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STATUTORY INSTRUMENTS

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**2004 No. 723**

**FOOD**

**The Welfare Food (Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>11th March 2004</i>
<i>Laid before Parliament</i>		<i>16th March 2004</i>
<i>Coming into force</i>		
<i>Regulations 1 and 2</i>		<i>6th April 2004</i>
<i>Regulations 3 to 7</i>		<i>1st October 2004</i>

The Secretary of State for Health in exercise of the powers conferred on him by sections 13(3) and (4) of the Social Security Act 1988(1), and 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:—

**Citation, commencement and interpretation**

- 1.—(1) These Regulations may be cited as the Welfare Food (Amendment) Regulations 2004.
- (2) Regulations 1 and 2 shall come into force on 6th April 2004 and regulations 3, 4, 5, 6 and 7 on 1st October 2004.
- (3) In these Regulations “the principal Regulations” means the Welfare Food Regulations 1996(3).

**Amendment of the principal Regulations**

- 2.—(1) The principal Regulations are amended as follows—
- (2) In regulations 3(2)(b)(iii), 4(1)(c), 5(2)(aa), (b)(iii), and (4)(a)(iv), 6(1)(iv) and 7(1A)(a), for the sum of “£13,230” wherever it appears, there is substituted “£13,480”.

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(1) 1988 c. 7. Section 13 was amended by section 21(1) and (2) of, and paragraph 8(11)(a) of Schedule 6 and Schedule 7 to, the Social Security Act 1990 (c. 27), and section 4 of and Schedule 2, paragraph 94 of the Social Security (Consequential Provisions) Act 1992 (c. 6).

(2) 1992 (c. 4). Section 175(2) to (5) is applied by section 15A of the Social Security Act 1988 (c. 7) which section was inserted by section 21(1) of, and paragraph 8(10) of Schedule 6 to the Social Security Act 1990 (c. 27) and amended by section 4 of, and paragraph 96 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6).

(3) S.I.1996/1434, as amended by the Welfare Food (Amendment No. 2) Regulations 2003, S.I. 2003/1864, the Welfare Food (Amendment) Regulations 2003, S.I. 2003/702 and the Welfare Food (Amendment) Regulations 2002, S.I. 2002/550. Previous amending instruments were revoked by regulation 3 of S.I. 2002/550.

- (3) In regulation 7 (purchase of dried milk at a reduced price)—
  - (a) in paragraphs (1)(a) and (1A)(a), for “£14,200”, there is substituted “£14,600”;
  - (b) in paragraphs (1) and (1A), for “£4.15”, there is substituted “£4.25”.
- (4) In Schedule 4, Part 1, paragraph 2 (special reimbursement), after “accountant” there is inserted “, or by a person who has direct knowledge of the financial records of the business,”.

### **Amendment of regulation 3 of the principal Regulations**

**3.—**(1) Regulation 3 of the principal Regulations (entitlement to free milk) is amended as follows—

- (2) In paragraph (1), for “paragraph (4)” there is substituted, “paragraphs (3A) and (4)”.
- (3) In paragraph (2)(a), after sub-paragraph (iii) there is inserted—
  - “(iv) child tax credit, provided that 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(4) is determined at the time of the award not to exceed £13,480, and the person is not entitled to working tax credit;”
- (4) After paragraph (3) the following is inserted—
  - “(3A) No expectant mother shall be entitled to milk unless she first submits to the Secretary of State a claim in writing that includes the information, and is supported by the written evidence and declaration, specified in Schedule 2A;
  - “(3B) An expectant mother’s entitlement under paragraph (2)(a) shall begin from the date that her claim complying with the requirements of paragraph (3A) is received by the Secretary of State.”.

### **Amendment of regulation 5 of the principal Regulations**

**4.—**(1) Regulation 5 of the principal Regulations is amended as follows.

- (2) In paragraph (1), for “paragraph (4)” there is substituted, “paragraphs (3A) and (4)”.
- (3) For paragraphs (2)(a), (aa) and (b) there is substituted—
  - “(a) an expectant mother who is, or is a member of the family of a person who is, entitled to—
    - (i) income support;
    - (ii) an income based jobseeker’s allowance;
    - (iii) a guarantee credit; or
    - (iv) child tax credit, provided that 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 £13,480, and the person is not entitled to working tax credit;
  - (b) a mother who is breast-feeding her child under the age of one year who is, or is a member of the family of a person who is entitled to—
    - (i) income support;
    - (ii) an income based jobseeker’s allowance;
    - (iii) a guarantee credit; or

- (iv) child tax credit, provided that 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(5) is determined at the time of the award not to exceed £13,480, and the person is not entitled to working tax credit;
- (c) 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—
  - (i) income support;
  - (ii) an income based jobseeker’s allowance; or
  - (iii) child tax credit, provided that 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 £13,480, and the person is not entitled to working tax credit.”.
- (4) After paragraph (3) the following is inserted—
  - “(3A) No expectant mother shall be entitled to vitamins unless she first submits to the Secretary of State a claim in writing that includes the information, and is supported by the written evidence and declaration, specified in Schedule 2A.
  - (3B) An expectant mother’s entitlement under paragraph (2)(a) shall begin from the date that her claim complying with the requirements of paragraph (3A) is received by the Secretary of State.”.
- (5) At the beginning of paragraph (4) there is inserted, “Except in the case of an expectant mother specified in paragraph (2)(a)”.
- (6) After paragraph (4) there is added—
  - “(5) An expectant mother who is entitled to receive vitamins in accordance with these Regulations shall produce documentary evidence of her entitlement to a person responsible for the distribution of welfare food at a clinic.”.

