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STATUTORY RULES OF NORTHERN IRELAND

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2006 No. 478

FOOD

The Healthy Start Scheme and Day Care Food Scheme  
Regulations (Northern Ireland) 2006

Made - - - - - 23rd November 2006

Coming into operation 27th November 2006

The Department of Health, Social Services and Public Safety(a), makes the following Regulations in exercise of the powers conferred by Article 13(1) to (4), (6) and (8) of the Social Security (Northern Ireland) Order 1988(b) and section 171(2) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(c):

PART I  
PRELIMINARY

**Citation and Commencement**

1. These Regulations may be cited as the Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006 and shall come into operation on 27th November 2006.

**Interpretation**

2.—(1) In these Regulations—

“Day Care Food scheme” means the scheme established by Part VII;

“Healthy Start scheme” means the scheme established by Parts II to VI.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

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(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I. 1); Article 3(6)

(b) S.I. 1988/594 (N.I. 2) Article 13 is substituted by Article 3 of S.I. 2003/No. 3202 (N.I. 19) see S.R. 2006 No. 418 (C. 24) as amended by S.R. 2006 No. 437 (C. 28)

(c) 1992 c. 7, section 171, (2) to (5) is applied by Article 15A of the Social Security (Northern Ireland) Order 1988, which Article was inserted by Article 22(1) of and Paragraph 6(9) of Schedule 6 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15), and amended by section 4 of and paragraph 35(4) and (5) of Schedule 2 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), and Article 3(2) of S.I. 2003/3202 (N.I. 19)

(d) 1954 c. 33 (N.I.)

## PART II

### HEALTHY START SCHEME INTERPRETATION

#### **Healthy Start Scheme Interpretation**

**3.—(1) In the Healthy Start scheme—**

“beneficiary” means a person entitled to benefit pursuant to regulations 4 and 5;

“child” means a person under the age of 16;

“estimated date of delivery” means the date evidenced in writing and signed by a health professional pursuant to paragraph 2 of Schedule 1;

“family” has the meaning given by section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) for the purposes of Part VII of the Act (Income-Related Benefits);

“food outlet” means a person registered in accordance with regulation 15 to supply Healthy Start food;

“Health and Social Services Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**);

“Health and Social Services Trust” means a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**c**);

“health professional” means a medical practitioner, registered nurse or registered midwife, as the case may be;

“health service body” means a health service body prescribed in regulation 11(1);

“Healthy Start food” means the food prescribed at regulation 6(1);

“Healthy Start vitamins” means the vitamins specified in regulation 7(1);

“income-based job-seeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995(**d**);

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

“medical practitioner” means a registered person within the meaning of the Medical Act 1983(**e**);

“parental responsibility” has the same meaning as in Article 6 of the Children (Northern Ireland) Order 1995(**f**);

“period of validity” in relation to a voucher means the period indicated on it in accordance with regulation 10 as that during which it may be exchanged for Healthy Start food in accordance with the Healthy Start scheme;

“Pharmacist” has the same meaning as in the Medicines Act 1968(**g**);

“registered nurse or registered midwife” means a person registered in the register maintained under Article 5 of the Nursing and Midwifery Order 2001(**h**) by virtue of qualifications in nursing or midwifery, as the case may be;

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- (**a**) Section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 was amended by paragraph 99 of Schedule 24 to the Civil Partnership Act 2004 (2004 c. 33)
- (**b**) S.I. 1972/1265 (N.I. 14)
- (**c**) S.I. 1991/194 (N.I. 1)
- (**d**) S.I. 1995/2705(N.I. 15) Article 3(4) was amended by paragraph 3(4)(a) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
- (**e**) 1983 (c. 54)
- (**f**) S.I. 1995/775 (N.I. 2)
- (**g**) 1968 c. 67
- (**h**) S.I. 2002/253 “Registered” in relation to nurses and midwives is defined in Schedule 1 to the Interpretation Act 1978 (c. 30), and has been amended by paragraph 7, Schedule 5 to the Nursing and Midwifery Order 2001, and further amended by the Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004, S.I. 2004/1771

“relevant income” has the same meaning as in section 7(3) of Part I of the Tax Credits Act 2002(a);  
“the 1988 Regulations” means the Welfare Foods Regulations (Northern Ireland) 1988(b);  
“voucher” is to be construed in accordance with regulation 10.

(2) Where any provision of the Healthy Start scheme requires or enables anything to be done by or in respect of a beneficiary and that beneficiary is a child, the provision shall be deemed to refer to a parent with parental responsibility for the child or the child's guardian or the person having care of him.

## PART III

### ENTITLEMENT TO BENEFIT

#### Entitlement to benefit

4.—(1) A person described in paragraph (3) is entitled to benefit in accordance with the Healthy Start scheme.

