

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (FREE SCHOOL LUNCHES) (WORKING TAX CREDIT)
(ENGLAND) ORDER 2009**

2009 No. 830

- 1.** This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

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

2.2 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 Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 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.

4.2 This Order prescribes Working Tax Credit in circumstances where the parent has just ceased to work but is still receiving the Tax Credit.

5. Territorial Extent and Application

5.1 This order applies to England.

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

- *What is being done and why*

7.1 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.

7.2 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.

7.3 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

7.4 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.

7.5 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.

7.6 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.

- ***Consolidation***

7.7 The Department has no intention of consolidating at this time.

8. Consultation outcome

8.1 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.

8.2 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.

9. Guidance

9.1 No guidance is necessary. Information will be provided to Local Authorities and Schools to let them know of the amended eligibility criteria for school meals.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No monitoring or review is necessary.

12.2 Free School Meals will be provided by the school or local authority, to those who are eligible and who make the appropriate application. Where a complaint is received from an eligible parent that this is not happening, the Department will take the matter up directly with the relevant school or local authority.

13. Contact

Lisa Binks at the Department for Children, Schools and Families, Tel: 01325 391312 or email: lisa.binks@dcf.gov.uk can answer any queries regarding the instrument.