

CHILD POVERTY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 3 – MISCELLANEOUS AND GENERAL (Sections 26 to 32)

Section 26: Free School lunches and milk

111. *Section 26* concerns the provision of free school lunches and milk. *Subsection (1)* amends section 512ZB of the Education Act 1996 to give the Secretary of State (or, in relation to Wales, the Welsh Ministers) an order-making power to extend eligibility for free school meals if the child meets prescribed conditions and the child's parent is in receipt of a prescribed benefit or allowance.
112. The Secretary of State may extend eligibility for free school meals to a primary school child if the child's parent is entitled to Working Tax Credit and the family has a household income below a specified threshold. Currently, the Education Act 1996 allows the Secretary of State (or the Welsh Ministers) to adjust eligibility for free school meals only on the basis of the benefit being received by the parent, rather than the age of the child. It is therefore not possible to use existing powers to extend the entitlement to free school meals to primary school children of parents who are entitled to Working Tax Credit without also extending the entitlement to secondary school children within the same family.
113. *Subsection (1)(c)* allows an order to be made to extend eligibility for free school meals to a child who meets prescribed conditions and whose parents are receiving a prescribed benefit or allowance or entitled to a prescribed tax credit.
114. *Subsection (1)(e)* allows an order to be made to extend eligibility for free school meals to a child who meets prescribed conditions and who is receiving a prescribed benefit or allowance or is entitled to a prescribed tax credit.

Section 27: General Interpretation

115. *Section 27 (subsection (1))* includes a definition of "child" for the purposes of the Act. In effect, "child" has the same meaning as "child" or "qualifying young person" for the purposes of assessing eligibility for child benefit, but actual entitlement to child benefit does not need to be proven in order to come within this definition. Section 142 of the Social Security Contributions and Benefits Act 1992 and regulations made under that Act (and similarly, for Northern Ireland, section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) set out who is eligible for child benefit.
116. *Subsection (1)* also includes a definition of 'parent' for the purposes of the Act. In effect, 'parent' covers persons who have parental responsibility for a child (*paragraph (a)* of the definition of 'parent' in *subsection (1)*) and persons who do not have parental responsibility but are caring for a child who resides with them, such as 'family and friends' carers (*paragraph (b)* of the definition of 'parent' in *subsection (1)*).

*These notes refer to the Child Poverty Act 2010 (c.9)
which received Royal Assent on 25 March 2010*

The definition of 'parent' is similar to that in section 576 of the Education Act 1996. However, *paragraph (b)* of the definition of 'parent' in *subsection (1)* requires that the child resides with the person caring for the child. This ensures that carers such as childminders who have temporary care of a child are not included in the definition of 'parent'. 'Parental responsibility' is defined in accordance with the definition in the Children Act 1989 or equivalent Scottish or Northern Ireland legislation (*subsection (2)*).