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STATUTORY INSTRUMENTS

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**2006 No. 2818**

**FOOD**

**The Healthy Start Scheme and Welfare  
Food (Amendment No. 2) Regulations 2006**

*Made* - - - - *23rd October 2006*  
*Laid before Parliament* *27th October 2006*  
*Coming into force* - - *27th November 2006*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by—

- (a) section 13 of the Social Security Act 1988<sup>(1)</sup> as substituted by the Health and Social Care (Community Health and Standards) Act 2003<sup>(2)</sup>,
- (b) section 13 of the Social Security Act 1988 as saved by the Health and Social Care (Community Health and Standards) Act 2003 (Savings) Order 2005<sup>(3)</sup>, and
- (c) section 175(2) to (5) of the Social Security Contributions and Benefits Act 1992<sup>(4)</sup>.

In accordance with section 13(2) of the Social Security Act 1988 she has consulted with the Scottish Ministers and the National Assembly for Wales<sup>(5)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Healthy Start Scheme and Welfare Food (Amendment No. 2) Regulations 2006 and shall come into force on 27th November 2006.

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- (1) 1988 c. 7. Section 13 was amended by section 21(1) and (2) of, and Schedule 6, paragraph 8(11)(a) and Schedule 7 to, the Social Security Act 1990 (c. 27) (“the 1990 Act”), and section 4 of, and Schedule 2, paragraph 94 to, the Social Security (Consequential Provisions) Act 1992 (c. 6) (“the 1992 Act”). Section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (“the 2003 Act”) substituted new provisions for the existing provisions of section 13 (see the Health and Social Care (Community Health and Standards) Act 2003 (Commencement) (No. 7) Order 2005, 2005 No. 2278 (C.95) and the Health and Social Care (Community Health and Standards) Act 2003 (Commencement) (No. 10) Order 2006, 2006 No. []). Savings were made by the Health and Social Care (Community Health and Standards) Act 2003 (Savings) Order 2005, S.I. 2005/2279.
  - (2) 2003 c. 43.
  - (3) S.I. 2005/2279.
  - (4) 1992 c. 4. Section 175(2) to (5) is applied by section 15A of the Social Security Act 1988 (c. 7) (“the 1988 Act”). Section 15A was inserted by section 21(1) of, and Schedule 6, paragraph 8(10) to, the 1990 Act and amended by section 4 of, and Schedule 2, paragraph 96 to, the 1992 Act and section 185(2) of the 2003 Act. (See the Health and Social Care (Community Health and Standards) Act 2003 (Commencement) (No. 7) Order 2005, 2005 No. 2278 (C. 95)).
  - (5) See the requirement to consult in new section 13(2) of the 1988 Act.

## Interpretation

2.—(1) In these Regulations—

“the principal Regulations” means the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005<sup>(6)</sup>; and

“the 1996 Regulations” means the Welfare Food Regulations 1996<sup>(7)</sup>.

## Amendment of regulation 2 of the principal Regulations

3. In regulation 2(1) of the principal Regulations (interpretation)—

(a) before “beneficiary” insert—

““the Act” means the Social Security Act 1988;

“the 1977 Act” means the National Health Service Act 1977<sup>(8)</sup>”

(b) after the definition of “food outlet” insert—

““Health Board” means a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(9)</sup> (Health Boards);”;

(c) after the definition of “health professional” insert—

““health service body” means a health service body prescribed in regulation 8A(1);”;

(d) for the definition of “Healthy Start food” substitute—

““Healthy Start food”—

(a) in relation to the operation of a scheme in England means the food prescribed in regulation 5(1);

(b) in relation to the operation of a scheme in Scotland means—

(i) until the coming into force of the first regulations to prescribe a description of food (other than Healthy Start vitamins) in or as regards Scotland made by the Scottish Ministers under section 13(1) of the Act, the food prescribed in regulation 5(1), and

(ii) thereafter means the description of food (other than Healthy Start vitamins) prescribed in regulations made by the Scottish Ministers under that section; and

