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STATUTORY INSTRUMENTS

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**1996 No. 1434**

**FOOD**

**The Welfare Food Regulations 1996**

<i>Made</i>	- - - -	<i>4th June 1996</i>
<i>Laid before Parliament</i>		<i>5th June 1996</i>
<i>Coming into force</i>	- -	<i>27th June 1996</i>

The Secretary of State for Health in exercise of the powers conferred by section 13(3), (4) and (5) of the Social Security Act 1988(1) and section 175(2) to (5) of the Social Security Contributions and Benefits Act 1992(2) and all other powers enabling him in that behalf, hereby makes the following Regulations:—

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. These Regulations may be cited as the Welfare Food Regulations 1996 and shall come into force on 27th June 1996.

**Interpretation**

2.—(1) In these Regulations unless the context otherwise requires—

“approved price” in relation to milk supplied against a milk token means the lowest price which in the ordinary course of business a supplier charges, during the week in which that milk token was used, any of his retail customers for a 568 millilitre measure of milk or, if he supplies milk in multiples of 500 millilitres only, for a 500 millilitre measure of milk(3);

“beneficiary” means a person entitled to milk, dried milk or vitamins by virtue of regulation 3, 4 or 5;

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- (1) 1988 c. 7; section 13 was amended by section 21(1) of, and paragraph 8(11) of Schedule 6 to, the Social Security Act 1990 (c. 27).
- (2) 1992 c. 4; section 175(2) to (5) is applied by section 15A of the Social Security Act 1988 which section was inserted by paragraph 8(10) of Schedule 6 to the Social Security Act 1990 and amended by section 4 of, and paragraph 96 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6).
- (3) A 568 millilitre measure is equivalent to one pint and a 500 millilitre measure is half a litre.

“clinic” means—

- (a) in relation to England and Wales—
  - (i) any maternity or child health clinic provided by a Health Authority or by an NHS trust on behalf of the Secretary of State; or
  - (ii) any premises approved by a Health Authority or by an NHS trust as a welfare food distribution centre; and
- (b) in relation to Scotland—
  - (i) any maternity or child health clinic provided by a Health Board or by an NHS trust on behalf of the Secretary of State; or
  - (ii) any premises approved by a Health Board or by an NHS trust as a welfare food distribution centre;

“day care” in relation to England and Wales has the same meaning as in section 18(4) of the Children Act 1989<sup>(4)</sup> and in relation to Scotland has the same meaning as in section 79(b) of that Act;

“day care provider” means a day care provider specified in regulation 18(2);

“dried milk” means any infant formula specified in Column 1 of Schedule 1 and manufactured by or on behalf of the person specified in relation to it in Column 2 of Schedule 1;

“exempt establishment” means a home or other establishment which, though providing day care, is exempt from registration with a local authority under section 71(1)(b) of the Children Act 1989 by virtue of paragraph 4 of Schedule 9 to that Act;

“exempt school” means a school or play centre which, though providing day care, is exempt from registration with a local authority under section 71(1)(b) of the Children Act 1989 by virtue of paragraph 3 of Schedule 9 to that Act;

“family” has the meaning given by section 137(1) of the Social Security Contributions and Benefits Act 1992 for the purposes of Part VII of the Act (income-related benefits);

“family credit” means family credit under Part VII of the Social Security Contributions and Benefits Act 1992;

“Health Authority” has the same meaning as in the National Health Service Act 1977<sup>(5)</sup>;

“Health Board” means a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(6)</sup>;

“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995<sup>(7)</sup>; and any reference to a person entitled to an income-based jobseeker’s allowance in these Regulations has effect as from 7th October 1996;

“income support” means income support under Part VII of the Social Security Contributions and Benefits Act 1992;

“local authority” has the same meaning as in section 105(1) of the Children Act 1989;

“milk” means whole or semi-skimmed liquid cow’s milk which is heat treated but does not include milk to or from which chemicals, vitamins, flavours or colours have been added or removed otherwise than as a consequence of the process of heat treatment or as a consequence of the process of producing semi-skimmed milk from whole milk;

“milk token” means a token for milk or dried milk issued by or on behalf of the Secretary of State under regulation 10;

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(4) 1989 c. 41.

(5) 1977 c. 49; see section 8 which was amended by section 1(1) of the Health Authorities Act 1995 (c. 17).

(6) 1978 c. 29.

(7) 1995 c. 18.

