

EXPLANATORY MEMORANDUM TO THE EDUCATION (FREE SCHOOL LUNCHES) (STATE PENSION CREDIT) ORDER 2005

2005 No. 885

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Statutory Instrument prescribes the guarantee credit part of State Pension Credit as an entitling benefit for the purposes of claiming free school lunches. For this parental group, the Order removes the need for those responsible for checking free school lunch entitlement to consider the requirements of The Education (Free School Lunches) (Prescribed Tax Credits) (England) Order 2003 SI 383 and the current impracticalities of using Tax Credit Award Notices (TC602s) to check entitlement.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 512ZB (4)(a)(iv) gives the Secretary of State power to prescribe any benefit or allowance or Tax Credit under the Tax Credits Act 2002 (c21) or element of such a tax credit as an additional free school lunch eligibility criterion.
5. **Extent**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 Not applicable
7. **Policy background**
 - 7.1 Regulations introduced in 2003 set out a new ‘Tax Credit’ free school lunch eligibility category. This Category prevented approximately 87, 000 children in England from being disenfranchised from their free school meal entitlement as a result to changes to the Tax Credits’ system. The Education (Free School Lunches) (Prescribed Tax Credits) (England) Order 2003 SI 383 was appropriately worded to protect the free school lunch entitlement of these

families, including those moving from Minimum Income Guarantee (what was Income Support for those over pension age) to State Pension Credit. It was also agreed that the Inland Revenue's Tax Credit Award Notice (TC602) would be the most appropriate documentation to be used by parents to prove their entitlement to free school meals.

7.2 Feedback from local education authorities and schools, responsible for checking free school lunch eligibility, identified that although the circumstances of parents receiving State Pension Credit (approximately 20,000 families in England) may be such that they would qualify for a free school lunch using the new 'Tax Credit' category, the Tax Credit Award Notice (TC602) failed to provide sufficient detail about annual income to confirm eligibility.

7.3 It was always intended that the children of these parents would be entitled to free school lunches and, as such, were factored in when the initial decision was taken to prevent any loss of free school lunch entitlement. No consultation was, therefore, required.

8. Impact

8.1 No regulatory assessment has been prepared as the purpose of this Order is to maintain the status quo and, therefore has no impact on the private or voluntary sector. The impact on public sector will be to make free school lunch checks more practical.

9. Contact

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