(c) in relation to the operation of a scheme in Wales means the description of food (other than Healthy Start vitamins) prescribed in regulations made by the National Assembly for Wales under section 13(1) of the Act in accordance with section 13(6) of the Act;”;

(e) after the definition of “Healthy Start scheme” insert—

““Healthy Start vitamins”—

(a) in relation to the operation of a scheme in England means the vitamins specified in regulation 5A(1);

(b) in relation to the operation of a scheme in Scotland means—

(i) until the commencement of the first regulations to prescribe a description of vitamins in or as regards Scotland made by the Scottish Ministers

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<sup>(6)</sup> S.I. 2005/3262 as amended by S.I. 2006/589.

<sup>(7)</sup> S.I. 1996/1434, as amended by S.I. 2005/688 and S.I. 2006/589. Previous amending instruments were revoked by regulation 3 of S.I. 2005/688, and earlier amending instruments.

<sup>(8)</sup> 1977 c. 49.

<sup>(9)</sup> 1978 c. 29.

- under section 13(1) of the Act, the vitamins specified in regulation 5A(1), and
- (ii) thereafter means vitamins falling within the description of vitamins prescribed in regulations made by the Scottish Ministers under that section; and
- (c) in relation to the operation of a scheme in Wales means vitamins falling within the description of vitamins prescribed in regulations made by the National Assembly for Wales under section 13(1) of the Act in accordance with section 13(6) of the Act;”;
- (f) after the definition of “income support” insert—
- ““Local Health Board” has the same meaning as in section 16BA of the 1977 Act (Local Health Boards);
- “NHS foundation trust” has the same meaning as in section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003<sup>(10)</sup> (NHS foundation trusts);
- “NHS trust” in relation to England and Wales has the same meaning as in the National Health Service and Community Care Act 1990<sup>(11)</sup>;”;
- (g) after the definition of “period of validity” insert—
- ““pharmacist” means—
- (a) a pharmacist registered in the register of pharmaceutical chemists; or
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968<sup>(12)</sup> (general provisions);
- “Primary Care Trust” has the same meaning as in section 16A of the 1977 Act (Primary Care Trusts);”.

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

- 4.—(1) For regulation 3(2) of the principal Regulations (entitlement to benefit) substitute—
- “(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 8(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 eight 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 eight 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 eight weeks of entitlement.”.
- (2) In regulation 3(3) of the principal Regulations—
- (a) omit “resident in an area described in Schedule 1 and”; and
- (b) in sub-paragraph (e), for “five” substitute “four”.
- (3) In regulation 3(4) of the principal Regulations, before “benefit” insert “the Healthy Start food”;

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<sup>(10)</sup> 2003 c. 43.

<sup>(11)</sup> 1990 c. 19. See section 5 (NHS trusts).

<sup>(12)</sup> 1968 c. 67.

(4) In regulation 3(5) of the principal Regulations, for “benefit” the second time it occurs, substitute “the Healthy Start food benefit to which the mother would otherwise be entitled”.

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

5. After regulation 5 of the principal Regulations, insert—

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

**5A.—**(1) Healthy Start vitamins are tablets or vitamin drops containing vitamins appropriate for the beneficiary who receives them.

(2) If the Secretary of State 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 Secretary of State or a health service body (“the missing period”) she 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.”.

#### **Amendment of regulation 8 of the principal Regulations**

6. In regulation 8(1) of the principal Regulations (issue of voucher), before “benefit”, in both places it occurs, insert “the Healthy Start food”.

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

7. After regulation 8 of the principal Regulations insert—

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

**8A.—**(1) A health service body is—

(a) in relation to England and Wales, a Primary Care Trust, a NHS trust, a NHS foundation trust or a Local Health Board that provides a maternity or child health clinic; and

(b) in relation to Scotland, a Health Board.

(2) A health service body shall have the function of providing 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 (2) 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 her entitlement to a person who supplies Healthy Start vitamins for beneficiaries.