“NHS trust” in relation to England and Wales has the same meaning as in the National Health Service and Community Care Act 1990<sup>(8)</sup> and in relation to Scotland has the same meaning as in the National Health Service (Scotland) Act 1978<sup>(9)</sup>;

“period of validity” in relation to a milk token means the period indicated on it in accordance with regulation 10(3) as that during which it may be used;

“registered child minder” means a person who is registered with a local authority under section 71(1)(a) of the Children Act 1989;

“registered day care provider” means a person who is registered with a local authority under section 71(1)(b) of the Children Act 1989;

“school milk subsidy” means a European Community school milk subsidy under Council Regulation (EEC) no. 1842/83 (supply of milk and certain milk products at reduced prices to school children);

“special reimbursement” means reimbursement in respect of which a special percentage applies under regulation 17;

“supplier” means a person who supplies milk, dried milk or vitamins under these Regulations;

“total retail milk supply” means the total of—

- (a) the volume of milk a supplier sells his retail customers; and
- (b) his welfare milk supply;

“vitamins” means vitamin tablets or vitamin drops containing vitamins A, C and D; and

“welfare milk supply” means the volume of milk which the supplier supplies against milk tokens or for which he has made an allowance in accordance with regulation 14(2).

(2) Where any provision of these Regulations requires or enables anything to be done by or in respect of a beneficiary and that beneficiary is a child, the provision shall, unless the context otherwise requires, be deemed to refer to one of his parents or his guardian or the person having care of him.

(3) In these Regulations, unless the context otherwise requires, a reference:—

- (a) to a numbered regulation, Part or Schedule is a reference to the regulation or the Part in, or the Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph of that regulation or Schedule having that number; and
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

## PART II

### ENTITLEMENT TO FREE MILK, DRIED MILK AND VITAMINS AND DRIED MILK AT A REDUCED PRICE

#### **Entitlement to free milk**

3.—(1) Subject to paragraph (4) and the provisions as to milk tokens in Parts III and IV, any person specified in paragraph (2) is entitled to receive milk for personal consumption, in accordance with these Regulations, free of charge.

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<sup>(8)</sup> 1990 c. 19.

<sup>(9)</sup> See section 12A which was inserted by section 31 of the National Health Service and Community Care Act 1990.

(2) For the purposes of paragraph (1), the person specified is any of the following in Great Britain—

- (a) an expectant mother who is, or is a member of the family of a person who is, entitled to income support or to an income-based jobseeker's allowance; or
- (b) a child who has attained the age of one year but is under the age of five years and who is a member of the family of a person who is entitled to income support or to an income-based jobseeker's allowance; or
- (c) a qualifying child.

(3) A child is a qualifying child if he—

- (a) has attained the age of five years but is under the age of 16 years;
- (b) is not in paid employment; and
- (c) because of a physical or mental disability is neither a registered pupil at a school in accordance with the provisions of the Education Act 1944<sup>(10)</sup> nor a pupil in attendance at a school in accordance with the provisions of the Education (Scotland) Act 1980<sup>(11)</sup>.

(4) No qualifying child shall be entitled to milk unless a claim in writing is made on his behalf to the Secretary of State, or to a person authorised by the Secretary of State, and the claim includes the information, and is supported by the document, specified in Schedule 2.

(5) A beneficiary's entitlement under this regulation is to milk at the rate of seven 568 millilitre measures a week or, where milk is supplied in multiples of 500 millilitres only, eight 500 millilitre measures a week<sup>(12)</sup>.

#### **Child under the age of one year—entitlement to free dried milk or milk**

4.—(1) Subject to paragraph (3) and to the provisions as to milk tokens in Parts III and IV, a child in Great Britain who is under the age of one year and who is a member of the family of a person who is entitled to income support or to an income-based jobseeker's allowance is entitled to receive dried milk or milk for personal consumption, in accordance with these Regulations, free of charge.

(2) A beneficiary's entitlement under this regulation is to—

- (a) dried milk at the rate of 900 grammes per week; or
- (b) milk at the rate of seven 568 millilitre measures a week or, where milk is supplied in multiples of 500 millilitres only, eight 500 millilitre measures a week.

(3) Milk to which a beneficiary is entitled under paragraph (2)(b) may be for consumption by the beneficiary's mother if she is breast-feeding the child.

#### **Entitlement to free vitamins**

5.—(1) Subject to paragraph (4), any person specified in paragraph (2) is entitled to receive vitamins for personal consumption, in accordance with these Regulations, free of charge.

(2) For the purposes of paragraph (1), the person specified is any of the following in Great Britain—

- (a) a mother who is breast-feeding her child under the age of one year, or an expectant mother, who is, or is a member of the family of a person who is, entitled to income support or to an income-based jobseeker's allowance; or

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<sup>(10)</sup> 1944 c. 31.

<sup>(11)</sup> 1980 c. 44.

<sup>(12)</sup> A 568 millilitre measure is equivalent to 1 pint and a 500 millilitre measure is half a litre.

