
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”)) and who either fall 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, who have a parent 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.