
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 206

FOOD

**The Milk and Healthy Snack Scheme
(Scotland) Amendment Regulations 2021**

	<i>at 10.26 a.m. on</i>
<i>Made</i> - - - -	<i>13th May 2021</i>
<i>Laid before the Scottish</i>	<i>at 2.00 p.m. on 13th</i>
<i>Parliament</i> - - - -	<i>May 2021</i>
<i>Coming into force</i> - -	<i>17th May 2021</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 13(1) of the Social Security Act 1988(1) and section 175(4) and (5) of the Social Security Contributions and Benefits Act 1992(2) the all other powers enabling them to do so.

In accordance with section 13(2) of the Social Security Act 1988, the Scottish Ministers have consulted the National Assembly for Wales.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Milk and Healthy Snack Scheme (Scotland) Amendment Regulations 2021.

(2) These Regulations come into force on 17 May 2021.

(3) These Regulations extend to Scotland only.

Amendment of the Milk and Healthy Snack Scheme (Scotland) Regulations 2021

2.—(1) The Milk and Healthy Snack Scheme (Scotland) Regulations 2021(3) are amended as follows.

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- (1) [1988 c.7](#). Section 13 was substituted by section 185(1) of the Health and Social Care (Community Health and Standards) Act [2003 \(c.43\)](#) and amended by section 27(5) of the Scotland Act [2016 \(c.11\)](#) (“the 2016 Act”). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#) as read with section 32 of the 2016 Act.
- (2) [1992 c.4](#). Section 175(4) and (5) are applied by section 15A(1) of the Social Security Act [1988 \(c.7\)](#). Section 15A was inserted by paragraph 8(10) of schedule 6 of the Social Security Act [1990 \(c.27\)](#) and amended by paragraph 96 of schedule 2 of the Social Security (Consequential Provisions) Act [1992 \(c.6\)](#) and section 185(2) and paragraph 1 of schedule 14(5) of the Health and Social Care (Community Health and Standards) Act [2003 \(c.43\)](#). Section 175(4) was amended by paragraph 29(4) of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act [1999 \(c.2\)](#). Section 175(5) was amended by paragraph 36 of schedule 1(1) of the Social Security (Incapacity for Work) Act [1994 \(c.18\)](#).
- (3) [S.S.I. 2021/82](#).

- (2) In regulation 2 (interpretation) after the definition of “benefit” insert—
 ““childcare provider” has the same meaning as given in regulation 4,”.
- (3) In regulation 3 (meaning of eligible child), for “childcare provider” substitute “registered childcare provider”.
- (4) In regulation 5 (entitlement of an eligible child)—
 (a) in paragraph (2), for “childcare provider” substitute “registered childcare provider”, and
 (b) after paragraph (4) insert—
 “(5) No entitlement to the benefit arises prior to 1 August 2021.”.
- (5) In regulation 6 (provision of benefit)—
 (a) for “The” substitute “Subject to regulation 6A, the”, and
 (b) for “childcare provider”, in both places it occurs, substitute “registered childcare provider”.
- (6) After regulation 6 insert—

“6A. Provision of benefit: once a day

A registered childcare provider is not to provide the benefit if the eligible child has received the benefit from another childcare provider that day.”.

- (7) In regulation 9(1)(a) (determining the amount payable), omit “at the beginning of each financial year”.
- (8) In regulation 20(a) (reporting requirement), for “at the end of the immediately preceding financial year” substitute “at a date one month prior to the date by which the local authority is directed to report”.
- (9) In schedule 1 (specified milk and non-dairy alternative), in the definition of “non-dairy alternative” for “an unsweetened, liquid, calcium enriched, soya drink” substitute “a drink which is an unsweetened, calcium enriched liquid and is commonly used as a substitute for dairy milk”.
- (10) In schedule 2 (specified information required for registration)—
 (a) omit paragraph 1(e) and (f),
 (b) in paragraph 1(j) for “Social Work Improvement Scotland” substitute “SCSWIS”, and
 (c) in paragraph 1(k) for “financial year” substitute “Scheme Year (a year ending with 31 July)”.

Amendment of the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005

3. In subparagraph (b)(i) and (b)(ii) of the definition of “Healthy Start food” in regulation 2(1) (interpretation) of the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005(4) for “the food benefit” substitute “and the food benefit”.

St Andrew’s House,
 Edinburgh
 At 10.26 a.m. on 13th May 2021

MAREE TODD
 Authorised to sign by the Scottish Ministers

(4) S.I. 2005/3262; relevant amending instruments are S.I. 2002/1792, S.I. 2005/3262, S.I. 2006/2818, S.I. 2008/1879, S.I. 2009/909, S.I. 2013/235, S.S.I. 2019/193 and S.S.I. 2021/82.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Milk and Healthy Snack Scheme (Scotland) Regulations 2021 (“the Principal Regulations”). These Regulations come into force on 17 May 2021.

Regulation 2(2) amends the Principal Regulations to provide a cross reference to the definition of childcare provider contained in regulation 4.

Regulation 2(4)(b) amends the Principal Regulations to clarify that duty to provide the benefit under the Scheme does not arise until 1 August 2021. Regulation 2(5) amends the Principal Regulations to clarify that only registered childcare providers are required to provide the benefit under the Scheme and corresponding amendments are made by regulation 2(3) to the definition of eligible child and by regulation 2(4)(a) to the entitlement of an eligible child.

Regulation 2(6) amends the Principal Regulations to provide that a registered childcare provider is not to provide the benefit if another childcare provider has already done so on the same day.

Regulation 2(7) amends the Principal Regulations to remove the reference to “at the beginning of each financial year” in regulation 9(1)(a).

Regulation 2(8) amends the Principal Regulations to adjust the reporting requirement.

Regulation 2(9) amends the Principal Regulations to allow non-dairy alternatives other than soya to be provided under the Scheme.

Regulation 2(11) amends schedule 2 of the Principal Regulations.