- (b) a child who is under the age of five years and who is a member of the family of a person who is entitled to income support or to an income-based jobseeker's allowance.
- (3) Entitlement to vitamins under paragraph (1) is as follows—
  - (a) in the case of a mother who is breast-feeding her child 90 tablets or 20 millilitres of drops for every 13 weeks of entitlement;
  - (b) in the case of an expectant mother or a child under the age of five years, 20 millilitres of drops for every 13 weeks of entitlement.
- (4) No person shall be entitled to vitamins under this regulation unless a claim is made to a person responsible for the distribution of welfare food at a clinic and the claim is supported by—
  - (a) documentary evidence of entitlement to income support or an income-based jobseeker's allowance; and
  - (b) if requested by the person to whom the claim is made, documentary evidence of the child's age or documentary evidence that the beneficiary is an expectant mother.

#### **Inability to obtain free vitamins**

6.—(1) Any beneficiary who is unable to obtain vitamins under regulation 5 for a period (“the missing period”) as a result of a failure to receive from the Secretary of State evidence as to entitlement to income support or income-based jobseeker's allowance may apply at an office of the Department of Social Security for a payment.

(2) If the Secretary of State is satisfied, on an application under paragraph (1), that the failure to receive evidence of entitlement was the result of an act or omission on his part, he shall pay the beneficiary an amount equal to the cost of purchasing vitamins for the missing period from the nearest convenient clinic to where she lives.

#### **Purchase of dried milk at a reduced price**

7.—(1) Any person who is entitled, or is a member of the family of a person who is entitled, to family credit and who is responsible for a child who—

- (a) is not entitled to dried milk or milk under regulation 4;
- (b) is under the age of one year; and
- (c) is also a member of the family of the person who is entitled to family credit,

shall be entitled to purchase at any clinic, on behalf of that child, at a price of £3.65, 900 grammes of dried milk per week for personal consumption by that child.

(2) No person shall be entitled to purchase dried milk under this regulation unless a claim is made to a person responsible for the distribution of welfare food at a clinic and the claim is supported by—

- (a) documentary evidence of entitlement to family credit; and
- (b) if requested by the person to whom the claim is made, documentary evidence of the child's age.

(3) A person's entitlement under paragraph (1) shall be at a rate no greater than 900 grammes of dried milk a week.

(4) A person may purchase dried milk for a period of up to four weeks from the date of the claim provided that she satisfies the person responsible for the distribution of welfare food at the clinic—

- (a) as to entitlement to family credit for the weeks for which the dried milk is purchased; and
- (b) if requested by the person to whom the claim is made, as to the age of the child on whose behalf the dried milk is purchased during the weeks for which it is purchased.

### **Inability to purchase dried milk at a reduced price**

8.—(1) Any person who is unable to purchase dried milk to which a child is entitled under regulation 7 for a period (“the missing period”) as a result of a failure to receive from the Secretary of State evidence as to entitlement to family credit, may apply to an office of the Department of Social Security in writing for a payment.

(2) If the Secretary of State is satisfied, on an application under paragraph (1), that the failure to receive evidence of entitlement was the result of some act or omission on his part, he shall pay the applicant an amount equal to the difference during the missing period between—

- (a) the lowest price payable for 900 grammes of a dried milk preferred by the applicant at the nearest convenient clinic to where the applicant lives; and
- (b) the price at which the applicant would have purchased 900 grammes of dried milk under regulation 7 but for the failure,

multiplied by the number of weeks in the missing period.

### **Use of milk, dried milk and vitamins**

9.—(1) Any milk, dried milk or vitamins obtained by a beneficiary under these Regulations and any dried milk obtained by a person under regulation 7 may be consumed only by the person for whom it was obtained unless—

- (a) the consumption is necessary to avoid waste or is trifling in amount; or
- (b) the milk is consumed in accordance with regulation 4(3).

(2) No person may use milk, dried milk or vitamins supplied to a beneficiary under these Regulations otherwise than in accordance with the provisions of paragraph (1).

(3) No person may buy or sell milk, dried milk or vitamins supplied to a beneficiary under these Regulations.

## **PART III**

### **MILK TOKENS**

#### **Issue of milk tokens**

10.—(1) For each week that a beneficiary is entitled to receive milk or dried milk under regulation 3 or 4 the Secretary of State shall issue, or cause to be issued, to her a milk token to enable her to obtain her entitlement under these Regulations.

(2) Milk tokens shall when issued indicate on their face whether they are to be used for milk or dried milk.

(3) Milk tokens shall when issued indicate on their face that they may be used during a period of four weeks from the date of issue.

(4) The Secretary of State or any person who issues a milk token on his behalf may, before he issues a milk token which indicates it is to be used for dried milk, request documentary evidence of the age of any beneficiary from the person who is to receive the milk token.

(5) A milk token issued by the Department of Health and Social Services in Northern Ireland shall be valid in Great Britain as if it had been issued by or on behalf of the Secretary of State under these Regulations.

