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STATUTORY INSTRUMENTS

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**2018 No. 148**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

The Free School Lunches and Milk, and School and Early Years Finance (Amendments Relating to Universal Credit) (England) Regulations 2018

<i>Made</i>	- - - -	<i>6th February 2018</i>
<i>Laid before Parliament</i>		<i>7th February 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 512ZB(4)(a)(ai), 512ZB(4)(b)(ai) and 568 of the Education Act 1996<sup>(1)</sup> and sections 45A and 138 of the School Standards and Framework Act 1998<sup>(2)</sup>.

Part 1

General

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the Free School Lunches and Milk, and School and Early Years Finance (Amendments Relating to Universal Credit) (England) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations, “universal credit” means the benefit payable in accordance with Part 1 of the Welfare Reform Act 2012<sup>(3)</sup>.

(3) These Regulations apply in relation to England.

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(1) 1996 c. 56.

(2) 1998 c. 31. Section 45A was inserted by section 41 of the Education Act 2002 (c. 32).

(3) 2012 c. 5.

## Part 2

### Prescribed circumstances relating to universal credit

#### Prescribed circumstances: receipt of universal credit

2. The circumstances prescribed(4) for the purposes of section 512ZB(4)(a)(ai) of the Education Act 1996 are that C’s parent—

- (a) is on, or after, 1st April 2018 in receipt of universal credit, and
- (b) in the relevant period has earned income not exceeding the applicable amount.

3. The circumstances prescribed for the purposes of section 512ZB(4)(b)(ai) of the Education Act 1996 are that C—

- (a) is on, or after, 1st April 2018 in receipt of universal credit, and
- (b) in the relevant period has earned income not exceeding the applicable amount.

4. For the purposes of regulations 2 and 3—

(a) “earned income” means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013(5);

(b) The relevant assessment period and the applicable amount are those referred to in the following sub-paragraphs as applicable—

(i) except where sub-paragraphs (ii) or (iii) apply, where the parent has earned income which did not exceed £616.67 in the universal credit assessment period(6) immediately preceding the date of the request for a free school meal (period 1)—

- (aa) the relevant assessment period is period 1; and
- (bb) the applicable amount is £616.67;

(ii) this sub-paragraph applies where sub-paragraph (i) does not because the applicable amount referred to in that sub-paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that sub-paragraph—

- (aa) the relevant assessment period is the sum of period 1 and period 2 (SAP); and
- (bb) the applicable amount is £1,233.34;

(iii) this sub-paragraph applies where sub-paragraph (ii) does not because the applicable amount referred to in that sub-paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—

- (aa) the relevant assessment period is the period made up of SAP and period 3; and
- (bb) the applicable amount is £1,850;

(c) where C, or as the case may be C’s parent, is—

(i) a member of a couple who have jointly made a claim for, and are entitled to, universal credit; or

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(4) See section 512 of the Education Act 1996 for the meaning of “prescribed”.

(5) [S.I. 2013/376](#). Chapter 2 of Part 6 is concerned with earned income for the purpose of calculating an award of universal credit.

(6) An assessment period is prescribed by regulation 2(1) of the Universal Credit Regulations 2013 as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists.

- (ii) a member of a couple but has claimed, and is entitled to, universal credit as a single person,
- references to applicable amounts in sub-paragraphs (i) to (iii) of paragraph (b) as applicable are to be read as references to the combined income of the couple.

## **Revocation**

5. The Free School Lunches and Milk (Universal Credit) (England) Order 2013<sup>(7)</sup> is revoked.

## **Part 3**

### **Amendment of the School and Early Years Finance (England) Regulations 2018**

#### **Amendment of the School and Early Years Finance (England) Regulations 2018**

6. In the School and Early Years Finance (England) Regulations 2018<sup>(8)</sup>, in regulation 17 (early years pupil premium)—

- (a) in paragraph (3), for sub-paragraph (a) substitute—

“(a) universal credit where the child’s parent has, in the relevant period, earned income not exceeding the applicable amount;”;

- (b) after paragraph (8), insert—

“(9) A child who on 1st April 2018 is eligible, or after that date becomes eligible, for early years pupil premium continues to be so eligible notwithstanding any change in circumstances which would otherwise result in paragraph (2)(c)(i) ceasing to be satisfied or, in the case of paragraph (3)(a), the earned income of the child’s parent subsequently exceeding the applicable amount.

