Draft Order laid before the Scottish Parliament under section 99(2) of the Children and Young People (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

EDUCATION

The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2015

Made - - - -

Coming into force - - *1st August 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 47(2)(c)(ii) and 99(1) of the Children and Young People (Scotland) Act 2014(**a**) and all other powers enabling them to do so.

In accordance with section 99(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and application

1.—(1) This Order may be cited as the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2015 and shall come into force on 1st August 2015.

(2) The amendments made by this Order apply to a child where their second birthday falls on or after 1st March 2015.

Amendment of 2014 Order

2.—(1) The Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014(**b**) is amended as follows.

(2) In article 1 (citation, commencement, interpretation and application)—

(a) in the definition of "qualifying benefit" in paragraph (2), after sub-paragraph (f), insert—

"(g) child tax credit under Part 1 of the 2002 Act where the parent—

(i) is in receipt of an award of child tax credit which is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for child tax credit(**c**); and

(**a**) 2014 asp 8.
(**b**) S.S.I. 2014/196.
(**c**) The income threshold for child tax credit was determined for the purposes of section 7(1)(a) of the 2002 Act by regulation 3(3) of S.I. 2002/2008, as relevantly amended by regulation 4(2) of S.I. 2015/451.

(ii) is not in receipt of an award of working tax credit under Part 1 of the 2002 Act except where—

(aa) the award is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the 2002 Act as the income threshold for working tax credit(**a**); or

(bb) the parent entitled to the award is treated as being engaged in qualifying remunerative work (within the meaning of the 2002 Act) by virtue of regulation 7D of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**b**);

(h) support provided under Part VI of the Immigration and Asylum Act 1999(**c**);

(i) universal credit payable under Part 1 of the Welfare Reform Act 2012(**d**).";

(b) after the definition of "starting point for 2 year olds", insert—

""the 2002 Act" means the Tax Credits Act 2002(**e**);"; and

(c) after the definition of "2014 Act", insert—

""the relevant income" has the meaning given by section 7(3) of the 2002 Act.".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

(**a**) The income threshold for working tax credit was determined for the purposes of section 7(1)(a) of the 2002 Act by regulation 3(2) of S.I. 2002/2008, as relevantly amended by regulation 4(2) of S.I. 2008/796.
(**b**) S.I. 2002/2005; regulation 7D was inserted by regulation 2(3) of S.I. 2007/968, substituted by regulation 8 of S.I. 2009/1829 and amended by regulation 2(10) of S.I. 2012/848.
(**c**) 1999 c.33.
(**d**) 2012 c.5.
(**e**) 2002 c.21.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014.

Article 2 amends the definition of "qualifying benefit", as it applies in relation to a child whose second birthday falls on or after 1st March 2015, to include—

(a) child tax credit payable in certain circumstances under the Tax Credits Act 2002;

(b) support provided under Part VI of the Immigration and Asylum Act 1999; and

(c) universal credit payable under Part 1 of the Welfare Reform Act 2012.

The effect of these amendments is to extend the categories of "eligible pre-school child" for the purposes of section 47(1) of the Children and Young People (Scotland) Act 2014 ("the 2014 Act"). Section 47(1) of the 2014 Act imposes a duty on an education authority to secure, in pursuance of its duty under section 1(1) of the Education (Scotland) Act 1980 (c.44), that the mandatory amount (as defined in section 48 of the 2014 Act) of early learning and childcare is made available for each eligible pre-school child belonging to its area. As a result, certain additional 2 year olds will be eligible for the mandatory amount of early learning and childcare where they have a parent who is in receipt of one or more of the additional qualifying benefits.

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