

Explanatory Memorandum to the School Teachers' Pay and Conditions (Wales) Order 2024.

This Explanatory Memorandum has been prepared by the Education, Culture & Welsh Language Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the School Teachers' Pay and Conditions (Wales) Order 2024. I am satisfied that the benefits justify the likely costs.

Lynne Neagle MS
Cabinet Secretary for Education

8 November 2024

PART 1

1. Description

The School Teachers' Pay and Conditions (Wales) Order 2024 ("the Order") makes provision for the remuneration and conditions of employment of school teachers in Wales, to be determined by reference to the provisions set out in section 2 of the School Teachers' Pay and Conditions (Wales) Document 2024 and guidance on school teachers' pay and conditions ("STPC(W)D"). The Order will come into force on 28 November 2024. Provisions on teachers' pay and conditions under section 2 of the STPC(W)D will have retrospective effect from 1 September 2024.

Responsibility for school teachers' pay and conditions was transferred to the Welsh Ministers on 30 September 2018. The STPC(W)D applies to teachers employed in local authority maintained schools in Wales.

The STPC(W)D is a replacement for the School Teachers' Pay and Conditions (Wales) Document 2023.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The provisions under section 2 of the STPC(W)D will have effect retrospectively from 1 September 2024. This is expressly permitted under section 123(3) of the Education Act 2002.

3. Legislative background

The Welsh Ministers have the power to set school teachers' pay and conditions in Wales by way of Order under sections 122 to 124 and 126 to 127 of the Education Act 2002 ("the Act"). These functions, in relation to Wales, were transferred to the Welsh Ministers on 30 September 2018 from the Secretary of State by the Welsh Ministers (Transfer of Functions) Order 2018.

Section 122(1) of the Act provides the Welsh Ministers with the power to make provision for the remuneration of school teachers in Wales and other conditions of employment related to their professional duties and working time.

Section 124(3) of the Act provides that an Order made under section 122 can make provision through a document, which must also be published.

Section 123(3) of the Act provides that an Order under section 122 may make retrospective provision, but not so as to—

- a. reduce remuneration in respect of a period wholly or partly before the making of the Order, or

- b. alter a condition of employment to the detriment of a teacher in respect of a period wholly or partly before the making of the Order.

Section 126 of the Act requires the Welsh Ministers to consult those appropriate bodies they feel relevant before making any Order under section 122. The relevant bodies are: associations of local authorities; local authorities, those representing governing bodies of schools, and bodies representing school teachers (teacher unions).

This Order is being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Order applies to all school teachers (as defined in section 122(3) to (6) of the Act) in Wales. This Order serves to introduce new pay and allowance ranges in the national pay framework for school teachers in maintained schools in Wales only. Non-maintained schools in Wales have the freedom and flexibility to adopt pay and allowance ranges for their teachers which best reflect their local circumstances.

This Order gives effect to section 2 of the STPC(W)D.

The process that led to the STPC(W)D included the following key stages:

- Teachers' Pay Partnership Forum (all teacher unions and employers) discusses scope of draft remit and makes recommendations to Welsh Ministers;
- Welsh Ministers issue a remit letter to the Independent Welsh Pay Review Body (IWPRB) which outlines areas of teachers' pay and conditions for potential change;
- IWPRB considers evidence submitted by stakeholders and provides recommendations to Welsh Ministers;
- Welsh Ministers consider recommendations and set teachers' pay and conditions following a written consultation with key stakeholders;

Section 1 of the STPC(W)D summarises the changes to pay and conditions and associated guidance since the School Teachers' Pay and Conditions Order 2023 and other relevant information about the STPC(W)D. Section 2 of the STPC(W)D is laid out in seven parts and two annexes. Parts 2 to 6 set out how pay and allowances for the various categories of teacher are to be determined. Part 7 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 STPC(W)D set out the professional standards for teachers and interpretation matters. Section 3 of the STPC(W)D is statutory guidance to accompany the provisions in section 2.

September 2024 pay award

In response to the recommendations in the IWPRB's fifth report, from 1 September 2024 a 5.5% uplift will be applied to all scale points and allowances. All pay uplifts will be from 1 September 2024.

It has been established practice for an order determining teachers' pay to be made annually with the new pay proposals within the document having effect from 1 September every year. It is the Welsh Ministers' intention to continue this practice. However, due to tight timing between each stage in this year's pay process and the need for further discussion around the funding of the pay award it was not possible to lay the Order earlier.