(2) The benefits to which a person described in paragraph (3) is entitled are—

- (a) Healthy Start food to the value represented by a voucher as provided in regulation 10(3); and
- (b) Healthy Start vitamins as follows—
  - (i) in the case of a pregnant woman described in paragraph (3)(a) or (b), 56 tablets of Healthy Start vitamins for every 8 weeks of entitlement;
  - (ii) in the case of a mother described in paragraph (3)(c) or (d), 56 tablets of Healthy Start vitamins for every 8 weeks of entitlement; or
  - (iii) in the case of a child described in paragraph (3)(e), 10 millilitres of drops of Healthy Start vitamins for every 8 weeks of entitlement.

(3) For the purposes of paragraph (1), a person so described is a person who is—

- (a) a pregnant woman who is not under the age of 18 and has been pregnant for more than ten weeks and who is, or is a member of the family of a person who is, entitled to—
  - (i) income support; or
  - (ii) an income-based jobseeker's allowance; or
  - (iii) child tax credit, where the relevant income of the person or persons to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,155 and the person is not entitled to working tax credit;
- (b) a woman under the age of 18 who has been pregnant for more than ten weeks, provided that she is not a person to whom section 115 (exclusion from benefits) of the Immigration and Asylum Act 1999(c) applies;
- (c) a mother who—
  - (i) before the birth of her child, was entitled to and in receipt of a social security benefit or tax credit mentioned in paragraph (3)(a); and
  - (ii) has parental responsibility for that child whose date of birth has not been notified to the Department and in respect of whom the period of four months from the estimated date of delivery has not yet passed;
- (d) a mother who—
  - (i) is not under the age of 18,

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(a) 2002 c. 21

(b) S.R. 1988 No. 137, the relevant amending Regulations are S.R. 2004 No. 161 and S.R. 2006 No. 180

(c) 1999 c. 33, as amended by the State Pension Credit Act 2002 (c. 16), Article 2 of and the Schedule to the Regulatory Reform (Carer's Allowance) Order 2002, S.I. 2002/1457 and the Tax Credits Act 2002, section 60. Schedule 6, and section 51, Schedule 4, paragraphs 20 and 21

- (ii) has parental responsibility for a child who is under the age of one year, or in respect of whom the first anniversary of the estimated date of delivery has not yet passed, and
- (iii) is or is a member of the family of a person who is entitled to income support, an income-based jobseeker's allowance, or child tax credit, where the relevant income of the person or persons to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,155 and the person is not entitled to working tax credit; or
- (e) a child who is under the age of four years, and who is a member of the family of a person who is entitled to income support, or an income-based jobseeker's allowance, or child tax credit, where the relevant income of the person or persons to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,155 and the person is not entitled to working tax credit.

(4) A mother who satisfies the requirements for entitlement by virtue of having parental responsibility for more than one child who is a child mentioned in paragraph (3)(c) or (d) is entitled to the Healthy Start food benefit in respect of each such child.

(5) If a mother would otherwise be entitled to benefit under paragraph (3)(c) or (d) but does not have parental responsibility for a child who is a child mentioned in either of those paragraphs, then any such child is entitled to the Healthy Start food benefit to which the mother would otherwise be entitled.

(6) The entitlement of a child under paragraph (5) is in addition to any entitlement of the child under paragraph (3)(e).

### **Claim for benefit**

5.—(1) Except as provided in paragraphs (2) to (4), no person described in regulation 4 may become entitled to benefit unless he first submits to the Department a claim in writing that includes the information, and is supported by the written evidence, declaration and signatures, specified in Schedule 1.

(2) Where a person who has parental responsibility for a child described at regulation 4(3)(e) who is under the age of four months notifies by telephone the Department of the date of birth of the child, the child may become entitled to benefit from and including the date of his birth.

(3) A mother described in regulation 4(3)(c) may become entitled to benefit from and including the date of birth of her child provided that she has not submitted a claim as a mother described in regulation 4(3)(d) in respect of that child.

(4) A person described in regulation 4 who ceased to be entitled less than three months previously may have his entitlement renewed if he is able to demonstrate to the reasonable satisfaction of the Department that the circumstances that resulted in him ceasing to be so entitled have reverted to those that prevailed when he was so entitled.

(5) Subject to paragraph (1) a person described—

- (a) in regulation 4(3)(d) who is entitled to child tax credit will be entitled to benefit from and including the date on which she became so entitled in respect of the child described at regulation 4(3)(d)(ii),
- (b) in regulation 4(3)(d) or (e) or (5) who is a member of the family of a person who is entitled to child tax credit will be entitled to benefit from and including the date on which he became a person so described.

(6) Subject to the provisions of this regulation, a person's entitlement under this regulation and regulation 4 shall begin from and including the date on which his claim complying with the requirements of paragraph (1) is received by the Department.

### **Healthy Start food and payments in lieu**

6.—(1) Healthy Start food is the food specified in Column 1 (Category of food) of Schedule 2 as qualified in Column 2 (Qualification) of that Schedule.