(6) For the purposes of paragraph (4), documentary evidence of entitlement may consist of a letter from the Secretary of State 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 Secretary of State 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.”.

### **Amendment of regulation 9 of the principal Regulations**

8. In regulation 9(4) of the principal Regulations (use of voucher)—
- (a) in sub-paragraph (a) delete “or”; and
  - (b) after sub-paragraph (b) insert—
    - “(c) Healthy Start vitamins supplied under these Regulations to a beneficiary;”.

### **Amendment of regulation 12 of the principal Regulations**

9. After regulation 12(2) of the principal Regulations (application for registration of food outlet), insert—
- “(2A) 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 Secretary of State for the purposes of enforcement of these Regulations.”.

### **Amendment of Schedule 1 to the principal Regulations**

10. Omit Schedule 1 to the principal Regulations (area of the Healthy Start scheme).

### **Amendment of the 1996 Regulations**

- 11.—(1) In regulation 2(1) of the 1996 Regulations (interpretation)—
- (a) for the definition of “supplier” substitute—
    - ““supplier” means a person who supplies milk or dried milk under these Regulations, and for the purposes of the function of the Secretary of State of paying suppliers’ invoices for the supply of vitamins to a Primary Care Trust, NHS trust, NHS foundation trust, Local Health Board or Health Board, a person who supplies vitamins;”;
  - (b) omit the definition of “the Board”.
- (2) In regulation 16(2) of the 1996 Regulations (reimbursement of suppliers) for the words “two years” substitute “six months”.
- (3) In regulation 18(1) of the 1996 Regulations (milk or dried milk for children in day care) omit “in addition to any entitlement under regulations 3, 4”.
- (4) In the 1996 Regulations omit—
- (a) regulation 6 (inability to obtain free vitamins);
  - (b) regulation 9 (use of milk, dried milk and vitamins);
  - (c) regulation 10(1) to (4) (issue of milk tokens);
  - (d) regulation 11(1) and (2) (use of milk tokens);
  - (e) regulation 12 (failure to receive milk tokens);
  - (f) regulation 14 (exchange of milk tokens for milk); and
  - (g) regulation 15 (inability to exchange milk tokens for milk).
- (5) In regulation 22 of the 1996 Regulations (application of enactments) omit the references to regulations 7(3), 9(2) and (3), and 14(1) and (4).
- (6) The provisions of the 1996 Regulations in paragraph (7) are revoked except for the purposes of the functions of the Secretary of State of—
- (a) reimbursing a Primary Care Trust, NHS trust, NHS foundation trust, Local Health Board or Health Board for tokens exchanged for dried milk, or

- (b) paying suppliers' invoices for the supply of vitamins to a Primary Care Trust, NHS trust, NHS foundation trust, Local Health Board or Health Board in connection with the 1996 Regulations.
- (7) The provisions referred to in paragraph (6) are—
  - (a) regulation 2(1) in relation to the definitions of “beneficiary”, “clinic”, “family”, “Health Board”, “income-based jobseeker’s allowance”, “income support”, “NHS foundation trust”, “NHS trust”, “Primary Care Trust”, “relevant income” and “vitamins”;
  - (b) regulation 3 (entitlement to free milk);
  - (c) regulation 4 (child under the age of one year—entitlement to free dried milk or milk);
  - (d) regulation 5 (entitlement to free vitamins); and
  - (e) Schedule 2A.

### **Transitional provisions**

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

- (a) specified in regulation 3(2) or 4 of the 1996 Regulations as entitled to and is in receipt of milk or dried milk in accordance with regulation 3 or 4 of the 1996 Regulations shall be treated as a person entitled to Healthy Start food under the principal Regulations; or
- (b) specified in regulation 5(2) of the 1996 Regulations as entitled to receive vitamins for personal consumption shall be treated as a person entitled to Healthy Start vitamins under the principal Regulations.

