

Constitutional Affairs Committee

CA(3)-08-11

CA574: The Education (Free School Lunches) (Prescribed Tax Credits)(Wales) (Amendment) Order 2011

Procedure: Negative

This Order amends the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) Order 2003.

It prescribes, for the purpose of section 512ZB(4)(aa)(ii) of the Education Act 1996, that where C's parent

is entitled to Child Tax Credit but not to Working Tax Credit and

is receiving Child Tax Credit based on an annual income not exceeding £16,190,

C is entitled to free school lunches.

Technical Scrutiny

No points are identified for reporting under Standing Order 15.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 15.3 in respect of this instrument.

Under Standing Order 15.3(ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

In the Regulatory Impact Assessment contained in the Explanatory Memorandum which accompanies this Order, the Welsh Government state that:-

"This Order imposes no additional costs or additional duties on schools or Local Authorities, and no formal RIA has been undertaken".

However, as the Order retains the current Child Tax Credit threshold of £16,190 instead of applying the reduced and revised Child Tax Credit threshold of £15,860 which will apply in England from the 6 April 2011, a greater number of people are likely to be entitled to free school lunches in Wales than if the Order had not been made. This inevitably must have cost implications that should have been set out in the Explanatory Memorandum.

Legal Advisers

Constitutional Affairs Committee
March 2011

The Government has responded as follows:

This is the first year since 2002 that the Child Tax Credit annual income threshold has not been increased. If no amendment was made to the free school meal eligibility criteria, some families would have lost their entitlement to free school meals. We are therefore breaking the link with HMRC's Child Tax Credit threshold, and replacing it with an annual income threshold of £16,190, in order to ensure that those who are currently eligible for free school meals remain eligible and thus minimise the practical impact on families and schools.

It is estimated that about 65 children who are currently in receipt of free school meals would no longer have been eligible if the free school meal criteria continued to be linked with the Child Tax Credit annual income threshold from 6 April. Breaking the link therefore means that the financial implications for local authorities remain the same.

The Department for Education have also made an amendment to their Order and therefore the eligibility criteria for free school meals in England and Wales will be the same.