

EXPLANATORY MEMORANDUM TO
THE Education (Free School Lunches) (Working Tax Credit) (Wales)
Order 2009

1. This explanatory memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

2. Purpose of the Instrument

Eligibility for free school meals is dependent upon receipt of certain benefits or tax credits, as set out in legislation.

This order brings the eligibility criteria into line with the current working practices of Her Majesty's Revenue and Customs.

3. Matters of special interest to the Subordinate Legislation Committee

None.

4. Legislative Background

Section 512ZB of the Education Act 1996 specifies that pupils are entitled to free school lunches if their parent is entitled to a prescribed tax credit in defined circumstances.

The effect of the Order is that where a parent is entitled to Working Tax Credit during the four-week period immediately after their employment ceases, or after they start to work less than 16 hours per week, their child will be entitled to free school lunches.

In relation to Wales, the functions of the Secretary of State under section 512ZB and section 568 of the Education Act 1996 were transferred to the National Assembly for Wales by section 211 of the Education Act 2002 and by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I 1999/672) respectively. The functions were then transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

5. Policy Background

Free School Meals are available to non-working families, who are classed as being out of work, or working for less than 16 hours per week, and who are in receipt of certain benefits and tax credits. The eligible benefits and tax credits, as set out in section 512ZB of the Education Act 1996, are:

- Income Support;

- Income Based Jobseekers Allowance;
- An Income-related Employment and Support Allowance;
- Support under part VI of the Immigration and Asylum Act 1999;
- Child Tax Credit, provided they are not entitled to Working Tax Credit and have an annual income (as assessed by Her Majesty's Revenue and Customs - HMRC) that as of 6 April 2009 does not exceed £16,040; or
- The guaranteed element of State Pension Credit.

HMRC have made changes to the way a claimant, who is working and receiving Working Tax Credit, receives further benefits on cessation of their employment. This has resulted in a group of people, who would previously have been eligible to claim free school meals, no longer being entitled.

Whilst working and in receipt of Working Tax Credit, the person is not entitled to free school meals. Previously, on cessation of their employment the person would no longer have been eligible for Working Tax Credit, and would then have claimed other benefits such as Income Support or Jobseekers Allowance. This would have resulted in the person being eligible to claim free school meals.

The change made by HMRC is that, on cessation of employment, the person will be paid Working Tax Credit for a further period of four weeks, in anticipation of taking up further employment during that time.

This change means that, as the person no longer claims an eligible benefit during the four week period, they are not able to claim free school meals, even though they are now unemployed.

This order makes provision for a person in receipt of Working Tax Credit during that four week period, to also be eligible to claim free school meals.

6. Consultation

No consultation has been carried out. There is no new obligation placed on schools or local authorities and there is no extension of the eligibility criteria for free school meals.

The effect of this Order will merely be to bring legislation into line with a change in HMRC working practice, and will ensure that a group of people who would previously have been eligible to claim free school meals, retain that eligibility.

7. Regulatory Impact Assessment

No impact assessment has been prepared in respect of this instrument as it has no effect on the costs of business or the voluntary sector.