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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2015 No.**

**EDUCATION**

**The Education (School Lunches) (Scotland) Regulations 2015**

*Made* - - - -

*Coming into force* - -

*1st August 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 53(3)(c) of the Education (Scotland) Act 1980(a), and all other powers enabling them to do so.

In accordance with section 133(2YA) of that Act(b), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Education (School Lunches) (Scotland) Regulations 2015 and shall come into force on 1st August 2015.

(2) In these Regulations—

“the 2014 Act” means the Children and Young People (Scotland) Act 2014(c); and

“eligible pre-school child” has the meaning given in section 47(2) of the 2014 Act.

**Description of pupil entitled to be provided with a school lunch free of charge**

**2.**—(1) A pupil is of a prescribed description for the purposes of section 53(3)(c) (provision of school meals) of the Education (Scotland) Act 1980, where the pupil is an eligible pre-school child by virtue of falling within the circumstances set out in paragraph (2).

(2) The circumstances are that the pupil is a child who—

(a) falls within section 47(3) (duty to secure provision of early learning and childcare) of the 2014 Act; or

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(a) 1980 c.44; section 53(3) was relevantly amended by the Immigration and Asylum Act 1999 (c.33), Schedule 14, paragraph 74(a); the Education (School Meals) (Scotland) Act 2003 (asp 18), section 1(2)(a) and (b) and (3); the Welfare Reform Act 2007 (c.5), Schedule 3, paragraph 2; and the Children and Young People (Scotland) Act 2014 (asp 8) (the 2014 Act), section 93(6).

(b) Section 133 was relevantly amended by the Teaching and Higher Education Act 1998 (c.30), Schedule 3, paragraph 4(a) and (b); the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), Schedule 1, paragraph 1(7)(a); the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15), section 4(a) and (b); and the 2014 Act, schedule 5, paragraph 2(5). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) 2014 asp 8.

- (b) has a parent who is in receipt of one or more of the benefits listed in article 1(2)(d), (e) and (f) of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014<sup>(a)</sup>.

St Andrew's House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

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<sup>(a)</sup> S.S.I. 2014/196; amended by the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2015 (S.S.I. 2015/XXX).

## EXPLANATORY NOTE

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

Section 53(1)(a) of the Education (Scotland) Act 1980 (“the 1980 Act”) provides that an education authority may provide food or drink for pupils in attendance at public schools. Subsection (3AA) of that section provides that an education authority shall exercise the power in subsection (1)(a) to ensure that a school lunch (as defined in section 53(5) of the 1980 Act) is provided for the pupil free of charge. Section 53(3)(c) provides that section 53(3AA) applies in relation to a pupil who is in such yearly stage of primary or secondary education, or is of such other description, as the Scottish Ministers may by regulations prescribe.

Article 2 of these Regulations prescribes pupils of the following descriptions: those pupils who are eligible pre-school children (defined in section 47(2) of the Children and Young People (Scotland) Act 2014 (“the 2014 Act”)) by virtue of falling within section 47(3) of the 2014 Act (a child who is or has been at any time since the child’s second birthday, looked after by the authority concerned or by any other local authority, the subject of a kinship care order or of a guardianship order under section 7 of the Children (Scotland) Act 1995); or, by virtue of the fact that their parent is in receipt of one or more of the benefits listed in article 1(2)(d), (e) and (f) of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 (incapacity benefit or severe disablement allowance payable under the Social Security Contributions and Benefits Act 1992, or state pension credit payable under the State Pension Credit Act 2002).

The effect of regulation 2 is that pupils who fall within the prescribed descriptions are entitled to be provided with a school lunch free of charge.

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£4.25

S201505125 05/2015 19585

<http://www.legislation.gov.uk/id/sdsi/2015/9780111027769>

ISBN 978-0-11-102776-9



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