EXPLANATORY MEMORANDUM TO
THE EDUCATION (FREE SCHOOL LUNCHES)
(PRESCRIBED TAX CREDITS) (ENGLAND) (AMENDMENT) ORDER

2011 NO. 728

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Education (Free School Lunches) (Prescribed Tax Credits) Order 2003 to ensure that changes made to Child Tax Credit (CTC) with effect from 6th April 2011 will not deprive those who would otherwise have been entitled to free school meals of that entitlement. This instrument does this by replacing the CTC income threshold determined by HMRC (which will be reduced from £16,190 to £15,860) with an income threshold specified in the Order itself of £16,190.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 As a result of changes to tax credits that were announced in the June 2010 Budget HMRC has determined that the annual income threshold (above which the amount of Child Tax Credit paid to recipients starts to be reduced) will be reduced, with effect from 6th April 2011. If the 2003 Order was not amended, the effect of this change would be to deprive children who would otherwise be entitled to free school meals of that entitlement, contrary to a commitment made by the Parliamentary Under Secretary of State for Children and Families during a Westminster Hall debate on 30 June 2010 that "no child currently eligible for free school meals will lose that entitlement".

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 A child is eligible for free school meals if their parent(s) is in receipt of Child Tax Credit without Working Tax Credit, and has an annual income which does not exceed the Child Tax Credit income threshold determined by HMRC. In the June 2010 Budget, the Chancellor of the Exchequer announced a package of measures which - taken together –aim to make tax credits fairer. As part of these changes, the Child Tax Credit income threshold will be reduced with effect from 6th April .

7.2 If no amendment was made to the free school meal eligibility criteria, some families would have lost their entitlement to free school meals. We are therefore breaking the link with HMRC's threshold, and replacing it with an annual income threshold of £16,190, in order to ensure that those who would otherwise be eligible for free school meals remain eligible and thus minimise the practical impact on families and schools.

- Consolidation

7.2 None

8. Consultation outcome

8.1 No formal consultation was carried out, as the purpose of this amendment is to maintain free school meal entitlement at current levels, and thus fulfil a Ministerial commitment made in summer 2010.

9. Guidance

9.1 We have informed Local Authorities of our intention to keep the annual income threshold at £16,190 via the Connect Digitally Community of Practice. We will also provide an update on the Department for Education's website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector. This change is being made in order to keep eligibility criteria unchanged in practical terms by keeping the current income threshold unchanged.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Annual Schools Census will continue to collect information on pupils known to be eligible for and claiming free school meals.

13. Contact

Lisa Binks at the Department for Education (Tel: 01325 735592 or email: Lisa.Binks@education.gsi.gov.uk) can answer any queries regarding the instrument.