from September 2022 onwards.

12. Impact

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

12.2 There is no significant impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business.

13. Regulating small business

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

14. Monitoring & review

14.1 The payment of the incentive to further cohorts of teachers or teachers of other subjects will be subject to an internal review.

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Olivia Sanderson at the Department for Education (email: olivia.sanderson@education.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Amy Collins and Katie Tyson, Deputy Directors for Supporting and Rewarding Teachers and Leaders at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Barran, Parliamentary Under Secretary of State for the School System, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.