(2) If the Department is satisfied that there is no food outlet within a reasonable distance of the home of a beneficiary, it may, instead of benefit, pay the beneficiary an amount equal to the value represented by the voucher he would otherwise receive.

#### **Healthy Start vitamins and payments in lieu**

7.—(1) Healthy Start vitamins are tablets or vitamin drops containing vitamins appropriate for the beneficiary who receives them.

(2) If the Department is satisfied that a person entitled to Healthy Start vitamins has not received them for a period as a result of an act or omission on the part of the Department or a health service body (“the missing period”) it shall pay the beneficiary an amount equal to the cost of purchasing the prescribed number or amount of Healthy Start vitamins for the missing period.

#### **Advice on health and nutrition**

8. The Department may arrange for a person described in regulation 4 to receive advice on health and nutrition when he receives a voucher or at some other time.

#### **Cessation of entitlement to benefit**

9.—(1) A person’s entitlement to benefit under the Healthy Start scheme shall cease when he ceases to be entitled in accordance with regulation 4 or 5.

(2) A person who is no longer entitled to benefit must inform the Department of the change in his circumstances if he continues to receive vouchers or payments instead of benefit.

## **PART IV**

### **VOUCHERS**

#### **Issue of voucher**

10.—(1) For each week that a beneficiary is entitled to the Healthy Start food benefit under regulations 4 and 5 the Department shall issue or cause to be issued to that beneficiary a voucher to enable the beneficiary to obtain the Healthy Start food benefit to which he is entitled.

(2) The period of validity of the voucher shall not be less than four weeks and not more than six months from and including the date of issue of the voucher.

(3) The value represented by the voucher in respect of which the voucher may be exchanged under regulation 12 for Healthy Start food is £2.80.

(4) The Department shall ensure that the following are indicated on the face of the voucher—  
(a) the value represented by the voucher;  
(b) a description of Healthy Start food; and  
(c) the period of validity of the voucher.

#### **Provision of Healthy Start vitamins**

11.—(1) A health service body is a Health and Social Services Board or a Health and Social Services Trust.

(2) A health service body shall have the function of provision of Healthy Start vitamins for beneficiaries.

(3) A health service body may make arrangements for a pharmacist or other person or body to supply Healthy Start vitamins for beneficiaries on its behalf.

(4) Where a health service body makes arrangements under paragraph (3), it must inform beneficiaries where they may obtain Healthy Start vitamins.

(5) A beneficiary who is entitled to Healthy Start vitamins must produce documentary evidence of his entitlement to a person who supplies Healthy Start vitamins for beneficiaries.

(6) For the purposes of paragraph (5), documentary evidence of entitlement may consist of a letter from the Department that confirms the entitlement of the beneficiary to Healthy Start food and, if requested by the person who supplies the Healthy Start vitamins, in respect of a beneficiary who is a child, documentary evidence of the child's age.

(7) The Department shall pay a health service body an amount equal to the cost of the Healthy Start vitamins that the health service body has provided (or secured the provision of) to a beneficiary.

### **Use of voucher**

**12.**—(1) A beneficiary may within the period of its validity exchange a voucher for Healthy Start food.

(2) Subject to paragraph (3), a voucher issued to a beneficiary may be used only by the beneficiary for whom it was issued.

(3) A voucher issued to a beneficiary who is a child who is breast-fed by his mother may be exchanged for Healthy Start food for consumption by the mother.

(4) No person shall buy or sell or otherwise use—

(a) a voucher;

(b) Healthy Start food supplied in exchange for a voucher;

(c) Healthy Start vitamins supplied under the Healthy Start scheme to a beneficiary,

except in accordance with the Healthy Start scheme.

### **Failure to receive benefit represented by the voucher**

**13.**—(1) If a beneficiary fails to receive benefit as a result of a failure to receive a voucher, he may, in accordance with paragraph (3), so notify in writing the Department for the purposes of paragraph (4).

(2) If a beneficiary who is entitled to benefit under regulations 4 and 5 receives a voucher in accordance with regulation 10, and

(a) the voucher is lost or stolen or accidentally destroyed before it is exchanged for Healthy Start food; or

(b) there is no food outlet within a reasonable distance of the beneficiary's home; or

(c) the beneficiary is a child under the age of one year and there is no food outlet within a reasonable distance of the child's home at which a voucher can be exchanged for Healthy Start food consisting of infant formula as described in Schedule 2;

the beneficiary may, in accordance with paragraph (3), so notify in writing the Department for the purposes of this regulation.

(3) A beneficiary who so notifies in the circumstances described—

(a) in paragraph (1) must, in the case of the first voucher pursuant to a claim, do so within twelve weeks of, and including the date he submitted his claim to the Department or, in any other case, within four weeks of and including the date of expiry of his last voucher;

(b) in paragraph (2) must do so before expiry of the period of validity of the voucher.

