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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 210**

**EDUCATION**

**The Education (Scotland) Act 1980  
(Modification) Regulations 2021**

*Made* - - - - 20th May 2021  
*Laid before the Scottish  
Parliament* - - - - 21st May 2021  
*Coming into force* - - 1st August 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 53(8)(a)(i) and (ii) of the Education (Scotland) Act 1980<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Education (Scotland) Act 1980 (Modification) Regulations 2021 and come into force on 1 August 2021.

**Extension of eligibility for free school lunches**

2.—(1) Section 53(7) of the Education (Scotland) Act 1980 (provision of free school lunches) is modified as follows.

(2) In paragraph (aa)<sup>(2)</sup>, for “£7,330” substitute “£7,500”.

(3) After paragraph (b), insert—

“(c) the pupil is, or the parents of the pupil are, in receipt of universal credit, either—

(i) as an individual who is not a member of a couple, where the individual has earned income not exceeding £625 in the assessment period immediately preceding the application for a free school lunch being made, or

(ii) as a member of a couple, where the couple have a combined earned income not exceeding £625 in the assessment period immediately preceding the application for a free school lunch being made.

In this subsection—

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(1) 1980 c.44. Section 53 of the Education (Scotland) Act 1980 was substituted by section 22(2) of the Education (Scotland) Act 2016 (asp 8).  
(2) Section 53(7)(aa) was inserted by S.S.I. 2019/179 and amended by S.S.I. 2020/150.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“assessment period” means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013<sup>(3)</sup>,

“couple” has the meaning given in section 39 of the Welfare Reform Act 2012<sup>(4)</sup>,

“earned income” means the person’s earned income within the meaning of Chapter 2 of Part 6 of the Universal Credit Regulations 2013,

“universal credit” means universal credit payable under Part 1 of the Welfare Reform Act 2012.”.

### **Amendment of the Education (School Lunches) (Scotland) Regulations 2009**

**3.—**(1) The Education (School Lunches) (Scotland) Regulations 2009<sup>(5)</sup> are amended as follows.

(2) In regulation 2 (interpretation)<sup>(6)</sup>, omit the definitions of “assessment period”, “couple”, “earned income”, “single person” and “universal credit”.

(3) Regulation 4A (universal credit)<sup>(7)</sup> is omitted.

St Andrew’s House,  
Edinburgh  
20th May 2021

*SHIRLEY-ANNE SOMERVILLE*  
A member of the Scottish Government

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(3) [S.I. 2013/376](#). Regulation 21 of [S.I. 2013/376](#) was relevantly amended by [S.I. 2014/2887](#) and [S.I. 2018/65](#).

(4) [2012 c.5](#). Section 39 was amended by [S.I. 2014/3229](#) and [S.I. 2019/1458](#).

(5) [S.S.I. 2009/178](#).

(6) Regulation 2 was amended by [S.S.I. 2013/64](#) and [2017/182](#).

(7) Regulation 4A was substituted by [S.S.I. 2017/182](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 53(2) of the Education (Scotland) Act 1980 (“the 1980 Act”) provides that an education authority must provide or secure the provision of a school lunch (as defined in section 53(12)) free of charge to pupils falling within section 53(7).

Regulation 2(2) modifies the income threshold in section 53(7)(aa) to provide that a pupil falls within section 53(7) if the parents of the pupil are in receipt of an award of child tax credit and working tax credit where the income as calculated for the purpose of awarding those tax credits does not exceed £7,500.

Regulation 2(3) modifies section 53(7) to provide that a pupil falls within that section if the pupil or the parents are in receipt of universal credit, provided the pupil or parents’ earned income, either as an individual who is not a member of a couple or as a member of a couple, does not exceed £625 in the assessment period immediately preceding the application for a free school lunch being made.

Regulation 3 makes consequential amendments to the Education (School Lunches) (Scotland) Regulations 2009.