### **Use of milk tokens**

- 11.**—(1) A milk token may be used by a beneficiary within the period of its validity to obtain—
- (a) milk in accordance with regulation 14, provided that the milk token indicates that it is to be used only for milk; or
  - (b) 900 grammes of dried milk from a clinic for a child under the age of one year, provided that the milk token indicates that it is to be used only for dried milk.
- (2) A milk token which indicates that it is to be used only for milk may not be used to obtain dried milk, and one which indicates that it is to be used only for dried milk may not be used to obtain milk.
- (3) No person shall use a milk token except in accordance with these Regulations.
- (4) No person shall buy or sell a milk token issued under these Regulations.

### **Failure to receive milk tokens**

- 12.**—(1) Any beneficiary who is entitled to milk or dried milk under regulation 3 or 4 for a period (“the missing period”), but who does not receive it as a result of a failure to receive any milk token to which she is entitled under these Regulations for that period, may apply to an office of the Department of Social Security in writing for a payment.
- (2) If the Secretary of State is satisfied, on an application under paragraph (1) that the beneficiary did not receive a milk token because of some act or omission on the part of the Secretary of State, or on the part of a person issuing milk tokens on his behalf, he shall pay the beneficiary—
- (a) in the case of milk, an amount equal to the reasonable cost to her of purchasing the milk for the missing period; or
  - (b) in the case of dried milk, an amount equal to the lowest price payable for 900 grammes of a dried milk preferred by her at the nearest convenient clinic to where she lives multiplied by the number of weeks in the missing period.

### **Control of milk tokens**

- 13.**—(1) Every milk token is and shall remain the property of the Secretary of State.
- (2) Any person holding milk tokens shall, when requested by the Secretary of State, produce or deliver to the Secretary of State all milk tokens in his possession within such time and to such place as he may direct in writing.
- (3) The Secretary of State may cancel any milk token which cannot be validly used under these Regulations.
- (4) If a beneficiary receives a milk token issued in accordance with regulation 10 and, before it is exchanged, the milk token is lost or stolen or accidentally destroyed she may apply at an office of the Department of Social Security for a replacement milk token and if the Secretary of State is satisfied that the milk token has been lost or stolen or accidentally destroyed whilst in her possession he may give her a replacement milk token.

## **PART IV**

### **SUPPLIERS OF MILK**

#### **Exchange of milk tokens for milk**

- 14.**—(1) Subject to paragraphs (2) to (4), a supplier who accepts from a beneficiary a milk token which indicates that it is to be used for milk shall, in accordance with the provisions of these

Regulations, supply her with seven 568 millilitre measures of milk or, where he supplies milk in 500 millilitre measures only, eight 500 millilitre measures of milk.

(2) If a beneficiary is absent from her usual place of residence for a day or more during the period of validity of any milk token which a supplier has accepted from her and the supplier does not supply against that milk token the amount of milk specified in paragraph (1) the supplier shall, within the period of validity or immediately after that period, redress the shortfall—

- (a) by paying or allowing her an amount equal to the approved price for the measures of milk not supplied; or
- (b) by giving her an equivalent supply of milk after her return to her usual place of residence.

(3) Where a supplier, at the request of a beneficiary, supplies milk against a milk token for milk and the price of the milk exceeds the approved price on account of its designation the supplier may charge the beneficiary the difference in cost between the price of the milk supplied and the approved price.

(4) Except as provided for in paragraph (3), a supplier shall not accept from a beneficiary in connection with the supply of milk under these Regulations any payment of any sort other than a milk token.

#### **Inability to exchange milk tokens for milk**

**15.—**(1) A beneficiary who is unable to find a supplier willing to supply milk in exchange for a milk token for milk in accordance with regulation 14(1) may present the milk token within its period of validity to an office of the Department of Social Security in the area in which she usually resides.

(2) If the Secretary of State is satisfied that a beneficiary who has presented a milk token in accordance with paragraph (1) has made reasonable efforts to find such a supplier he shall pay her an amount equal to the reasonable cost to her of purchasing the milk.

#### **Reimbursement of suppliers**

**16.—**(1) Subject to regulation 17, the Secretary of State shall reimburse a supplier who has submitted to him a milk token together with a claim in writing which includes the information set out in Schedule 3 with an amount equal to the approved price of the milk which the supplier has supplied against that milk token or for which he has made an allowance in accordance with regulation 14(2), less nine per cent.

(2) No amount shall be reimbursed in respect of milk supplied in exchange for a milk token more than two years before the date of the claim for reimbursement.

(3) Where a supplier sends milk tokens to the Secretary of State by post for the purpose of claiming reimbursement under paragraph (1) and the Secretary of State does not receive them, if the supplier applies to the Secretary of State for reimbursement in respect of the milk tokens, he may reimburse him in accordance with these Regulations provided that he is satisfied that the supplier exchanged them for milk in accordance with regulation 14(1) or made an allowance in accordance with regulation 14(2) and that he posted them to him for the purpose of claiming reimbursement.

#### **Special reimbursement**

**17.—**(1) A supplier may apply to the Secretary of State for a determination of a special percentage by which the supplier's approved price will be reduced in accordance with this regulation.