- (10) In this regulation—

(a) “earned income” means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013;

(b) the relevant assessment period and the applicable amount are those referred to the following sub-paragraphs as applicable—

(i) except where paragraphs (ii) or (iii) apply, where the parent had earned income which did not exceed £616.67 in the universal credit assessment period<sup>(9)</sup> immediately preceding the date of the request for the early years pupil premium (period 1)—

(aa) the relevant assessment period is period 1; and

(bb) the applicable amount is £616.67;

(ii) this paragraph applies where paragraph (i) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that paragraph—

(aa) the relevant assessment period is the sum of period 1 and period 2 (SAP); and

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<sup>(7)</sup> S.I. 2013/650.

<sup>(8)</sup> S.I. 2018/10.

<sup>(9)</sup> An assessment period is prescribed by regulation 21(1) of the Universal Credit Regulations 2013 as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists.

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- (bb) the applicable amount is £1,233.34;
- (iii) this paragraph applies where paragraph (ii) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—
  - (aa) the relevant assessment period is the period made up of SAP and period 3; and
  - (bb) the applicable amount is £1,850;
- (c) where the parent referred to in paragraph (3)(a) is—
  - (i) a member of a couple who have jointly made a claim for, and are in receipt of, universal credit; or
  - (ii) a member of a couple but has claimed, and is in receipt of, universal credit as a single person,references to applicable amounts in paragraphs (i) to (iii) of sub-paragraph (b) are to be read as references to the combined income of the couple;
- (d) “parent” has the meaning given by section 2(2) of the Childcare Act 2006<sup>(10)</sup>.”.

Signed by authority of the Secretary of State for Education

6th February 2018

*Nadhim Zahawi*  
Parliamentary Under Secretary of State  
Department for Education

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<sup>(10)</sup> 2006 c. 21.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe conditions for the purposes of section 512ZB of the Education Act 1996 (c. 56) and amend regulation 17 of the School and Early Years Finance (England) Regulations 2018 (S.I. 2018/10).

Part 1 of these Regulations (regulation 1) deals with general introductory matters.

Part 2 of these Regulations (regulations 2 to 5) deals with the inter-play between the receipt of the social security benefit known as “universal credit” and eligibility for a free school lunch and milk. It provides that where a person (C) or C’s parent is in receipt of universal credit on or after 1st April 2018 and does not have income in excess of a specified applicable amount in the relevant period immediately preceding the date of request for a free school lunch, they come within section 512ZB(4) (regulations 2 and 3). The relevant period can, in any particular case, be a single universal assessment period, 2 such periods or 3 such periods – each of which attracts, as a threshold, a different applicable amount of income (based on twelfths of an equivalent yearly income of £7,400). Persons within section 512ZB(4) are eligible for free school lunches and milk when a request has been made by them (or on their behalf).

Regulation 4 defines, for the purposes of regulations 2 and 3:

- income by reference to “earned income” for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013 (S.I. 2013/376)
- the relevant period (by reference to universal credit assessment periods).

Regulation 5 of Part 2 revokes the Free School Lunches and Milk (Universal Credit) (England) Order 2013 (S.I. 2013/650).

Part 3 of these Regulations (regulation 6) amends the School and Early Years Finance (England) Regulations 2018. Regulation 6 amends regulation 17 (early years premium) of those Regulations by:

- substituting a new provision dealing with the early years pupil premium in the context of an award of universal credit in like manner to that in Part 2 of these Regulations
- adding a new paragraph (9) to provide that once eligibility for the premium is established it is retained notwithstanding the fact that the parents of the child in question may cease to receive a relevant social security benefit.

The commencement of provisions of the Welfare Reform Act 2012 (c. 5) relating to section 512ZB and associated transitory provisions in respect of the receipt of universal credit and eligibility for a free school lunch and milk are to be found in the Welfare Reform Act 2012 (Commencement No. 30 and Transitory Provisions) Order 2018 (S.I. 2018/145 (C. 15)).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sectors is foreseen.