The Order revokes the School Teachers' Pay and Conditions (Wales) Order 2023.

PART 2 – REGULATORY IMPACT ASSESSMENT

5. Options

In order to achieve the policy objective of responding to concerns about pay and conditions for teachers in Wales, the following options were identified:

1. Do nothing.
2. Take a legislative approach by implementing changes as recommended by the IWPRB, including a pay award of 4.3%.
3. Take a legislative approach by implementing changes above those recommended by the IWPRB, including a pay award of 5.5%.

6. Costs and benefits

Option 1 – Do nothing.

Benefits

A benefit of taking this baseline option is the potential immediate cost-saving across local authority and school budgets. Teacher's pay is a significant element of the overall cost of schools funding and in turn local authority budgets, which are under significant pressure.

Costs

There are no additional financial costs associated with this option. However, doing nothing carries a high degree of risk. Whilst there may be some immediate cost saving benefits, this would have a distinctly negative impact for the following reasons:

- The Welsh Government has been clear there is a need and policy objective to establish a system that recognises and rewards the teaching profession in Wales.
- Following recent industrial action by teacher unions, there is a significant risk that not providing a pay award could lead to the resumption of industrial action which will have a negative impact on young people's education.

We consider that whilst there may be some immediate cost saving benefits this option does not achieve the objective to appropriately recognise and reward the teaching profession in Wales.

Option 2 - Take a legislative approach implementing changes as recommended by the IWPRB, including a pay award of 4.3%

Benefits

Similarly to Option 1, there are financial benefits to implementing a pay award as recommended by the IWPRB compared to Option 3. This option would also respect the established pay process in which the IWPRB makes recommendations based on the evidence provided.

Costs

While this option would respect the established pay process and follow the recommendation of the IWPRB. However, this recommendation was made by the IWPRB in June 2024 and took into consideration the relevant factors at that time. Since receiving the IWPRB's report, the UK Government has accepted the recommendations of the School Teachers' Review Body (STRB) to increase all salaries and allowances for teachers in England by 5.5% from September 2024. There has been a longstanding commitment to there being no detriment to teachers' pay and conditions in Wales. This option would break that commitment.

Option 3 Take a legislative approach by implementing changes above those recommended by the IWPRB, including a pay award of 5.5%.

Benefits

This option would uphold the commitment to no detriment to teachers' pay and conditions in Wales and would appropriately recognise and reward the teaching profession in Wales in line with the policy objective.

Costs

An increase of 5.5% across all teacher scale points and allowances equates to an estimated increase to the overall pay bill of £56.07 million for financial year 2024-25 (September 2024 to March 2025) and £96.12million for financial year 2025-26.

However, to mitigate the impact of these costs on school and local authority budgets, which have already been set for 2024-25, the Welsh Government will provide additional in-year grant funding via the Local Authority Education Grant, to support local authorities and schools with the pay uplift.

Summary of the preferred option

In summary, the chosen option is Option 3.

This decision is made in view of the benefits to be gained as set out above.

These legislative changes have no impact on business, charities or voluntary bodies.

The impact on the public sector relates to the budgets of maintained schools in Wales to the extent that it makes changes to the pay and conditions of teachers employed by local authorities and governing bodies. However, additional funding is being provided by Welsh Government to support local authorities and schools with the budgetary impacts of these changes.

7. Consultation

A four week written consultation with key stakeholders on the Cabinet Secretary's recommendations for changes to teachers' pay ran from 10 September 2024 to the 9 October 2024. The organisations/individuals consulted are those key stakeholders agreed as part of the pay and conditions model established following transfer of powers. The consultees include; teacher unions, local authorities and diocesan associations, all of whom are represented on the Teachers' Pay and Conditions Partnership Forum. Responses from consultees were generally similar in terms of the main points and reiterated their earlier evidence to the IWPRB. Overall, the response to the consultation was generally supportive of the award of 5.5%, subject to sufficient funding being provided to local authorities and schools.

8. Competition Assessment

Not applicable.

9. Post implementation review

This is an annual legislative process and these changes are applicable only for 2024/25. The pay process for year 6 will commence shortly to determine the STPC(W)D for 2025/26.