

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2017 No. 182**

**SOCIAL SECURITY**

**The Welfare Reform (Consequential Amendments) (Scotland) Regulations 2017**

<i>Made</i>	- - - -	<i>31st May 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>2nd June 2017</i>
<i>Coming into force</i>	- -	<i>1st August 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 1 and 3 of the Welfare Reform (Further Provision) (Scotland) Act 2012<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Welfare Reform (Consequential Amendments) (Scotland) Regulations 2017 and come into force on 1st August 2017.

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

2.—(1) The Education (School Lunches) (Scotland) Regulations 2009<sup>(2)</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “the 2002 Regulations” insert—

““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>”.

(b) after the definition of “child tax credit” insert—

““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;

---

(1) [2012 asp 10](#).

(2) [S.S.I. 2009/178](#). Article 4A was added by regulation 4 of the Education (School Lunches) (Scotland) Amendment Regulations 2013/64.

(3) [S.I. 2013/376](#). Regulation 21 of [S.I. 2013/376](#) was relevantly amended by [S.I. 2014/2887](#) and [S.I. 2015/1362](#).

(4) [2012 c.5](#).

“single person” has the meaning given in section 1(2)(a) of the Welfare Reform Act 2012.”.

(3) For regulation 4A (universal credit) of the Education (School Lunches) (Scotland) Regulations 2009 substitute—

“Universal credit is prescribed for the purposes of section 53(3)(a)(iv) and (b)(iii) of the 1980 Act, in the following circumstances—

- (a) in the case of a parent, where the parent is in receipt of universal credit, either—
  - (i) as a single person, where the single person has earned income not exceeding £610, or
  - (ii) as a member of a couple, where the couple have a combined earned income not exceeding £610, or
- (b) in the case of a pupil, where the pupil is in receipt of universal credit, either—
  - (i) as a single person, where the single person has earned income not exceeding £610, or
  - (ii) as a member of a couple, where the couple have a combined earned income not exceeding £610,

in the assessment period immediately preceding the application for a free school lunch being made.”.

### **The Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014**

**3.—**(1) Article 1(2) (citation, commencement, interpretation and application) of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014<sup>(5)</sup> is amended as follows.

(2) Before the definition of “parent” insert—

““assessment period” means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013<sup>(6)</sup>;

“couple” has the meaning given in section 39 of the Welfare Reform Act 2012<sup>(7)</sup>;

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

“single person” has the meaning given in section 1(2)(a) of the Welfare Reform Act 2012.”.

(3) For sub-paragraph (i), substitute—

“universal credit payable under Part 1 of the Welfare Reform Act 2012, where the parent is in receipt of universal credit, either—

- (i) as a single person, where the single person has earned income not exceeding £610, or
- (ii) as a member of a couple, where the couple have a combined earned income not exceeding £610,

in the assessment period immediately preceding the application for early learning and childcare being made.”.

---

(5) [S.S.I. 2014/196](#). Article 1 was amended by the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order [2015/268](#).

(6) [S.I. 2013/376](#). Regulation 21 of [S.I. 2013/376](#) was relevantly amended by [S.I. 2014/2887](#) and [S.I. 2015/1362](#).

(7) [2012 c.5](#).

St Andrew's House,  
Edinburgh  
31st May 2017

*JOHN SWINNEY*  
A member of the Scottish Government

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

## EXPLANATORY NOTE

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

These Regulations amend the Education (School Lunches) (Scotland) Regulations 2009 (“the 2009 Regulations”) and the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 (“the 2014 Order”).

In terms of regulation 4A of the 2009 Regulations, a child is entitled to be provided with a free school lunch under section 53(3AA) of the Education (Scotland) Act 1980 (c.44) (“the 1980 Act”), if the child or their parent is in receipt of universal credit payable under Part 1 of the Welfare Reform Act 2012 (c. 5). “School lunch” is defined in section 53(5) of the 1980 Act as meaning anything provided under section 53(1)(a) in the middle of the day which the education authority consider is appropriate for consumption as a meal at that time of day.

In terms of regulation 2 of the 2014 Order, a child is entitled to be provided with the mandatory amount of early learning and childcare under section 47 of the Children and Young People (Scotland) Act 2014 (asp 8) (“the 2014 Act”), if their parent is in receipt of universal credit payable under Part 1 of the Welfare Reform Act 2012. “Early learning and childcare” is defined in section 46 of the 2014 Act as meaning a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting. The “mandatory amount” of early learning and childcare is defined in section 48 of the 2014 Act as “(a) 600 hours in each year for which a child is an eligible pre-school child, and (b) a pro rata amount for each part of a year for which a child is an eligible pre-school child.”.

These Regulations, amend regulation 2 (interpretation) of the 2009 Regulations and Article 1(2) (Citation, commencement, interpretation and application) of the 2014 Order to insert definitions of the terms “assessment period”, “couple”, “earned income”, and “single person”.

Regulation 2(3) substitutes a new regulation 4A into the 2009 Regulations which provides that universal credit is prescribed as a benefit the receipt of which (either by the pupil or the pupil’s parent), entitles the pupil to a free school lunch, provided the pupil or parent’s earned income either as a single person or as a member of a couple, does not exceed £610 in the assessment period immediately preceding the application for a free school lunch being made.

Regulation 3(3) substitutes a new sub-paragraph (i) into Article 1(2) of the 2014 Order, which provides that universal credit is a qualifying benefit for the purpose of entitling a child to early learning and childcare, provided their parent’s earned income either as a single person or as a member of a couple, does not exceed £610 in the assessment period immediately preceding the application for early learning and childcare being made.