EXPLANATORY MEMORANDUM TO

THE SCHOOL TEACHERS' PAY AND CONDITIONS ORDER 2013

2013 No. 1932

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**

Article 2 of the School Teachers' Pay and Conditions Order 2013 ("the Order"), which comes into force on 1 September 2013, makes provision for the remuneration and conditions of employment of school teachers to be determined by reference to the provisions set out in section 2 of the "School Teachers' Pay and Conditions Document 2013 and Guidance on School Teachers' Pay and Conditions" ("the Document").

Section 2 of the Document replaces the provisions set out in section 2 of the School Teachers' Pay and Conditions Document 2012 and Guidance on School Teachers' Pay and Conditions ("the previous Document"). It applies to teachers employed in local authority maintained schools in England and Wales. Teachers' pay and conditions are reviewed at least annually. Section 2 of the Document reproduces the text in section 2 of the previous Document but with a number of changes. These changes cover primarily the application of the September 2013 pay award to teachers; the removal of automatic pay progression based on length of service; and the introduction of pay progression linked to performance.

Section 2 of the Document is laid out in six parts and five annexes. Part 1 sets out the changes to pay and conditions since 2012, amendments to guidance in section 3 of the Document and other information. Parts 2 to 5 set out how pay and allowances for the various categories of teacher are to be determined. Part 6 sets out conditions of employment for the various categories of teacher that will have effect as terms of their contracts of employment. The Annexes to Section 2 of the Document set out the performance standards related to particular categories of teacher, the list of clerical and administrative tasks which teachers should not be expected to undertake routinely, commencement and interpretation matters and revised pay tables for all categories of teachers that take account of the September 2013 pay award.

Section 3 is guidance to accompany the provisions in Section 2 and replaces the previous Section 3. Section 4 remains the same.

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

None.

4. **Legislative Context**

The Order is made under section 122(1) of the Education Act 2002 ("the Act"), which provides the Secretary of State with the power to make provision for the remuneration of teachers and other conditions of employment related to their professional duties and working time. The Order makes provision by reference to the provisions of the Document under section 124(3) of the Act. In accordance with section 125(1) of the Act, the Order makes provision about matters that have been referred to the School Teachers' Review Body ("the STRB") under section 120(1), on which the STRB has reported under section 120(3).

The Order applies to all school teachers within the meaning of section 122(3) to (5) of the Act in England and Wales. By virtue of section 122(2)(a), their remuneration is to be determined and paid in accordance with the pay scales and other provisions of the Document. By virtue of section 122(2)(b), the provisions of the Document which relate to conditions of employment other than remuneration have effect as terms of their contracts of employment.

5. **Territorial Extent and Application**

This instrument applies to England and Wales.

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**

The provisions in section 2 of the Document that differ substantively from those in section 2 of the previous Document are the result of a statutory process that requires first of all a formal reference of matters concerning the remuneration and/or other conditions of employment of school teachers to the STRB, which then reports on those matters. The Secretary of State and the national representatives of teachers and teacher employers each have the opportunity to submit evidence and make representations on those matters before the report is finalised. The Secretary of State considers the report and publishes it. The Secretary of State determines how and to what extent the recommendations in the report should be implemented, and then conducts a statutory consultation on the draft Order before it is made.

Pay and Performance

In February 2012 the Secretary of State asked the STRB to consider how

arrangements for teachers' pay might be reformed to deliver a more effective link between pay and performance, and what other reforms should be made in order to raise the status of the profession and best support the recruitment and retention of high quality teachers in schools. The Government submitted evidence to the STRB on 16 May 2012. Section 121 of the Act requires the STRB to consult various representative bodies before reporting on a matter referred to them in addition to the Secretary of State. All such bodies (including all of the national representatives of teachers and teacher employers) also had the opportunity to submit evidence.

The STRB's twenty-first report, setting out a number of recommendations was published in December 2012. Following a formal consultation period, the Government accepted all of the STRB's key recommendations.

The previous Document has been revised accordingly. The main changes are the ending of annual incremental pay progression after the September 2013 pay award and the new requirement that pay should be linked to performance from September 13 onwards. The current threshold test for progression to the upper pay range is replaced with simpler criteria and the obligation when recruiting to match a teacher's existing salary is removed. The Advanced Skills Teacher and Excellent Teacher posts have been abolished and a new Leading Practitioner role created.

All of the key changes made to the previous Document come into effect on 1 September 2013. A draft, interim version of the Document was made available to schools in April 2013 to give schools and employers advance notice of the changes to the Document arising from the Secretary of State's acceptance of the key recommendations in the STRB's twenty-first report, so that they could review and revise their pay policies during the summer term.

Pay Award

In January 2013 the Secretary of State asked the STRB for recommendations in relation to the September 2013 pay award for teachers which should be in line with the Government's policy that public sector pay awards should average 1% in each of the two years following the pay freeze, which for teachers began in September 2011.

On 27th June, following submission of evidence from the Secretary of State and representative bodies, the Government laid before Parliament the STRB's twenty-second report and its response to that report. In its report the STRB recommended an across the board increase of 1% from September 2013 in teachers' salaries and other remuneration.

Following a period of statutory consultation the Secretary of State has accepted the recommendation in full. The Document incorporates these revised pay tables.

8. **Consultation Outcome**

Pay and Performance

The Secretary of State invited consultees who contributed to the STRB process to comment on the STRB's twenty-first report and the proposed Government response by 4 January 2013. He then considered consultees' comments prior to confirming the government's response in a letter to the Chair of the STRB.

This was a consultation of statutory consultees lasting for four weeks, the consultees being accustomed to the short timetable. Nine individual responses were received, from the following groups: ASCL - Association of School and College Leaders, ATL - Association of Teachers and Lecturers, LGE - Local Government Employers, NAHT – National Association of Head Teachers, NASUWT - National Association of Schoolmasters Union of Women Teachers, NUT - National Union of Teachers, Voice – the union for education professionals, UCAC - National Association of Teachers of Wales, and the Welsh Government.

The previous Document was revised to take account of comments received. There were no substantive changes to policy.

Pay Award

On 27 June statutory consultees were invited to comment upon the Secretary of State's response to the STRB's twenty-second report and a further draft of the revised previous Document and associated Order by 26 July 2013.

The Document takes into account the comments received. There were no substantive changes to policy.

9. **Guidance**

Section 3 of the Document contains guidance (including statutory guidance in accordance with section 127(1) of the Act) about the procedure to be followed in applying the provisions of the Order.

10. **Impact**

This instrument has no impact on business, charities or voluntary bodies.

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 authorities and governing bodies.

An Impact Assessment has not been prepared for this instrument.

11. **Regulating small business**

The legislation does not apply to small business.

12. **Monitoring & review**

The Document will be reviewed and revised in accordance with the statutory review process and any changes identified as necessary during the course of a year will be included in any subsequent iteration. Feedback is received from schools and local authorities as well as the national representatives of teachers and teacher employers and this is taken into consideration when the statutory process for the next year commences.

13. **Contact**

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