(2) A supplier who applies to the Secretary of State for a special percentage under paragraph (1) shall submit to him an application in writing which shall include the information and declaration specified in Part I of Schedule 4.

(3) Where the Secretary of State is satisfied that—



- (a) the supplier's welfare milk supply during a period of 52 consecutive weeks in the 60 weeks immediately preceding the date of the application was more than 7.5 per cent. of his total retail milk supply for that period; or
  - (b) the supplier—
    - (i) at the time of his application had not carried on a retail trade in milk for 52 weeks or more but had carried on such trade for a period of at least 13 consecutive weeks ending immediately preceding the date of his application, and
    - (ii) had a welfare milk supply during that period of at least 13 consecutive weeks which was more than 7.5 per cent. of his total retail milk supply for that period,he shall determine the special percentage by which the supplier's approved price will be reduced for the purpose of reimbursement under paragraph (6) in accordance with Part II of Schedule 4, and shall notify him of it in writing.
- (4) A determination made under paragraph (3) shall have effect for a period of one year from the date specified in the determination.
- (5) A supplier may not apply to vary a special percentage given in a determination under paragraph (3).
- (6) Where the Secretary of State has determined a special percentage for a supplier under paragraph (3) and during the year specified in the determination the supplier submits to him a milk token together with a claim in writing which includes the information and declaration specified in Schedule 4, the Secretary of State shall reimburse the supplier with an amount equal to the approved price of the milk which the supplier has supplied against the milk token or for which he has made an allowance in accordance with regulation 14(2), less the special percentage.

## PART V

### CHILDREN IN DAY CARE

#### **Milk or dried milk for children in day care**

**18.**—(1) In addition to any entitlement under regulations 3, 4 and 7, a child who is under the age of five years on each day that he is looked after for two hours or more, or is provided with day care for two hours or more, by any day care provider who is approved as a supplier in accordance with regulation 19, shall be entitled, free of charge—

- (a) if he has attained the age of one year, to 189 millilitres<sup>(13)</sup> of milk or, where milk is supplied in containers of 200 millilitres only, to 200 millilitres of milk;
  - (b) if he has not attained the age of one year, either to milk as in paragraph (a) or dried milk, made up to provide 189 millilitres.
- (2) For the purposes of paragraph (1) a day care provider is—
- (a) a registered child minder;
  - (b) a registered day care provider;
  - (c) a local authority to the extent it is providing day care under section 18 of the Children Act 1989 or under section 12 of the Social Work (Scotland) Act 1968<sup>(14)</sup>;
  - (d) an exempt school; or

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<sup>(13)</sup> 189 millilitres is equivalent to a third of a pint.

<sup>(14)</sup> 1968 c. 49.

- (e) an exempt establishment to the extent that day care is being provided to children as part of the activities of the establishment only because the children are children of persons carrying on or employed to work at that establishment.

### **Approval of suppliers**

**19.**—(1) Any day care provider may apply to the Secretary of State, or to a person authorised by him, for approval as a supplier in accordance with paragraph (3).

(2) An application for approval under paragraph (1) shall be in writing and the application—

- (a) shall include the information specified in paragraph 1(a) to (f) of Schedule 5;
- (b) in the case of a registered child minder or a registered day care provider, it shall also be accompanied by the document specified in paragraph 1(g) of Schedule 5; and
- (c) in the case of an exempt school or an exempt establishment, shall also include the relevant declaration specified in paragraph 1(h) or (i) of Schedule 5.

(3) The Secretary of State or a person authorised by him shall give his approval if he is satisfied that the applicant is providing day care, or looking after, children under the age of five.

(4) Any day care provider approved as a supplier under paragraph (3) shall notify the Secretary of State, or person authorised by him, of any material change to the information in the declaration or otherwise included in his application for approval under paragraph (2).

(5) The Secretary of State or person authorised to give approvals on his behalf may withdraw the approval of a supplier if he ceases to be satisfied—

- (a) that the supplier is a day care provider; or
- (b) that he is making adequate arrangements for the supply of milk or dried milk to children entitled to it under regulation 18(1).

### **Reimbursement of approved suppliers**

**20.**—(1) Subject to paragraphs (2) to (4), a day care provider approved as a supplier under regulation 19 who supplies or secures the supply of milk or dried milk to children who are entitled under regulation 18(1) and who submits a claim for reimbursement including the information specified in paragraph 2 of Schedule 5, shall be reimbursed by the Secretary of State with an amount equal to the cost to that person of purchasing the milk or dried milk.

(2) Claims for reimbursement shall, so far as reasonably practicable, be made at intervals of four months and in respect of milk supplied in the period of four months immediately preceding the claim.

(3) No amount shall be reimbursed in respect of milk supplied more than two years before the date of the claim for reimbursement.