## **Schedule 2A**

5. After Schedule 2 to the principal Regulations there is added the following Schedule—

**“SCHEDULE 2A**

Regulations 3(3A) and 5(3A)

Application for Free Milk and Vitamins for Personal Consumption- Expectant Mother

### **Information needed for application for free milk and vitamins**

1. A claim by an expectant mother for free milk and vitamins for personal consumption pursuant to regulations 3(2)(b) and 5(2)(b) shall contain the following information—
- (a) the name and address of the expectant mother;
  - (b) the name and address of the person of whose family the expectant mother is a member and who is entitled to a benefit or tax credit mentioned in regulations 3(2)(a)(i) to (iv) and 5(2)(a)(i) to (iv), unless the person entitled is the expectant mother;
  - (c) the national insurance number of the expectant mother, or, if she is aged under 18, her date of birth.

### **Evidence in writing needed for application for free milk and vitamins**

2. A claim by the expectant mother shall be accompanied by evidence in writing of her expected date of delivery.

### **Declaration needed for application for free milk and vitamins**

3. A claim by the expectant mother shall include a declaration that she or a member of her family is entitled to—

- (a) income support;
- (b) an income based jobseeker's allowance;
- (c) a guarantee credit; or
- (d) child tax credit, provided that 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<sup>(6)</sup> is determined at the time of the award not to exceed £13,480, and the person is not entitled to working tax credit.<sup>7</sup>

### **Revocations**

6. The following Regulations are revoked—

The Welfare Food (Amendment) Regulations 2002<sup>(7)</sup>;

The Welfare Food (Amendment) Regulations 2003<sup>(8)</sup>; and

The Welfare Food (Amendment No. 2) Regulations 2003<sup>(9)</sup>.

### **Transitional Provisions**

7. An expectant mother who on 30th September 2004, was entitled to and in receipt of milk, or, as the case may be, vitamins for personal consumption free of charge shall continue to have any entitlement determined in accordance with the provisions of the principal Regulations as if the amendments made by these Regulations had not been made until her entitlement as an expectant mother ceases.

Signed by authority of the Secretary of State for Health

12th March 2004

*Melanie Johnson*  
Parliamentary Under Secretary of State,  
Department of Health

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<sup>(6)</sup> 2002 (c. 21)  
<sup>(7)</sup> S.I. 2002/550.  
<sup>(8)</sup> S.I. 2003/702.  
<sup>(9)</sup> S.I. 2003/1864.

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## EXPLANATORY NOTE

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

These Regulations further amend the Welfare Food Regulations 1996 (“the principal Regulations”).

Regulation 2(2) amends regulations 3(2)(b)(iii) (entitlement to free milk), 4(1)(c) (child under the age of one year – entitlement to free dried milk or milk), 5(2)(aa), (b)(iii), and (4)(a)(iv) (entitlement to free vitamins), 6(1)(iv) (inability to obtain free vitamins) and 7(1A)(a) (purchase of dried milk at a reduced price) of the principal Regulations. It raises the income level that determines whether persons receiving child tax credit but not working tax credit and who meet other conditions are entitled to milk or dried milk and vitamins, to £13,480.

Regulation 2(3) further amends regulation 7 to raise the maximum income level that determines whether a person entitled to working tax credit and child tax credit, or to child tax credit based on an income of more than £13,480 but not to working tax credit, and who meet other conditions, is entitled to purchase dried milk at a reduced price, to £14,600. Regulation 2(3) also amends regulation 7(1) and (1A) of the principal Regulations to increase the purchase price of 900 grammes of dried milk by 10 pence to £4.25.

Regulation 2(4) amends Schedule 4 to enable the declaration included in an application for special reimbursement pursuant to regulation 17(2) (special reimbursement) to be signed by a person who has direct knowledge of the financial records of the business carried on by the supplier who applies.

Regulations 3 and 4 extend entitlement to milk and vitamins from 1st October 2004 to an expectant mother who is, or is a member of a family of a person who is entitled to child tax credit, but not working tax credit, and whose income is £13,480 or less. From that date, the entitlement of an expectant mother who is not in receipt of an award on 30th September 2004 is dependent on her first having made a claim in writing to the Secretary of State.

Regulation 5 adds a new Schedule 2A to the principal Regulations from 1st October 2004. It sets out the information, evidence and declaration needed for an application for free milk and vitamins for personal consumption by an expectant mother from 1st October.

Regulation 6 revokes previous amending Regulations.

Regulation 7 makes transitional provision.

These regulations do not impose a cost on business.