OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2019 Rhif 187 (Cy. 47)

2019 No. 187 (W. 47)

ADDYSG, CYMRU

EDUCATION, WALES

Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2019

The Free School Lunches and Milk (Universal Credit) (Wales) Order 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn yn rhagnodi amodau at ddibenion adran 512ZB o Ddeddf Addysg 1996 (p. 56).

Mae erthygl 2 yn ymdrin â'r cyswllt rhwng cael y budd-dal nawdd cymdeithasol o'r enw "credyd cynhwysol" a chymhwystra i gael cinio ysgol a llaeth am ddim. Mae'n darparu, pan fo person ("C") neu riant C yn cael credyd cynhwysol ar neu ar ôl 1 Ebrill 2019 ac na fo ganddo incwm sy'n fwy na swm cymwysadwy penodedig yn y cyfnod perthnasol yn union cyn dyddiad y cais am ginio ysgol am ddim, y daw o fewn adran 512ZB(4) (paragraffau (1) a (2)). Mae paragraffau (3)(a) a (b) yn diffinio "incwm a enillir" at ddibenion paragraffau (1) a (2). Mae paragraff (3)(c) yn darparu y gall y cyfnod perthnasol, mewn unrhyw achos penodol, fod yn un cyfnod asesu credyd cynhwysol, 2 gyfnod o'r fath neu 3 chyfnod o'r fath – ac y bydd pob un yn denu, fel trothwy, swm cymwysadwy gwahanol o incwm, (yn seiliedig ar ddeuddegfedau o incwm blynyddol cyfatebol o £7,400). Mae personau o fewn adran 512ZB(4) yn gymwys i gael ciniawau ysgol a llaeth am ddim pan wnaed cais ganddynt (neu ar eu rhan).

Mae erthygl 3 yn gwneud darpariaethau darfodol mewn perthynas â pherson (C) sy'n gymwys i gael cinio ysgol a llaeth am ddim yn rhinwedd bodloni amodau penodol o dan adran 512ZB(4) o Ddeddf Addysg 1996. Mae erthygl 3 yn darparu, pan fo hawlogaeth gan C i gael cinio ysgol am ddim mewn achosion penodedig yn rhinwedd bod yn gymwys i gael budd-daliadau nawdd cymdeithasol penodol, fod yr hawlogaeth honno yn peidio ar y diwrnod peidio, sef pa un bynnag yw'r diweddaraf o (a) 31 Rhagfyr 2023, a (b) cwblhau'r cam addysg yr oedd C ynddo ar 31 Rhagfyr 2023.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes conditions for the purposes of section 512ZB of the Education Act 1996 (c. 56).

Article 2 deals with the inter-play between the receipt of the social security benefit known as "universal credit" and eligibility for 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 2019 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) (paragraphs (1) and (2)). Paragraphs (3)(a) and (b) define "earned income" for the purposes of paragraphs (1) and (2). Paragraph 3(c) provides that the relevant period can, in any particular case, be a single universal credit 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).

Article 3 makes transitory provisions in relation to a person (C) who is eligible for free school lunch and milk by virtue of satisfying certain conditions under section 512ZB(4) of the Education Act 1996. Article 3 provides that where C was entitled to a free school lunch in specified cases by virtue of being eligible for certain social security benefits, such entitlement ceases on the cessation day which is the later of (a) 31st December 2023, and (b) the completion of the stage of education C was at on 31st December 2023.

Mae erthygl 4 yn dirymu Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2013.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru argynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth y Gangen Lles Disgyblion, yr Is-adran Cymorth i Ddysgwyr, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Article 4 revokes the Free School Lunches and Milk (Universal Credit) (Wales) Order 2013.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Pupil Wellbeing Branch, the Support for Learners Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2019 Rhif 187 (Cy. 47)

ADDYSG, CYMRU

Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2019

Gwnaed	*5 Chwefror 2019*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*6 Chwefror 2019*
Yn dod i rym	*1 Ebrill 2019*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adrannau 512ZB(4)(a)(ai), 512ZB(4)(b)(ai) a 568 o Ddeddf Addysg 1996(**1**), ac a freiniwyd bellach ynddynt hwy(**2**), yn gwneud y Gorchymyn a ganlyn:

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2019 a daw i rym ar 1 Ebrill 2019.

(2) Mae'r Gorchymyn hwn yn gymwys o ran Cymru.