(4) An exempt school which has purchased and supplied milk to children entitled to it under regulation 18(1) shall not be reimbursed in respect of that part of the cost of the milk for which the school may claim a school milk subsidy.

## **PART VI**

### **GENERAL**

### **Requirement to furnish information**

**21.**—(1) The Secretary of State may require any person who has—

- (a) applied for approval as a supplier under regulation 19; or

(b) claimed reimbursement of an amount in respect of milk, dried milk or vitamins supplied in accordance with these Regulations, to furnish him, or an officer duly authorised in that behalf, with such information or evidence, whether in the form of documents or otherwise, as may be reasonably needed in connection with approving that person as a supplier or reimbursing that person.

(2) An officer to whom a person is required, under paragraph (1), to furnish information or evidence shall produce to that person, if required to do so, his authority from the Secretary of State.

(3) Where documents specified by the Secretary of State or an authorised officer under paragraph (1) are produced—

(a) he may take copies of them or extracts from them, and

(b) the person producing them, or where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate shall provide an explanation of them if requested by the Secretary of State or an authorised officer.

(4) Where documents specified under paragraph (1) are not produced, the person who was required to produce them shall state, to the best of his knowledge and belief, where they are.

### **Application of enactments**

**22.**—(1) The enactments relating to the administration of benefit under the Social Security Administration Act 1992<sup>(15)</sup> specified in Column 1 of Schedule 6 shall have effect for the purpose of the administration of the scheme made by these Regulations, subject to the modifications specified in Column 2 of that Schedule.

(2) A person who contravenes or fails to comply with any of the following provisions of these Regulations, namely—

regulation 7(3);

regulation 9(2);

regulation 9(3);

regulation 11(3);

regulation 11(4);

regulation 14(1);

regulation 14(4),

shall be guilty of an offence under section 13 of the Social Security Act 1988 and liable on summary conviction to a penalty not exceeding level 3 on the standard scale.

### **Revocations**

**23.** The regulations specified in Schedule 7 to these Regulations are hereby revoked.

### **Transitional provisions**

**24.**—(1) Anything done under a provision of the Welfare Food Regulations 1988<sup>(16)</sup> in so far as it could have been done under the provision as re-enacted in these Regulations with or without modification, shall have effect as if done under these Regulations.

(2) Without prejudice to the generality of paragraph (1)—

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<sup>(15)</sup> 1992 c. 5.

<sup>(16)</sup> S.I. 1988/536.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (a) any milk token issued under the Welfare Food Regulations 1988 may be used as though it were a milk token issued under these Regulations and a supplier may be reimbursed in respect of milk supplied against the milk token as though it were issued under these Regulations;
- (b) any approval given, or treated as given, by the Secretary of State under the Welfare Food Regulations 1988 in respect of a person or premises in relation to the supply of milk or dried milk to children shall be treated as an approval given under regulation 19(3) to that person or to the person receiving children at those premises;
- (c) any welfare food distribution centre within the meaning of regulation 2(1) of the Welfare Food Regulations 1988 shall be treated as though it had been approved as such a centre under regulation 2(1); and
- (d) any application by a supplier for approval to participate in arrangements for reimbursement under regulation 15A of the Welfare Food Regulations 1988<sup>(17)</sup> and any determination of a percentage under that regulation for a period which ends after the date on which these Regulations come into force shall be treated respectively as an application to determine a special percentage and a determination of a special percentage under regulation 17.

*Stephen Dorrell*  
One of Her Majesty's Principal Secretaries of  
State,  
Department of Health

4th June 1996

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(17) Regulation 15A was inserted by S.I. [1990/2012](#).

## SCHEDULE 1

Regulation 2(1)

### DRIED MILK SPECIFIED FOR THE PURPOSE OF THE REGULATIONS

(1) Dried Milk	(2) Manufacturer
Aptamil	Milupa Ltd
Boots Formula 1	The Boots Company plc
Boots Formula 2	The Boots Company plc
Cow and Gate Plus	Cow and Gate Ltd
Cow and Gate Premium	Cow and Gate Ltd
Farley's First Milk	H J Heinz Company Ltd
Farley's Second Milk	H J Heinz Company Ltd
Milumil	Milupa Ltd
SMA Gold	SMA Nutrition
SMA White	SMA Nutrition

## SCHEDULE 2

Regulation 3(4)

### CLAIMS FOR QUALIFYING CHILDREN

*Information to be provided on a claim made in respect of a qualifying child—*

1. full name and address of person responsible for the care of the child;
2. full name and address of the child;
3. the date of birth of the child;
4. the name and address in England or Wales of the child's local education authority or in Scotland of the child's education authority;
5. whether or not the child is in England or Wales a registered pupil or in Scotland a pupil in attendance at a school or special school.

*Supporting document*

6. the birth certificate of the child.