(4) If the Department is satisfied—

(a) on a notification pursuant to paragraph (1) or otherwise, that a beneficiary did not receive a voucher because of some act or omission on the part of the Department or Her Majesty's Revenue and Customs(a),

(b) on a notification pursuant to paragraph (2)(a), that the voucher has been lost or stolen or accidentally destroyed, or

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(a) See Section 4(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11)

(c) on a notification pursuant to paragraph (2)(b) or (c), that there is no food outlet within a reasonable distance of the beneficiary's home or no such food outlet at which a voucher can be exchanged for Healthy Start food consisting of infant formula as described in Schedule 2, it shall either, as it considers appropriate, issue or cause to be issued to that beneficiary a voucher or pay the beneficiary an amount equal to the value represented by the voucher.

#### **Property in voucher**

**14.—(1)** Every voucher is and shall remain the property of the Department.

(2) Any person in possession of a voucher shall, if so requested by the Department, produce or deliver it to the Department within such time and to such place as the Department may direct in writing.

## **PART V**

### **FOOD OUTLETS**

#### **Application for registration of food outlet**

**15.—(1)** A person carrying on a business of the supply of food who wishes to supply Healthy Start food in exchange for a voucher and to receive payment from the Department for such supply shall apply in writing to the Department to be registered as a food outlet.

(2) A person who applies under paragraph (1) shall provide the information, supported by the declaration specified in Schedule 3.

(3) The information provided by a person who applies under paragraph (1) may be disclosed to and used by persons carrying out functions on behalf of the Department for the purposes of enforcement of the Healthy Start scheme.

(4) The Department shall register an applicant as a food outlet if it is satisfied that the information and declaration provided by the applicant are accurate and complete.

(5) A food outlet shall notify the Department of any material change that may affect the information provided pursuant to this regulation or his ability to supply Healthy Start food.

(6) A person shall cease to be a food outlet if the Department determines that the person—

- (a) has failed to provide any information or evidence required under the Healthy Start scheme;
- (b) is in persistent breach of his duties under the Healthy Start scheme; or
- (c) has not submitted a claim for payment pursuant to regulation 17 for a period of one year.

(7) The Department may determine that a person who has been convicted of an offence punishable by at least six months' imprisonment shall cease to be a food outlet.

#### **Duties of food outlet**

**16.—(1)** A food outlet who accepts a voucher from a beneficiary shall supply the beneficiary with Healthy Start food to the value indicated on the face of the voucher and in accordance with the Healthy Start scheme.

(2) Where a food outlet supplies Healthy Start food pursuant to paragraph (1) and the value of the Healthy Start food supplied is less than the value indicated on the face of the voucher, the food outlet shall not provide the beneficiary with anything to recompense the beneficiary for the outstanding value.

(3) If a food outlet accepts a voucher and fails on that occasion to supply Healthy Start food to a beneficiary, the food outlet shall, within the period of validity of the voucher or as soon as practicable after that period—

- (a) supply the beneficiary with the Healthy Start food; or

- (b) credit the beneficiary with an amount equal to the value indicated on the face of the voucher towards the next purchase by the beneficiary of food of a description similar to that of Healthy Start food.

#### **Payment of food outlet**

**17.**—(1) A food outlet who wishes to receive payment shall submit to the Department a claim in writing that includes the information set out in Schedule 4 together with the vouchers to which the claim relates.

(2) If the Department is satisfied that the information provided by the food outlet pursuant to paragraph (1) is accurate and complete, it shall pay the food outlet an amount equal to the value indicated on the face of each voucher submitted.

(3) The Department may pay a food outlet in respect of a greater or lesser number of vouchers than are indicated as included with a claim made pursuant to paragraph (1) where it is clear on the face of the documents that an error has been made.

(4) The Department shall not be obliged to make a payment in respect of a voucher included with a claim pursuant to paragraph (1) if the claim is received by the Department more than six months after the period of validity on the face of the voucher.

(5) If the Department is satisfied that—

(a) a food outlet submitted a claim in writing together with a voucher pursuant to paragraph (1); and

(b) the food outlet received the voucher in exchange for Healthy Start food provided to a beneficiary in accordance with the Healthy Start scheme;

the Department may pay the food outlet an amount equal to the value indicated on the face of the voucher, notwithstanding that the claim has not been received.

#### **Requirement to furnish information**

**18.**—(1) The Department may require a food outlet to furnish it with such information or evidence as may reasonably be needed in connection with the administration of the Healthy Start scheme.

(2) A person to whom a person is required to furnish information or evidence shall produce to that person evidence of his authority from the Department, if requested.

(3) Any document produced pursuant to paragraph (1)—

(a) shall be provided in a legible form;

(b) may be copied or extracts may be taken from it, and

(c) shall be explained by the person producing it, 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, if so requested by the Department.

