

Explanatory Memorandum to the Education (Remission of Charges Relating to Residential Trips) (Wales) (Amendment) Regulations 2011

This Explanatory Memorandum has been prepared by the Department of Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Remission of Charges Relating to Residential Trips) (Wales) (Amendment) Regulations 2011. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Children, Schools and Lifelong Education

9 March 2011

1. Description

The Regulations introduce an additional provision to the exemption criteria for paying the cost of board and lodging for pupils of residential school trips. It will also introduce a provision to match the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) (Amendment) Order 2011 to maintain the current Child Tax Credit threshold of £16,190 for Free School Meals purposes. It will allow pupils whose parents are in receipt of the Guarantee Credit part of the State Pension Credit to claim free board and lodging on a school residential trip.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

The relevant legal powers enabling the instrument to be made are sections 457(4)(b)(iii) and 569 of the Education Act 1996.

These functions were originally conferred on the Secretary of State and were transferred to the Welsh Ministers by the National Assembly for Wales (Transfer of Functions) Order 1999 and are now vested in the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The instrument is subject to the negative procedure.

4. Purpose & intended effect of the legislation

To amend the Education (Remission of Charges Relating to Residential Trips) (Wales) Regulations 2003 to include an additional provision allowing pupils whose parents are in receipt of the Guarantee Credit part of the State Pension Credit to claim free board and lodging on a school residential trip.

Section 457 of the Education Act 1996 requires schools to have in place a policy for the complete remission of any charges payable in respect of board and lodging provided for certain pupils on residential trips.

At present parents who are in receipt of the following benefits are exempt from paying the cost of board and lodging on a school residential trip:

- Income Support;
- Income Based Jobseeker's Allowance;
- an income-related employment and support allowance; or
- other benefit or allowance, or entitlement to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, as may be

prescribed by regulations from time to time for any period wholly or partly comprised in the time spent on the trip.

Regarding the last point the following are prescribed:

- support under Part 6 of the Immigration and Asylum Act 1999; and
- Child Tax Credit, providing Working Tax Credit is not also received and the family's income (as assessed by Her Majesty's Revenue and Customs) does not exceed £16,040 (for 2009/10).

The regulations for the remission of charges for school residential trips have used the same eligibility criteria as free school meals and an amendment is needed to keep them in line with that provision.

In England, the equivalent regulations, the Education (Residential Trips) (Prescribed Tax Credits) (England) Regulations 2003 have been amended already to include the "pension credit" element by the Education (Residential Trips) (Prescribed Tax Credits) (England) (Amendments) Regulations 2005.

Because the same benefit system operates in England and Wales, it is considered that the Welsh regulations should be amended in the same way to allow pupils in Wales to be eligible for the same remission criteria as those in England. The proposed regulations make minimal changes to allow pupils in Wales to be eligible for the same remission criteria for the cost of board and lodging for school residential trips as those in England.

Changes to eligibility criteria for Free School Meals

There are to be changes to the Child Tax Credit threshold (being introduced by HMRC from 6 April 2011). A family's entitlement to Child Tax Credit reduces above a specified income threshold (the current level is £16,190). This threshold has until now been used as the limit for entitlement to access free school meals. From 6 April 2011, this income cut-off will be reduced to £15,860.

This changed threshold, if used to determine Free School Meal entitlement, would have meant families who qualify for free school meals being removed from eligibility. The Education (Free School Lunches) (Prescribed Tax Credits) (Wales) Order 2003 has been amended to maintain eligibility at current levels by keeping the cash threshold of £16,190.

These regulations match the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) (Amendment) Order 2011 and maintain the current threshold of £16,190.

5. Consultation

No consultation was undertaken. The proposed regulations make minimal charges that legislate to allow pupils in Wales to be eligible for the same remission criteria for the cost of board and lodging for school residential trips as those in England.

6. Regulatory Impact Assessment (RIA)

Option 1 – Do nothing.

If the Regulations are not made there will be an inconsistency in eligibility criteria for remission of costs for board and lodging on school residential trips between pupils in England and Wales. Those pupils in Wales whose parents are in receipt of the Guarantee Credit part of the State Pension Credit will not be able to claim for free board and lodging on school residential trips while those pupils in England continue to be eligible.

Option 2 – Make the legislation.

By making the legislation we are providing pupils in Wales with the same exemption criteria for the remission of charges for board and lodgings on school residential trips as those pupils in England. As the same benefit systems operates in England and Wales, it seems logical to follow suit with the remission criteria for charges for board and lodging on school residential trips. This is also in line with the eligibility criteria for free school meals.

Benefits

Option 1 – Has no benefit but would mean that an anomaly would still exist between England and Wales regarding exemption criteria for the cost of board and lodging on residential school trips.

Option 2 – Would ensure that pupils in Wales whose parents are in receipt of the Guarantee Credit part of the State pension credit would be eligible for the remission of charges for board and lodging on school residential trips the same as those pupils in England. It also brings the law in line with the benefits system that operates in England and Wales.

Costs

There are no costs incurred by the Assembly Government or Local Authorities by making the Regulations. There is potentially a minimal cost to schools. We have been unable to establish exactly how many pupils in Wales whose parents are in receipt of the Guaranteed Credit part of the Pension Credit and could therefore be eligible to claim for the remission of costs. Also the costs of a trip can vary

greatly because they are bespoke and schools decide what educational trips they can fund from their budgets. We cannot therefore estimate what the cost of the introduction of the regulations would be, but relative to school budgets it would be small.

With regard to the change to the Child Tax Credit income threshold as the amendment imposes no additional costs or additional duties on schools or Local Authorities, no formal RIA has been undertaken. This change is being made in order to keep eligibility criteria unchanged in practical terms and to match the Education (Free School Lunches) (Prescribed Tax Credits) (Wales) (Amendment) Order 2011. This will minimise the impact on local authorities and schools, as they will not have to reassess existing recipients of Free School Meals in order to assess them against the new Child Tax Credit income threshold.

Consultation

No consultation was undertaken. The proposed regulations make minimal changes that legislate to allow pupils in Wales to use criteria as those in England.

Competition Assessment

Not applicable.

Post Implementation Review

We will monitor the impact through casework.