## SCHEDULE 3

Regulation 16(1)

### INFORMATION FOR CLAIMS FOR REIMBURSEMENT

*Information to be provided on a claim for reimbursement—*

1. the name and address of the supplier;

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2. the address from which the supplier trades;
3. the number of milk tokens enclosed for reimbursement;
4. earliest and latest dates shown on each of those tokens;
5. the approved price in pence per 568 millilitre measure of the milk supplied in exchange for each of those milk tokens or, where milk is supplied in multiples of 500 millilitres only, the approved price per 500 millilitre measure.
6. what type of business he carries on; and
7. whether he supplies milk in multiples of 500 millilitres only.

#### SCHEDULE 4

Regulation 17(2) and (3)

### SPECIAL REIMBURSEMENT

#### PART I

##### INFORMATION AND DECLARATION FOR SPECIAL REIMBURSEMENT

1. An application for determination of a special percentage shall contain the following information—
  - (a) the name and address of the supplier;
  - (b) the dates on which the reference period begins and ends;
  - (c) the supplier's welfare milk supply during that reference period;
  - (d) the supplier's total retail milk supply during that reference period;
  - (e) a description of the supplier's business by reference to whether it is:—
    - (i) wholesale and retail or retail only; and
    - (ii) doorstep delivery or from premises.
2. An application for special reimbursement shall include a declaration signed by a qualified accountant certifying that the information contained in the application accords with the financial records kept by the supplier in connection with the business carried on by him.

#### PART II

##### DETERMINATION OF SPECIAL PERCENTAGE

3. The percentage by which the approved price shall be reduced under regulation 17 is determined by—
  - (a) ascertaining  $x$ , where  $x$  is the supplier's welfare milk supply during the reference period expressed as a percentage of his total retail milk supply during that reference period;
  - (b) determining the discount band specified in column 1 of the Table below by reference to the paragraph of column 2 into which  $x$  falls;
  - (c) for the band determined under sub-paragraph (b) and each of the preceding bands specified in column 1 of the said Table, multiplying the relevant part of  $x$  in column 3 by the corresponding figure in column 4; and

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(d) dividing the sum of the figures calculated under sub-paragraph (c) by x.

**Table**

(1) Discount band	(2) Welfare milk during reference period as a percentage of total retail milk supply (x)	(3) Relevant part of x	(4) Percentage by which approved price reduced
1	up to and including 7.5 per cent.	the first 7.5 per cent.	9
2	more than 7.5 per cent. but not more than 8.5 per cent.	the next 1 per cent. or if less than 1 per cent. that part thereof	8
3	more than 8.5 per cent. but not more than 9.5 per cent.	the next 1 per cent. or if less than 1 per cent. that part thereof	6
4	more than 9.5 per cent. but not more than 10.5 per cent.	the next 1 per cent. or if less than 1 per cent. that part thereof	5
5	more than 10.5 per cent. but not more than 11.5 per cent.	the next 1 per cent. or if less than 1 per cent. that part thereof	3
6	more than 11.5 per cent.	any percentage more than 11.5 per cent.	nil

4. In this Schedule “reference period” means—

- (a) where regulation 17(3)(a) applies, the period of 52 consecutive weeks;
- (b) where regulation 17(3)(b) applies, the period of 13 or more consecutive weeks during which the supplier has carried on a retail trade in milk.

SCHEDULE 5

Regulations 19(2) and 20(1)

CHILDREN IN DAY CARE—SUPPLIERS’ APPLICATIONS  
FOR APPROVAL AND CLAIMS FOR REIMBURSEMENT

*Information and declaration or document to be provided by a supplier on an application for approval*

- (a) (a) full name of applicant;

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- (b) category of day care provider specified in regulation 18(2);
- (c) address where children are to be cared for;
- (d) number of day care sessions each week and duration of a session;
- (e) maximum number of children aged under five likely to be cared for at a session;
- (f) the name and address of the person who is to receive reimbursement;
- (g) in the case of an application by a registered child minder or registered day care provider, a copy of the certificate of registration issued by the local authority or, if the Secretary of State so requires, the original certificate;
- (h) in the case of an application by an exempt school, a declaration that the applicant—
  - (i) is carrying on an exempt school and is providing day care as part of the exempt school’s activities; or
  - (ii) is employed to work at an exempt school and is authorised to provide day care as part of the exempt school’s activities;
- (i) in the case of an application by an exempt establishment, a declaration that the applicant is—
  - (i) carrying on an exempt establishment and that the provision of day care is made as part of the establishment’s activities for the children of persons carrying on or employed to work at the establishment; or
  - (ii) employed to work at such an establishment and is authorised to make such provision of day care as part of the establishment’s activities.

*Information to be provided by a supplier on a claim for reimbursement*

- (a) (a) name of person claiming reimbursement;
- (b) address where children are cared for;
- (c) name and address of person who is to receive reimbursement;
- (d) period of claim;
- (e) number of sessions each week;
- (f) the quantity, price and total cost, for the period of the claim, of milk supplied to children entitled under regulation 18(1);
- (g) in the case of a claim from an exempt school whether the school is obtaining a school milk subsidy in respect of the cost of the milk for which reimbursement is claimed.