(4) A person who has failed to produce information or evidence required pursuant to paragraph (1) shall state, to the best of his knowledge and belief, where it is held.

## **PART VI**

### **MISCELLANEOUS**

#### **Application of statutory provisions**

**19.** The provisions relating to the administration of benefit under the Social Security Administration (Northern Ireland) Act 1992(a) specified in column (1) of Schedule 5 shall have effect

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(a) 1992 (c. 8) section 117 was amended by paragraph 25 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (c. 40) and Schedule 9 to the Social Security Contributions (Transfer of Functions etc) (Northern Ireland) Order 1999 (S.I. 1999/671) and Article 4(2) of the Social Security (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182) (N.I. 11)

for the purpose of the administration of the Healthy Start scheme, subject to the modifications set out in column (2) of that Schedule.

### Offences

**20.** A person who contravenes or fails to comply with any of the following provisions of these regulations, namely—

- regulation 9(2);
- regulation 12(4);
- regulation 14(2);
- regulation 16(1);
- regulation 16(3);

shall be guilty of an offence under Article 13 of the Social Security (Northern Ireland) Order 1988(a) and liable on summary conviction to a penalty not exceeding level 3 on the standard scale.

### Transitional Provisions

**21.—(1)** Any person other than a child over the age of four, who, at the date of coming into operation of these Regulations, is—

- (a) specified in regulation 2(1) of the 1988 Regulations as entitled to and is in receipt of milk or dried milk in accordance with regulation 2 of the 1988 Regulations shall be treated as a person entitled to Healthy Start food under the Healthy Start scheme; or
- (b) specified in regulation 2(2) of the 1988 Regulations as entitled to and is in receipt of vitamins for personal consumption in accordance with regulation 2 of the 1988 Regulations shall be treated as a person entitled to Healthy Start vitamins under the Healthy Start scheme.

**(2)** Where a beneficiary described in regulation 8(1) of the 1988 Regulations has applied to the Department but his application has not been determined at the date of coming into operation of these Regulations—

- (a) the Department shall determine the application in accordance with regulation 13(4) of these Regulations; and
- (b) regulation 13(4)(a) of these Regulations shall for this purpose be applied as if for the word “voucher” there were substituted “milk token”.

**(3)** If a beneficiary described in regulation 8(1) of the 1988 Regulations has not applied to the Department before the coming into operation of these Regulations—

- (a) he may instead make an application to the Department;
- (b) that application shall be determined under regulation 13(1), (3)(a) and (4) of these Regulations; and
- (c) regulation 13(1), (3)(a) and (4)(a) of these Regulations shall be applied for this purpose as if for the word “voucher” there were substituted “milk token”.

## PART VII

### CHILDREN IN DAY CARE

#### Day Care Food Scheme Interpretation

**22.—(1)** In the Day Care food scheme—

“Education and Library Board” means a Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(b);

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(a) S.I. 1988/594 (N.I. 2); Article 13 is substituted by Article 3 of S.I. 2003/3202 (N.I. 19). See S.R. 2006 No. 418 (C. 24) as amended by S.R. No. 437 (C. 26)

(b) S.I. 1986/594 (N.I. 3)

“Day Care food” means milk or infant formula;

“handicapped child” means a child who has attained the age of 5 years but has not attained the age of 16 years and for whom an Education and Library Board is maintaining a statement of special educational needs within the meaning of Article 16 of the Education (Northern Ireland) Order 1996(a), and who is not a registered pupil at a school.

“infant formula” means a food based on cow’s milk intended for particular nutritional use from birth by infants in good health, and satisfying by itself the nutritional requirements of such infants;

“milk” means liquid cow’s milk including long-life, pasteurised or ultra heat treated varieties of milk, but not milk to or from which chemicals, vitamins, flavours or colours have been added or removed;

“the 1988 Regulations” means the Welfare Foods Regulations (Northern Ireland) 1988(b);

“the 1995 Order” means the Children (Northern Ireland) Order 1995(c);

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members thereof.

(2) Where any provision of the Day Care Food scheme requires or enables anything to be done by, or in respect of, a beneficiary and that beneficiary is either a child who has not attained the age of 5 years or a handicapped child, the provision shall be deemed to refer to a parent with parental responsibilities for the child, or the child’s guardian or the person having care of him.

### Milk or Infant Formula for children in day care

23.—(1) Each child who has not attained the age of 5 years and who is cared for by a person registered by the Department under paragraph (4) shall be entitled to receive, for each day on which he is so cared for, free of charge—

- (a) except where the child has not attained the age of 1 year up to 189 millilitres of milk;
- (b) where the child has not attained the age of 1 year, either up to 189 millilitres of milk or infant formula, made up to provide 189 millilitres.