(3) Yn y Gorchymyn hwn—

ystyr "credyd cynhwysol" ("*universal credit*") yw credyd cynhwysol sy'n daladwy o dan Ran 1 o Ddeddf Diwygio Lles 2012(**3**);

(**1**) 1996 p. 56. Mewnosodwyd adran 512ZB gan adran 201 o Ddeddf Addysg 2002. Mewnosodwyd is-adran (4)(a)(ai) gan adran 31 o Ddeddf Diwygio Lles 2012 a pharagraffau 37 a 39(a) o Atodlen 2 iddi. Mewnosodwyd is-adran (4)(b)(ai) gan adran 31 o Ddeddf Diwygio Lles 2012 a pharagraffau 37 a 39(b) o Atodlen 2 iddi.

(**2**) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac yna i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

(**3**) 2012 p. 5.

2019 No. 187 (W. 47)

EDUCATION, WALES

The Free School Lunches and Milk (Universal Credit) (Wales) Order 2019

Made	*5 February 2019*
Laid before the National Assembly for Wales	*6 February 2019*
Coming into force	*1 April 2019*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 512ZB(4)(a)(ai), 512ZB(4)(b)(ai) and 568 of the Education Act 1996(**1**), and now vested in them(**2**), make the following Order:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Free School Lunches and Milk (Universal Credit) (Wales) Order 2019 and it comes into force on 1 April 2019.

(2) This Order applies in relation to Wales.

(3) In this Order—

"the 1996 Act" ("*Deddf 1996*") means the Education Act 1996;

(**1**) 1996 c.56. Section 512ZB was inserted by section 201 of the Education Act 2002. Subsections (4)(a)(ai) and (4)(b)(ai) were inserted by section 31 of, and paragraphs 37 and 39(a) of Schedule 2 to the Welfare Reform Act 2012.

(**2**) The functions of the Secretary of State were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

mae i "cyfnod asesu" yr ystyr a roddir i "assessment period" gan reoliad 21 o Reoliadau 2013;

ystyr "Deddf 1996" ("*the 1996 Act*") yw Deddf Addysg 1996;

mae i "hunangyflogaeth elwaidd" yr ystyr a roddir i "gainful self-employment" gan reoliad 64 o Reoliadau 2013; ac

ystyr "Rheoliadau 2013" ("*the 2013 Regulations*") yw Rheoliadau Credyd Cynhwysol 2013(**1**).

Amgylchiadau rhagnodedig: cael credyd cynhwysol

2.—(1) Yr amgylchiadau a ragnodir(**2**) at ddibenion adran 512ZB(4)(a)(ai) o Ddeddf 1996 yw—

(a) bod rhiant C, ar neu ar ôl 1 Ebrill 2019, yn cael credyd cynhwysol, a

(b) bod gan riant C, yn y cyfnod asesu perthnasol, incwm a enillir nad yw'n fwy na'r swm cymwysadwy.

(2) Yr amgylchiadau a ragnodir at ddibenion adran 512ZB(4)(b)(ai) o Ddeddf 1996 yw—

(a) bod C, ar neu ar ôl 1 Ebrill 2019, yn cael credyd cynhwysol, a

(b) bod gan C, yn y cyfnod asesu perthnasol, incwm a enillir nad yw'n fwy na'r swm cymwysadwy.

(3) At ddibenion paragraffau (1) a (2)—

(a) mae'r diffiniad o "earned income" ("incwm a enillir") o dan reoliad 52 o Reoliadau 2013(**3**) yn gymwys yn ddarostyngedig i is-baragraff (b);

(b) pan fo hawlydd, mewn unrhyw gyfnod asesu, mewn hunangyflogaeth elwaidd, nid yw rheoliad 62(**4**) o Reoliadau 2013 yn gymwys at ddibenion cyfrifo incwm a enillir person o dan reoliad 52(b) o'r Rheoliadau hynny;

(c) y cyfnod asesu perthnasol a'r swm cymwysadwy yw'r rhai y cyfeirir atynt yn y paragraffau a ganlyn fel y rhai sy'n gymwysadwy—

"the 2013 Regulations" ("*Rheoliadau 2013*") means the Universal Credit Regulations 2013(**1**)

"assessment period" has the meaning given by regulation 21 of the 2013 Regulations;

"gainful self-employment" has the meaning given by regulation 64 of the 2013 Regulations; and

"universal credit" ("*credyd cynhwysol*") means universal credit payable under Part 1 of the Welfare Reform Act 2012(**2**).

Prescribed circumstances: receipt of universal credit

2.—(1) The circumstances prescribed(**3**) for the purposes of section 512ZB(4)(a)(ai) of the 1996 Act are that C's parent—

(a) is on, or after, 1st April 2019 in receipt of universal credit, and

(b) in the relevant assessment period has earned income not exceeding the applicable amount.