SCHEDULE 6

Regulation 22(1)

ENACTMENTS APPLIED FOR THE PURPOSES OF THESE REGULATIONS

Column 1 Enactment	Column 2 Modifications
Section 111 of the Social Security Administration Act 1992 (delay, obstruction etc. of inspector)	Omit subsection (1)(a) and for the words “under this Act” substitute the words “under section 13 of the Social Security Act 1988”.



Column 1 Enactment	Column 2 Modifications
Section 112 of the Social Security Administration Act 1992 (false representations for obtaining benefit)	In subsection (1) for the words “benefit or other payment under the legislation to which section 110 above applies” substitute the words “welfare food or payment under a scheme made for the purposes of section 13 of the Social Security Act 1988” and for the words “that legislation” substitute the words “that scheme”.
Section 113 of the Social Security Administration Act 1992 (breach of regulations)	For the words “any of the Acts to which section 110 above applies” substitute the words “section 13 of the Social Security Act 1988” and for “that Act” in both places where it occurs substitute “that section”.
Section 115 of the Social Security Administration Act 1992 (bodies corporate)	For the words “under this Act” substitute the words “under section 112 or 111 of this Act or under section 13 of the Social Security Act 1988”.
Section 116(1), (2)(a) and (7) of the Social Security Administration Act 1992 (legal proceedings)	For the words “under this Act” where they occur in subsections (1), (2)(a) and (7)(a), substitute “under section 112 or 111 of this Act or under section 13 of the Social Security Act 1988”.

## SCHEDULE 7

Regulation 24

## REGULATIONS REVOKED

Citation	Statutory Instrument
The Welfare Food Regulations 1988	<a href="#">S.I.1988/536</a>
The Welfare Food Amendment Regulations 1988	<a href="#">S.I. 1988/555</a>
The Welfare Food Amendment Regulations 1989	<a href="#">S.I. 1989/524</a>
The Welfare Food Amendment Regulations 1990	<a href="#">S.I. 1990/3</a>
The Welfare Food Amendment (No. 2) Regulations 1990	<a href="#">S.I. 1990/571</a>
The Welfare Food Amendment (No. 3) Regulations 1990	<a href="#">S.I. 1990/2012</a>
The Welfare Food Amendment Regulations 1991	<a href="#">S.I. 1991/585</a>
The Welfare Food Amendment Regulations 1992	<a href="#">S.I. 1992/637</a>

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Citation	Statutory Instrument
The Welfare Food Amendment Regulations 1993	S.I. <a href="#">1993/1105</a>
The Welfare Food Amendment Regulations 1994	S.I. <a href="#">1994/2004</a>
The Welfare Food (Amendment) Regulations 1995	S.I. <a href="#">1995/1143</a>

## EXPLANATORY NOTE

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

These Regulations consolidate with amendment the Welfare Food Regulations 1988 which provide for a scheme for the distribution of welfare food. The Regulations take account of Council Directive [80/181/EEC](#) (OJ No. L39, 15.2.80, p.40), as amended, on metrication.

Part II of the Regulations prescribes welfare food entitlements:—

(1) free milk for expectant mothers and for children between the ages of one and five years if they are members of a family entitled to income support or income-based jobseeker's allowance (regulation 3);

(2) free milk for children over the age of five and under the age of 16 years who are unable to attend school because of a disability (regulation 3);

(3) free milk or dried milk for children under the age of one year if they are members of a family entitled to income support or income-based jobseeker's allowance (regulation 4);

(4) free vitamins from clinics for children under the age of five, mothers who are breast-feeding their children and expectant mothers if they are members of a family entitled to income support or income-based jobseeker's allowance (regulation 5);

(5) dried milk purchased at clinics at a reduced price for children under the age of one who are in a family entitled to family credit (regulation 7).

Part III regulates the issue, use and control of the milk tokens with which the beneficiaries specified in regulations 3 and 4 obtain their welfare milk entitlement. It provides for making payments to beneficiaries who do not receive milk tokens (regulation 12).

Part IV regulates the supply of free milk to beneficiaries in exchange for milk tokens. It provides for reimbursing an amount to suppliers for milk supplied to beneficiaries (regulations 16 and 17).

Part V provides an additional entitlement to free milk or dried milk for children under the age of five years on each day that they are looked after, or provided with day care, by a nursery school or other day care provider (regulation 18). It provides for the reimbursement of the cost of the free milk supplied (regulation 20).

Part VI requires suppliers of welfare food to furnish information connected with reimbursement (regulation 21). It applies enactments relating to offences (regulation 22). It contains revocations and transitional provisions (regulations 23 and 24).

These Regulations do not impose a charge on business.

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