(2) Any of the following may apply to the Department to be registered to participate in the arrangements to provide Day Care food under the Day Care food scheme—

- (a) a person who receives a child into premises which are registered pursuant to Article 118 of the 1995 Order;
- (b) a voluntary organisation which provides a play-bus for the use of children; or
- (c) a person who receives a child into a nursery school under the management of or assisted by an Education and Library Board.

(3) An application to be registered under paragraph (2) shall—

- (a) be in writing;
- (b) be sent to the Department;
- (c) be accompanied by the information specified in paragraph 1 of Schedule 6;
- (d) include a declaration that the information supplied is correct and complete; and
- (e) in the case of an application pursuant to paragraph (2)(a) also be accompanied by the certificate of registration issued under Article 127 of the 1995 Order.

(4) The Department shall confirm in writing the registration if it is satisfied that the applicant will make adequate arrangements for the provision of Day Care food for the purposes of the Day Care Food scheme, and may cancel the registration if it ceases to be so satisfied.

(5) A person registered under paragraph (4) who supplies Day Care food under the Day Care Food scheme shall, subject to paragraphs (6) to (8), be reimbursed by the Department in accordance with paragraph (9).

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(a) S.I. 1996/274 (N.I. 1)

(b) S.R. 1988 No. 137, the relevant amendments are S.R. 1990 No. 363, S.R. 1993 No. 219 and S.R. 1997 No. 461

(c) S.I. 1995/755 (N.I. 2)

(6) Claims for reimbursement shall be made to the Department and shall, so far as reasonably practicable, be made at intervals of 4 months and in respect of supplies in the period of 4 months immediately preceding the claim.

(7) Claims for reimbursement shall—

- (a) contain the information specified in paragraph 2 of Schedule 6 and a declaration that the information is correct and complete;
- (b) if so required by the Department, be supported by an invoice, a receipt or other documentary evidence of the price paid for the Day Care food supplied.

(8) The Department shall not be obliged to reimburse a person in respect of the supply of Day Care food which occurred more than 2 years before the date of the claim.

(9) The amount reimbursed to a person for Day Care food under this regulation shall be the cost to that person of purchasing it.

### **Application of Statutory Provisions**

**24.** The provisions relating to the administration of benefit made under the Social Security Administration (Northern Ireland) Act 1992 specified in column (1) of Schedule 5 shall have effect for the purpose of the administration of the Day Care Food scheme, subject to the modifications set out in column (2) of that Schedule.

### **Transitional Provisions**

**25.** Any person who, at the date of coming into operation of these Regulations is approved by the Department under regulation 3(4) of the 1988 Regulations shall be treated as a person registered under Part VII of these Regulations.

## **PART VIII**

### **REVOCATIONS**

#### **Revocation of the 1988 Regulations**

**26.—(1)** Subject to paragraph (2) the Welfare Food Regulations (Northern Ireland) 1988(a) are revoked.

(2) Paragraph (1) does not apply in the case of milk supplied in exchange for a milk token before 27th November 2006.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 23rd November 2006.

(L.S.)

*James S. Livingstone*

A senior officer of the Department of Health, Social Services and Public Safety

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(a) S.R. 1988 No. 137

## SCHEDULE 1

Regulation 5(1)

### APPLICATION FOR BENEFIT

#### **Information needed for application for benefit**

1. A claim for benefit in respect of a pregnant woman, mother or child pursuant to regulation 4 shall contain the following information—

- (a) the name and address of the pregnant woman, mother or child;
- (b) the name, address, and national insurance number of the person of whose family the pregnant woman, mother or child is a member and who is entitled to a social security benefit or tax credit mentioned in regulation 4 unless the person entitled is the pregnant woman or mother;
- (c) the national insurance number of the pregnant woman or mother, or, if the person in respect of whom the claim is made is aged under 18, that person's date of birth.

#### **Evidence in writing needed for application for benefit**

2. A claim in respect of a pregnant woman shall be accompanied by evidence in writing of the estimated date of delivery of the pregnant woman signed by a health professional.

3. A claim in respect of a child under the age of four months shall be accompanied by evidence in writing of the existence and age of the child, unless the claim is made by telephone as provided in regulation 5(2).

#### **Declaration needed for application for benefit**

4.—(1) A claim in respect of a pregnant woman, mother or child shall include a declaration signed by the claimant that:—

- (a) the person in respect of whom the claim is made or a member of that person's family is entitled to—
  - (i) income support;
  - (ii) an income based jobseeker's allowance; or
  - (iii) child tax credit, where the relevant income of the person or persons to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,155 and the person is not entitled to working tax credit; and
- (b) the claimant understands the rules of the Healthy Start scheme and will abide by his obligations under the scheme.

(2) If a claim is made by a pregnant woman under the age of 18, the declaration described in sub-paragraph (1) is not necessary.