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

(a) is on, or after, 1st April 2019 in receipt of universal credit, and

(b) in the relevant assessment period has earned income not exceeding the applicable amount.

(3) For the purposes of paragraphs (1) and (2)—

(a) the definition of "earned income" under regulation 52 of the 2013 Regulations(**4**) applies subject to sub-paragraph (b);

(b) where, in any assessment period, a claimant is in gainful self-employment, regulation 62(**5**) of the 2013 Regulations does not apply for the purposes of calculating a person's earned income under regulation 52(b) of those Regulations;

(c) the relevant assessment period and the applicable amount are those referred to in the following paragraphs as applicable—

(**1**) O.S. 2013/376.
(**2**) Yn rhinwedd adran 512 o Ddeddf Addysg 1996, ystyr "prescribed" ("a ragnodir") yn adran 512ZB yw wedi ei ragnodi gan Weinidogion Cymru drwy orchymyn.
(**3**) Mae Pennod 2 o Ran 6 o Reoliadau 2013 yn ymwneud ag incwm a enillir at ddiben cyfrifo dyfarndal o gredyd cynhwysol.
(**4**) Mae'r rheoliad hwn yn darparu, pan fo hawlydd, mewn unrhyw gyfnod asesu, mewn hunangyflogaeth elwaidd a phan fo incwm a enillir yr hawlydd mewn cysylltiad â'r cyfnod asesu hwnnw yn llai na'r isafswm terfyn incwm, fod yr hawlydd i'w drin fel pe bai bod ganddo incwm a enillir sy'n hafal i'r isafswm terfyn incwm.

(**1**) S.I. 2013/376.
(**2**) 2012 c. 5.
(**3**) By virtue of section 512 of the Education Act 1996, "prescribed" in section 512ZB means prescribed by the Welsh Ministers by order.
(**4**) Chapter 2 of Part 6 of the 2013 regulations is concerned with earned income for the purpose of calculating an award of universal credit
(**5**) This regulation provides that where, in any assessment period, a claimant is in gainful self-employment and the claimant's earned income in respect of that assessment period is less than the minimum income floor, the claimant is to be treated as having earned income equal to the minimum income floor.

(i) ac eithrio pan fo paragraffau (ii) neu (iii) yn gymwys, pan fo gan y rhiant incwm a enillir nad oedd yn fwy na £616.67 yn y cyfnod asesu credyd cynhwysol yn union cyn dyddiad y cais am bryd ysgol am ddim (cyfnod 1)—

(aa) y cyfnod asesu perthnasol yw cyfnod 1; a

(bb) y swm cymwysadwy yw £616.67;

(ii) mae'r paragraff hwn yn gymwys pan na fo paragraff (i) yn gymwys oherwydd yr eir yn fwy na'r swm cymwysadwy y cyfeirir ato yn y paragraff hwnnw a bod cyfnod asesu credyd cynhwysol (cyfnod 2) yn union cyn cyfnod 1 y cyfeirir ato yn y paragraff hwnnw—

(aa) y cyfnod asesu perthnasol yw swm cyfnod 1 a chyfnod 2; a

(bb) y swm cymwysadwy yw £1,233.34;

(iii) mae'r paragraff hwn yn gymwys pan na fo paragraff (ii) yn gymwys oherwydd yr eir yn fwy na'r swm cymwysadwy y cyfeirir ato yn y paragraff hwnnw a bod cyfnod asesu credyd cynhwysol (cyfnod 3) yn union cyn cyfnod 2 y cyfeirir ato yn y paragraff hwnnw—

(aa) y cyfnod asesu perthnasol yw swm cyfnod 1, cyfnod 2 a chyfnod 3; a

(bb) y swm cymwysadwy yw £1,850;

(d) pan fo C neu, yn ôl y digwydd, riant C—

(i) yn aelod o gwpl sydd wedi gwneud hawliad ar y cyd am gredyd cynhwysol ac sydd â hawlogaeth i gredyd cynhwysol; neu

(ii) yn aelod o gwpl ond sydd wedi hawlio credyd cynhwysol, a sydd â hawlogaeth iddo, fel person sengl,

mae cyfeiriadau at symiau cymwysadwy ym mharagraffau (i) i (iii) o is-baragraff (c) i'w darllen fel cyfeiriadau at incwm cyfunol y cwpl.

(i) except where paragraphs (ii) or (iii) apply, where the parent has earned income which did not exceed £616.67 in the universal credit assessment period 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 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; and

(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 sum of period 1, period 2 and period 3; and

(bb) the applicable amount is £1,850;

(d) 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

(ii) a member of a couple but has claimed, and is entitled to, universal credit as a single person,

references to applicable amounts in paragraphs (i) to (iii) of sub-paragraph (c) are to be read as references to the combined income of the couple.

