

**EXPLANATORY MEMORANDUM TO THE EDUCATION (FREE SCHOOL LUNCHES) (PRESCRIBED TAX CREDITS) (WALES) (AMENDMENT) ORDER 2011 NO. 710 (W.111)**

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 conjunction with the above subordinate legislation and in accordance with Standing order 24.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) (Amendment) Order 2011.

Leighton Andrews

Minister for Children, Education and Lifelong Learning

9 March 2011

## **Description**

This Statutory Instrument amends the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) Order 2003 (S.I. 2003/879 (W. 110)) that prescribes that where a parent is in receipt of Child Tax Credit in the defined circumstances, the parent's child is entitled to free school lunches. The Instrument will break the link with the Child Tax Credit income threshold as determined by Her Majesty's Revenue and Customs ("HMRC") for the purpose of the Tax Credits Act 2002, and instead directly prescribe the monetary value of the threshold (at £16,190).

## **Matters of special interest to the Constitutional Affairs Committee**

None

## **Legislative background**

Section 512ZB of the Education Act 1996 sets out that, where a child's parents or the child itself receive certain benefits/allowances/support, the child will be entitled to free school meals. This section also provides the Welsh Ministers with the power to prescribe, by way of an Order, the circumstances in which the child of those in receipt of certain tax credits will be eligible for free school meals. The power was conferred upon the Welsh Minister by way of the National Assembly for Wales (Transfer of Functions) Order 1999 and thereafter paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

This instrument follows the negative resolution procedure.

## **Purpose and intended effect of the legislation**

A child is eligible for Free School Meals if their parent(s) is in receipt of Child Tax Credit without Working Tax Credit, and that the award of Child Tax Credit is based on an annual income not exceeding the amount determined by HMRC. In the June 2010 Budget, the Chancellor of the Exchequer announced a package of measures which aim to make changes to tax credits. As part of these changes, the income threshold determined by HMRC will be decreased.

If no amendment was made to the Free School Meal eligibility criteria, some families would have lost their entitlement to Free School Meals. We are therefore breaking the link with HMRC's threshold, and replacing it with a threshold at the current level (£16,190), in order to minimise the practical impact on families and schools.

## **Implementation**

It is intended that the amended Order comes into force on 6 April 2011.

**Consultation**

None required.

**Regulatory Impact Assessment (RIA)**

This Order imposes no additional costs or additional duties on schools or Local Authorities, and no formal RIA has been undertaken.

This change is being made in order to keep eligibility criteria unchanged in practical terms. This will minimise the impact on local authorities and schools, as they will not have to reassess existing recipients of Free School Meals in order to assess them against the new Child Tax Credit income threshold.