

EDUCATION (SCHOOL MEALS) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Education (School Meals) (Scotland) Bill introduced in the Scottish Parliament on 28 May 2003:

- Explanatory Notes;
- a Financial Memorandum;
- an Executive Statement on legislative competence; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 3–PM.

EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill amends section 53(3) of the Education (Scotland) Act 1980 to allow account to be taken of a change to the benefits and tax systems made by the Tax Credits Act 2002 and to allow account to be taken of similar changes in the future.

5. Section 53(1)(a) of the 1980 Act confers a power on education authorities to provide milk, meals or other refreshments to school pupils. Where an education authority exercises this power, subsection (2) requires them to charge for anything so provided, and to charge the same price for the same quantity to each pupil. Subsection (3AA), in conjunction with subsection (3), places a duty on education authorities to exercise their power under subsection (1) so as to make provision in the middle of the day, free of charge, to pupils:

- who are in receipt of income support or income-based jobseeker's allowance; or
- whose parents are in receipt of those benefits or are in receipt of support under Part VI of the Immigration and Asylum Act 1999.

6. The Tax Credits Act 2002 creates, among other things, a new tax credit (child tax credit (CTC)) which will replace the child-related elements of income support and income-related jobseeker's allowance. Parents could claim CTC with effect from 6 April 2003. Tax year 2003-04 is a transitional year. From 6 April 2004, the child-related element of the two benefits will be removed and parents will be obliged to claim CTC if they wish to continue to receive income-based financial support for their children. Income support and income based jobseeker's allowance will remain as social security benefits but will be adult-related only.

Section 1 - Duty to provide free school meals

7. Section 1 of the Bill amends section 53(3) of the 1980 Act. Subsections (2) and (3) insert into paragraphs (a) and (b) of section 53(3) powers to allow Scottish Ministers to prescribe other benefits or allowances and tax credits (or elements of tax credits) receipt of which (in circumstances prescribed) by pupils or their parents obliges education authorities to provide free school meals.

8. Subsection (4) provides that the first regulations made under these new powers have retrospective effect from 6 April 2003. Subsequent regulations made in exercise of the powers will not have such retrospective effect.

FINANCIAL MEMORANDUM

INTRODUCTION

9. It is estimated that some 6500 school children will lose their entitlement to free school meals under section 53 of the 1980 Act, when their parents move onto CTC (whether during this transitional year or from April 2004 when the new system becomes mandatory). The loss of entitlement will occur on moving to CTC for a small group of families (not all who make the transition) because under the eligibility rules for the adult-related income support or income-based jobseeker's allowance, some recipients will no longer be entitled to income support. The use of the power provided by the proposed amendments to the 1980 Act would protect their position.

10. The changes made by the Inland Revenue affect 2 other categories of parents who are entitled to tax credits but not to income support:

- student parents with school children; and
- parents or carers who have savings above £8000 but very low income.

These families are not currently entitled to free school meals for their children in terms of section 53 of the 1980 Act. It is estimated that these two categories add up in total to a potential entitlement for up to 7,000 children (2000 from families on low incomes with savings and 5000 dependent children of students).

COSTS ON THE SCOTTISH ADMINISTRATION

11. There are no additional financial implications arising from those families for whom we are preserving the right to an existing entitlement (either those on low income who lose their income support when they move to tax credit or those who come into the benefit system for the first time). However, there are financial implications due to the extension of entitlement to students and to low income families with savings. While there are an estimated 7,000 children in these categories, we do not yet know how many of their families will choose to claim CTC in 2003-04 and therefore potentially become entitled to claim free school meals for their children. On the basis that all who have a new entitlement take this up it is estimated that the maximum cost to the Scottish Administration in 2003-04 would be in the order of £3m.

12. This same cost would roll forward to 2004-05 in real terms. However, the Executive, as part of an overall review of student grant support, intends to make a consequential amendment to the Scottish student grant scheme to remove the school meals element of the dependants grant.

This will result in a saving of around £2m per annum resulting in an ongoing net cost to the Scottish Administration in the region of £1million.

13. Students will neither be advantaged nor disadvantaged by these arrangements. For the current year they will, on the face of it, be entitled to both a dependants allowance to cover school meals as part of their student grant and to free school meals from the education authority. However, Inland Revenue will take the student grant into account when assessing a student's entitlement to CTC. In these circumstances the effect for the student will be neutral and, for this current year, any cost benefit will be accrued by Treasury. For future years, students will not be entitled to a dependants allowance to cover school meals as part of their student grant (and their entitlement to CTC will therefore not be affected) but will retain an entitlement to free school meals from the education authority for their children through the new criterion introduced by this Bill. Future years cost benefits will accrue to the Scottish Administration resulting in the net cost to the Administration shown in paragraph 12 above of £1m per annum.

COSTS ON LOCAL AUTHORITIES

14. Any costs accruing to local authorities would result from the making of regulations under the new powers contained in section 1 of the Bill.

15. Based on current eligibility criteria 139,128 (18.9%) of school pupils are recorded as entitled to free school meals. The latest information from the school meal census (January 2002) indicated that 99,877 (72% of those recorded as entitled) pupils took a free school meal on the census day. Support to local authorities for provision of school meals forms part of the general local authority finance settlement. The financial support made available through the settlement is not hypothecated to particular services and it is for the local authorities themselves to determine their expenditure on the school meals service in the same way as they reach their detailed decisions on other spending needs and priorities. Local authority gross expenditure on school meals in 2001-02 (the latest year for which figures are available) totalled £86.7 million of which £34.4 million was recovered through charged meals and other sales. The remainder was funded from local authorities' Scottish Executive general revenue grant allocations and council tax income.

16. The Expert Panel on School Meals was set up in January 2002. The Panel submitted its final report in November 2002 and Scottish Ministers accepted all of the recommendations in full. These recommendations now form the framework of a national strategy for school meals. Additional funding of £12.4m, £21m and £24m will be made available to fund these recommendations over financial years 2003-04 to 2005-06. A substantial portion of this additional funding (£1.3m, £2.6m and £3.9m) is designed to cover the cost of increased take up of free school meals by those currently entitled.

17. There will be no additional financial implications for authorities arising from those families for whom we are preserving the right to an existing entitlement (either those on low income who lose their income support when they move to tax credit or those who come into the benefit system for the first time). The full financial consequences due to the extension of entitlement to students and to low income families with savings will fall to education authorities. This will be additional to the funding stream within general grant and to the funding to support

the implementation of the recommendations from the Expert Panel. These financial consequences are estimated to be in the region of £3m per year from 2004-05. The intention would be to re-emburse authorities for these costs.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

18. There are no financial consequences for any other bodies, individual and businesses.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

19. On 27 May 2003, the Minister for Education and Young People (Peter Peacock) made the following statement:

“In my view, the provisions of the Education (School Meals) (Scotland) would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

20. On 27 May 2003, the Presiding Officer (George Reid) made the following statement:

“In my view, the provisions of the Education (School Meals) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

*These documents relate to the Education (School Meals) (Scotland) Bill (SP Bill 3) as introduced
in the Scottish Parliament on 28 May 2003*

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EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)

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