#### **Countersignature of a health professional**

5. A claim pursuant to regulation 5 must be countersigned by a health professional.

## SCHEDULE 2

Regulation 6(1)

## HEALTHY START FOOD

<i>Category of food (1)</i>	<i>Qualification (2)</i>
Milk	Liquid cow's milk, including long-life, pasteurised or ultra heat treated varieties of milk, but not milk to or from which chemicals, vitamins, flavours or colours have been added or removed.
Infant formula	A food based on cow's milk intended for particular nutritional use from birth by infants in good health, and satisfying by itself the nutritional requirements of such infants.
Fresh fruit and vegetables	Fresh fruit and vegetables including loose, pre-packed, whole, sliced, chopped, or mixed fruit or vegetables, but not fruit or vegetables to which salt, sugar, herbs or other flavouring has been added.

## SCHEDULE 3

Regulation 15(2)

### APPLICATION FOR REGISTRATION AS A FOOD OUTLET

#### **Information needed for application for registration as a food outlet**

1. An application for registration as a food outlet shall contain the following information—
  - (a) the name and address of the proposed food outlet;
  - (b) the address from which the proposed food outlet will supply the Healthy Start food, or, if this is not appropriate, the correspondence address in relation to that supply;
  - (c) the name, address, sort code, and account number of the bank of the proposed food outlet and any other details necessary for payment to be made to the bank account of the proposed food outlet;
  - (d) the category of Healthy Start food that the proposed food outlet is willing to supply.

#### **Declaration needed for application for registration as a food outlet**

2. An application for registration as a food outlet shall include a declaration signed by the proposed food outlet that he understands the rules of the Healthy Start scheme and that he will abide by his obligations under the scheme.

## SCHEDULE 4

Regulation 17(1)

### INFORMATION FOR CLAIM FOR PAYMENT OF FOOD OUTLET

The information to be provided by a food outlet on a claim for payment in relation to vouchers is—

- (a) the name and address of the food outlet;
- (b) the address at which the food outlet exchanged Healthy Start food for the vouchers to which the claim relates; and
- (c) the number of vouchers included with the claim.

## SCHEDULE 5

Regulations 19 and 24

## STATUTORY PROVISIONS APPLIED FOR THE PURPOSES OF THESE REGULATIONS

<i>Statutory provisions</i> (1)	<i>Modifications</i> (2)
Section 105 of the Social Security Administration (Northern Ireland) Act 1992 (delay, obstruction etc of inspector)	Omit subsection (1)(a) and (ab), in subsection (1)(b), for the words “under this Act” substitute the words “in accordance with the Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006”, in subsection (2) for the words “subsection (1)(ab) or (b) above substitute the words “this section” and omit subsection (3).
Section 106 of the Social Security Administration (Northern Ireland) Act 1992 (false representations for obtaining benefit)	In subsection (1), for the words “benefit or other payment under the relevant social security legislation”, substitute the words “Healthy Start food, Day Care food or payment under a scheme made for the purposes of Article 13 of the Social Security (Northern Ireland) Order 1988”, for the words “that legislation” substitute the words “such a scheme” and omit subsections (1A) to (1F).
Section 107 of the Social Security Administration (Northern Ireland) Act 1992 (breach of regulations)	After paragraph (a) of sub-section (1A) there is added “(aa) Article 13 of the Social Security (Northern Ireland) Order 1988.”
Section 109 of the Social Security Administration (Northern Ireland) Act 1992 (bodies corporate)	For the words “this Act” substitute the words “section 106 or 105 of this Act or Article 13 of the Social Security (Northern Ireland) Order 1988”.
Section 110(1), (2)(a), 3(a) and (5) of the Social Security Administration (Northern Ireland) Act 1992 (legal proceedings)	<p>(a) In paragraph (1) the words “the Department of the Environment or the Housing Executive” shall be omitted and for “under any provision of this Act” substitute “under section 106 or 105 of this Act or under Article 13 of the Social Security (Northern Ireland) Order 1988”.</p> <p>(b) In paragraph (2)(a) for the words “under this Act” substitute “under section 106 or 105 of this Act or under Article 13 of the Social Security (Northern Ireland) Order 1988”.</p> <p>(c) In paragraph (3)(a) the words “or of the Department of the Environment” and the words “or (b)” shall be omitted.</p> <p>(d) In paragraph (5) for the words “under this Act” substitute “under section 106 or 105 of this Act or under Article 13 of the Social Security (Northern Ireland) Order 1988”.</p>

<i>Statutory provisions</i> (1)	<i>Modifications</i> (2)
Section 117 of the Social Security Administration (Northern Ireland) Act 1992 (Unauthorised disclosure of information relating to particular persons)	
Schedule 4 to the Social Security Administration (Northern Ireland) Act 1992 (persons employed in social security administration or adjudication)	In Part 1 (the specified persons), under ( <i>Government departments</i> ), after “(c) the Northern Ireland Court Service”; insert “(d) the Department of Health, Social Services and Public Safety”.
Section 3(2)(a) of the Social Security Act 1998 (use of information)	and in Part II (Construction of References to Government Departments etc.), at the end of paragraph 1, add “and the reference to the Department of Health, Social Services and Public Safety is a reference to that Department only to the extent that the functions carried out relate to the administration of a scheme made for the purposes of Article 13 of the Social Security (Northern Ireland) Order 1988”.  After “or employment or training” insert, “or, where it relates to benefit under the Social Security Administration (Northern Ireland) Act 1992, the administration of a scheme made for the purposes of Article 13 of the Social Security (Northern Ireland) Order 1988”.

