EXPLANATORY MEMORANDUM TO

THE SCHOOL TEACHERS' INCENTIVE PAYMENTS (ENGLAND) (AMENDMENT) ORDER 2024

2024 No. 1004

1. Introduction

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

2. Declaration

2.1 Catherine McKinnell, Minister for School Standards at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Katie Tyson, Deputy Director for the Supporting and Rewarding Teachers and Leaders Division at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Chris Cuff at the Department for Education [chris.cuff@education.gov.uk] can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this Statutory Instrument is to amend the School Teacher Incentive Payments Order 2019 (SI 2019/1133) ("the 2019 order") to include the Targeted Retention Incentive to the list of incentive payments that are listed in the 2019 order.

4.2 The 2019 order ensures that any incentive payments to school teachers in England under a scheme known as the Targeted Retention Incentive are not to be treated as renumeration under the School Teachers' Pay and Conditions Document (STPCD), which provides statutory requirements for teachers' pay and conditions for maintained schools in England.

4.3 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.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The Targeted Retention Incentive, previously the Levelling Up Premium, is designed to incentivise the recruitment and retention and specialist teachers in schools and areas that need them most. It is worth up to £6,000 after-tax annually for mathematics, physics, chemistry and computing teachers in the first five years of their careers teaching in disadvantaged schools.

5.2 The Targeted Retention Incentive builds on previous financial incentives for school teachers 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. The Targeted Retention Incentive 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.

5.3 Higher payments are available to teachers working in Education Investment Areas (EIA) and the most disadvantaged schools nationally. The offer applies to both teachers already working in eligible schools and those who move to eligible schools in time to claim the payments.

5.4 Teachers in the most disadvantaged 30% of schools nationally (based on proportion of pupils eligible for Pupil Premium) can claim £6,000 after-tax annually in an EIA, or £4,000 after-tax annually if outside an EIA. In the next most disadvantaged 20% of schools, teachers can claim £5,000 after-tax annually in an EIA or £3,000 outside an EIA. A further 20% of the next most disadvantaged schools in EIAs only can claim £4,000.

5.5 Additionally, the government is extending the payments to teachers of key STEM and technical subject in all further education colleges from academic years 2025/26. This does not fall in scope of this SI.

5.6 The Department will be evaluating the impact of the Targeted Retention Incentive payments on the recruitment and retention of specialist teachers. The scheme could change in future, such as payment values and eligibility criteria.

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

5.8 This Order provides that incentive payments to school teachers under the Targeted Retention Incentive 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.

5.9 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 contributions to the payments.

What was the previous policy, how is this different?

5.10 As stated above, the Targeted Retention Incentive replaces the previous Levelling Up Premium offer.

5.11 The Levelling Up Premium offered eligible chemistry, computing, mathematics and physics teachers in the first five years of their career teaching in disadvantaged schools up to £3,000 after-tax in academic years 2022/23 and 2023/24.

6. Legislative and Legal Context

How has the law changed?

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 from 1st September.

6.2 This Order amends the School Teachers Incentive Payments Order 2019 (SI 2019/1133) to provide that incentive payments to school teachers under the Targeted Retention Incentive 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 (2019/1133) lists a number of incentive payments which are to be exempt from being treated as remuneration under the STPCD. In 2022, the 2019 Order was amended to add the "Levelling Up Premium" to the list of incentive payments. The Order further amends the 2019 Order to substitute "Targeted Retention Incentive" for "Levelling Up Premium".

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department has not consulted on the making of this Order as its purpose is to enable the payments to be paid outside of the statutory pay framework and to ensure that the incentive payments are not treated as pensionable – the Order is of a technical nature and is not needed to establish the scheme itself.

8. Applicable Guidance

8.1 The Department has provided guidance on the Targeted Retention Incentive, including the role of the teacher in claiming these payments[1].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because they do not play a role in the administration of school teachers incentive payments.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector. The amendment adds the Targeted Retention Incentive to the list of incentive payments where the Department

[1] https://www.gov.uk/guidance/targeted-retention-incentive-payments-for-school-teachers

is not considered liable for pension contributions that might otherwise be associated with these payments. This ensures no additional costs are incurred.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

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

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").