Darpariaethau darfodol

3.—(1) O dan yr amgylchiadau y cyfeirir atynt ym mharagraffau (2) i (4), mae cymhwystra C i gael cinio ysgol am ddim yn peidio ar y diwrnod peidio.

(2) O ran C—

Transitory provisions

3.—(1) In the circumstances referred to in paragraphs (2) to (4), C's eligibility for a free school lunch ceases on the cessation day.

(2) Where C—

(a) pan na fo'n dod yn gymwys, ar neu ar ôl 1 Ebrill 2019, i gael cinio ysgol am ddim yn unol â pharagraff (a)(ai) neu (b)(ai) o is-adran (4) o adran 512ZB o Ddeddf 1996, ond

(b) ei fod yn gymwys ar 31 Mawrth 2019, neu yn dod yn gymwys ar ôl y dyddiad hwnnw, i gael cinio o'r fath yn unol â pharagraffau (a)(i) i (iia), (aa), (b)(i) i (iia) neu (c)(ii) o'r is-adran honno.

(3) Pan oedd C yn gymwys i gael cinio ysgol am ddim yn unol yn unol â pharagraff (a)(ai) neu (b)(ai) o is-adran (4) o adran 512ZB o Ddeddf 1996 ar 31 Mawrth 2019 pa un a yw'r darpariaethau hynny wedi hynny yn peidio â bod yn gymwys mewn perthynas ag C ai peidio.

(4) Pan fo C yn dod yn gymwys i gael cinio ysgol am ddim yn unol â pharagraff (a)(ai) neu (b)(ai) o is-adran (4) o adran 512ZB o Ddeddf 1996 ar neu ar ôl 1 Ebrill 2019 pa un a yw'r darpariaethau hynny wedi hynny yn peidio â bod yn gymwys mewn perthynas ag C ai peidio ac ni waeth pa un a oedd C yn gymwys felly cyn hynny yn unol â pharagraffau (a)(i) i (iia), (aa), (b)(i) i (iia) neu (c)(ii) o'r is-adran honno.

(5) Y diwrnod peidio yw'r diweddaraf o—

(a) 31 Rhagfyr 2023; a

(b) y diwrnod y mae—

(i) C yn cwblhau addysg gynradd fel y diffinnir "primary education" yn adran 2 o Ddeddf 1996 (os oedd C ar y cam addysg hwnnw ar 31 Rhagfyr 2023);

(ii) C yn cwblhau addysg uwchradd fel y diffinnir "secondary education" yn yr adran honno (os oedd C ar y cam addysg hwnnw ar 31 Rhagfyr 2023).

Dirymu

4. Mae Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2013(**1**) wedi ei ddirymu.

(a) does not, on or after 1st April 2019 become eligible for a free school lunch pursuant to paragraph (a)(ai) or (b)(ai) of subsection (4) of section 512ZB of the 1996 Act, but

(b) was, on 31st March 2019, eligible, or after that date becomes eligible, for such a lunch pursuant to paragraphs (a)(i) to (iia) , (aa) , (b)(i) to (iia) or (c)(ii) of that subsection.

(3) Where C was eligible for a free school lunch pursuant to paragraph (a)(ai) or (b)(ai) of subsection (4) of section 512ZB of the 1996 Act on 31st March 2019 whether or not those provisions subsequently cease to apply in relation to C.

(4) Where C becomes eligible for a free school lunch pursuant to paragraph (a)(ai) or (b)(ai) of subsection (4) of section 512ZB of the 1996 Act on, or after, 1st April 2019 whether or not those provisions subsequently cease to apply in relation to C and regardless of whether C was so eligible before so doing pursuant to paragraphs (a)(i) to (iia) , (aa) , (b)(i) to (iia) or (c)(ii) of that subsection.

(5) The cessation day is the later of—

(a) 31st December 2023; and

(b) the day on which—

(i) C completes primary education as defined in section 2 of the 1996 Act (if C were at that stage of education on 31st December 2023);

(ii) C completes secondary education as defined in that section (if C were at that stage of education on 31st December 2023).

Revocation

4. The Free School Lunches and Milk (Universal Credit) (Wales) Order 2013(**1**) is revoked.

Kirsty Williams

Y Gweinidog Addysg, un o Weinidogion Cymru
5 Chwefror 2019

Minister for Education, one of the Welsh Ministers
5 February 2019

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(**1**) O.S. 2013/2021 (Cy. 199).

(**1**) S.I. 2013/2021 (W. 199).

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