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(a) 1998 (c. 14) section 3(2) was amended by the Employment Act 2002 (c. 22) section 50, Schedule 6, paragraph 1(b)

## SCHEDULE 6

Regulation 23

### APPLICATIONS FOR REGISTRATION AND REIMBURSEMENT — DAY CARE FOOD FOR CHILDREN IN DAY CARE

*Information to be provided on application for registration*

1. (a) Full name of applicant;  
(b) address where children are to be cared for;  
(c) name and address of person to whom correspondence is to be sent;  
(d) number of day-care sessions each day and the duration of each session;  
(e) number of children likely to be cared for at each session.

*Information to be provided on application for remibursement*

2. (a) Full name of person claiming reimbursement;  
(b) address where children are cared for;  
(c) name and address of person to whom payment is to be made;  
(d) period of claim;  
(e) number of day-care sessions each day;  
(f) number of children cared for on each day during period of claim;  
(g) the quantity, price and total cost of milk and infant formula consumed each month for the period of the claim.

## **EXPLANATORY NOTE**

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

These Regulations establish a scheme to provide benefits for pregnant women, mothers and children (“the Healthy Start scheme”) and a scheme to provide milk and infant formula for children under age 5 in certain types of day care (“the Day Care Food scheme”).

They are the first set of Regulations made under new powers in Article 13 (“Benefits under schemes for improving nutrition: pregnant women, mothers and children) of the Social Security (Northern Ireland) Order 1988 (“the 1988 Order”). Article 13 of the 1988 Order was replaced by wording in Article 3 of the Food Benefit Schemes (Northern Ireland) Order 2003 (Replacement of the Welfare Food Schemes): See S.R. 2006 No. 418 (C. 24) as amended by S.R. 2006 No. 437 (C. 26).

Part I deals with preliminary matters. Regulations 1 and 2 provide for citation, commencement and interpretation. The Regulations are to come into operation on 27th November 2006.

Parts II to VI establish the Healthy Start scheme. Part II defines terms for the purposes of that scheme. Part III covers entitlement to benefit under the Healthy Start scheme. Persons entitled to benefit under the Healthy Start scheme are described in regulation 4. Regulation 4 also provides for the Healthy Start food benefit to which a beneficiary is entitled.

Regulation 5 and Schedule 1 make provision for claims for the Healthy Start benefit. Regulation 6 and Schedule 2 make further provision in relation to Healthy Start food. Regulation 7 makes provision for payments in lieu of Healthy Start vitamins. Advice on health and nutrition is provided for by regulation 8. Regulation 9 is concerned with cessation of entitlement to the Healthy Start benefit.

Part IV is concerned with voucher arrangements. Regulation 10 provides for the issue of a voucher under the Healthy Start scheme. The value represented by the voucher is £2.80. Regulation 11 provides for the supply of Healthy Start vitamins. Use of the voucher is covered by regulation 12. Regulation 13 details what is to happen if a beneficiary fails to receive benefit, and regulation 14 provides for property in a voucher.

Part V sets out the arrangements concerning food outlets in the Healthy Start scheme. Applications to be registered as a food outlet are provided for in regulation 15 and Schedule 3. The duties of a food outlet are set out in regulation 16. Regulation 17 and Schedule 4 detail the procedures for payment of a food outlet.

Regulation 18 imposes a requirement to furnish information in the specified circumstances.

Part VI contains the miscellaneous provisions. Regulation 19 and Schedule 5 provides for the application of statutory provisions. Regulation 20 provides for offences. Regulation 21 makes transitional provision in respect of the coming into operation of the Healthy Start scheme.

Part VII establishes the Day Care Food scheme. Regulation 22 defines terms for the purposes of that Scheme. Regulation 23 and Schedule 6 provide for the entitlement to free milk or infant formula (Day Care food) for children under the age of five years in day-care. Regulation 24 and Schedule 5 provides for the application of statutory provisions. Regulation 25 makes transitional provision in respect of the coming into operation of the Day Care Food scheme.

Part VIII deals with revocations. Regulation 26 revokes the Welfare Foods Regulations (Northern Ireland) 1988 except in the case of milk supplied in exchange for a milk token before 27th November 2006.

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