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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 178**

**EDUCATION**

**The Education (School Lunches) (Scotland) Regulations 2009**

<i>Made</i>	- - - -	<i>12th May 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>13th May 2009</i>
<i>Coming into force</i>	- -	<i>3rd August 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 53(3)(a)(iv) and (b)(iii) 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 (School Lunches) (Scotland) Regulations 2009 and come into force on 3rd August 2009.

**Interpretation**

2. In these Regulations—

“the 1980 Act” means the Education (Scotland) Act 1980;

“the 2002 Act” means the Tax Credits Act 2002<sup>(2)</sup>;

“the 2002 Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(3)</sup>;

“child tax credit” means the tax credit provided for by section 1(a) of the 2002 Act;

“the relevant income” has the meaning given by section 7(3) of the 2002 Act; and

“working tax credit” means the tax credit provided for by section 1(b) of the 2002 Act.

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(1) 1980 c. 44. Section 53(3)(a)(iv) and (b)(iii) were inserted by the [Education \(School Meals\) \(Scotland\) Act 2003](#) ([asp 18](#)). Section 135(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 ([c. 46](#)).

(2) 2002 c. 21.

(3) S.I.2002/2005.

### Prescribed Tax Credits

3. Child tax credit is prescribed for the purposes of section 53(3)(a)(iv) of the 1980 Act where the parent—

- (a) is in receipt of an award of child tax credit which is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for child tax credit<sup>(4)</sup>; and
- (b) is not in receipt of an award of working tax credit except where—
  - (i) the award is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for working tax credit<sup>(5)</sup>; or
  - (ii) the parent entitled to the award is treated as being engaged in qualifying remunerative work (within the meaning of the 2002 Act) by virtue of regulation 7D of the 2002 Regulations<sup>(6)</sup>.

4. Child tax credit is prescribed for the purposes of section 53(3)(b)(iii) of the 1980 Act where the pupil—

- (a) is in receipt of an award of child tax credit which is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for child tax credit; and
- (b) is not in receipt of an award of working tax credit except where—
  - (i) the award is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for working tax credit; or
  - (ii) the pupil entitled to the award is treated as being engaged in qualifying remunerative work (within the meaning of the 2002 Act) by virtue of regulation 7D of the 2002 Regulations.

### Revocation of the Education (School Meals) (Scotland) Regulations 2003

5. The Education (School Meals) (Scotland) Regulations 2003<sup>(7)</sup> are revoked.

St Andrew's House,  
Edinburgh  
12th May 2009

*ADAM INGRAM*  
Authorised to sign by the Scottish Ministers

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(4) The income threshold for child tax credit has been determined for the purposes of section 7(1)(a) of the 2002 Act by S.I. [2002/2008](#), regulation 3(3).  
 (5) The income threshold for working tax credit has been determined for the purposes of section 7(1)(a) of the 2002 Act by S.I. [2002/2008](#), regulation 3(2).  
 (6) Regulation 7D was inserted by S.I. [2007/968](#), regulation 2(3).  
 (7) [S.S.I. 2003/350](#).

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## EXPLANATORY NOTE

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

These Regulations replace the Education (School Meals) (Scotland) Regulations 2003 which are revoked by regulation 5.

Section 53(3AA) of the Education (Scotland) Act 1980 (“the 1980 Act”) provides that where an education authority provides school lunches, it must do so free of charge to a pupil to whom section 53(3) of the 1980 Act applies. Section 53(3) of the 1980 Act applies to a pupil who is in receipt of, or whose parents are in receipt of, certain benefits, allowances or tax credits.

These Regulations provide that section 53(3) shall apply to a pupil who is in receipt of, or whose parent is in receipt of an award of child tax credit where—

- (a) that award is based on an annual income not exceeding the amount determined for the purposes of section 7(1)(a) of the Tax Credits Act 2002 (“the 2002 Act”) (currently £16,040); and
- (b) that person is not in receipt of an award of working tax credit unless (i) the award is based on an annual income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act (currently £6,420); or (ii) he or she is entitled to the award by virtue of being treated as engaged in qualifying remunerative work by virtue of regulation 7D of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (“the 2002 Regulations”).

A person is entitled to working tax credit under regulation 7D of the 2002 Regulations during the four week period immediately after (a) his or her employment ceases; or (b) he or she starts to work less than 16 hours per week.