(2) Where a beneficiary described in regulation 12(1) of the 1996 Regulations has applied to the Department of Health but her application has not been determined at the date of the coming into force of these Regulations—

- (a) the Secretary of State shall determine the application in accordance with regulation 10(4) of the principal Regulations; and
- (b) regulation 10(4)(a) of the principal Regulations shall for this purpose be applied as if for the word “voucher” there were substituted “milk token”.

(3) If a person described in regulation 12(1) of the 1996 Regulations has not applied to the Department of Health before the coming into force of these Regulations—

- (a) she may instead make an application to the Secretary of State;
- (b) that application shall be determined under regulation 10(4) of the principal Regulations; and
- (c) regulation 10(4)(a) of the principal Regulations shall be applied for this purpose as if for the word “voucher” there were substituted “milk token”.

(4) A person described in regulation 15(1) of the 1996 Regulations as a beneficiary who is unable to find a supplier willing to supply milk in exchange for a milk token shall—

- (a) be treated as a beneficiary described at regulation 10(2)(b) of the principal Regulations; and
- (b) regulation 10(4) of the principal Regulations shall apply to her as if any reference to a voucher in regulation 10(4)(c) were a reference to a milk token.

(5) Where a claim has been made under regulation 16(2) of the 1996 Regulations before the coming into force of these Regulations, regulation 16(2) shall apply to such a claim as if the amendment made by regulation 11(2) of these Regulations had not been made.

(6) Notwithstanding the coming into force of these Regulations, the functions of the Secretary of State of—

- (a) reimbursing a Primary Care Trust, NHS trust, NHS foundation trust, Local Health Board or Health Board for tokens exchanged for dried milk, and
- (b) paying suppliers' invoices for the supply of vitamins to a Primary Care Trust, NHS trust, NHS foundation trust, Local Health Board or Health Board,

in connection with the 1996 Regulations shall continue.

Signed by authority of the Secretary of State for Health

23rd October 2006

*Caroline Flint*  
Minister of State  
Department of Health

*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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## EXPLANATORY NOTE

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

These Regulations make amendments to the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005, [S.I. 2005/3262\(13\)](#) (“the principal Regulations”) and the Welfare Food Regulations 1996([14](#)) (“the 1996 Regulations”).

Regulation 3 adds new definitions to and amends existing definitions in regulation 2 of the principal Regulations (interpretation). In particular, the definition of “Healthy Start food” is amended to make provision for the operation of a scheme in Scotland and in Wales. A new definition of “Healthy Start vitamins” also makes similar provision.

Regulations 4(2) and 10 extend the Healthy Start scheme to the whole of Great Britain.

Regulation 4(2)(b) amends regulation 3(3)(e) of the principal Regulations (entitlement to benefit) to lower to age four the age under which a child who satisfies the conditions stated is a person entitled to benefit.

Regulations 5 and 7 provide for Healthy Start vitamins and payments in lieu of Healthy Start vitamins. Regulations 4(1), 6 and 8 make amendments to the principal Regulations consequent on the introduction of Healthy Start vitamins.

Regulation 9 inserts a new paragraph (2A) into regulation 12 of the principal Regulations to provide expressly for information to be disclosed to and used by persons carrying out functions on behalf of the Secretary of State for enforcement of the Regulations.

Regulation 11 amends the 1996 Regulations in particular to bring to an end entitlement to milk, dried milk or vitamins under the 1996 Regulations except for milk or dried milk for children in day care.

Regulation 12 makes transitional provision.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Department of Health, Wellington House, 133 – 155 Waterloo Road, London SE1 8UG.

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(13) as amended by the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2006, [S.I. 2006/589](#).

(14) [S.I. 1996/1434](#), as amended by the Welfare Food (Amendment) Regulations 2005, [S.I. 2005/688](#) and the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2006, [S.I. 2006/589](#). Previous amending instruments were revoked by regulation 3 of [S.I. 2005/688](#), and earlier amending instruments.