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STATUTORY INSTRUMENTS

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**2020 No. 267**

**The Healthy Start Scheme and Welfare Food  
(Miscellaneous Amendments) Regulations 2020**

**PART 2**

Amendment of secondary legislation

**Amendment of the principal Regulations**

2. The principal Regulations are amended in accordance with regulations 3 to 18.

**Amendment of regulation 2 (interpretation)**

- 3.—(1) In regulation 2(1)—

- (a) after the definition of “clinical commissioning group” insert—

““credit” and related expressions (however expressed and except in the expressions “state pension credit”, “tax credit” and “universal credit”) are to be construed in accordance with regulation 8(1)(b);”;

- (b) for the definition of “estimated date of delivery” substitute—

““estimated date of delivery” means the date included in a claim for benefit pursuant to paragraph 1(e) of Schedule 2;”;

- (c) omit the definition of “food outlet”;

- (d) omit the definition of “Health Board”;

- (e) omit the definition of “health professional”;

- (f) in the definition of “Healthy Start food”, omit sub-paragraph (b) but not the “and” after it;

- (g) in the definition of “Healthy Start vitamins”, omit sub-paragraph (b) but not the “and” after it;

- (h) in the definition of “parental responsibility”, omit from “, and in Scotland” to the end;

- (i) omit the definition of “period of validity”;

- (j) after the definition of “state pension credit” insert—

“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012(1);”.

- (2) In regulation 2(3), for “regulations 3 to 10, 12, 14 and 15, but not regulation 15(2)” substitute “regulations 3 to 10, but not regulation 8(4) or (5) or 9A(2)”.

**Amendment of regulation 3 (entitlement to benefit)**

4.—(1) For regulation 3(1)(2) substitute—

“(1) Subject to paragraph (3A), a person is entitled to benefit in accordance with these Regulations where—

- (a) the person is a person described in paragraph (3) (“the pregnant woman, mother or child”); and
- (b) at least one of the following is ordinarily resident in England or Wales—
  - (i) the pregnant woman, mother or child;
  - (ii) the member of the family of the pregnant woman, mother or child described in paragraph (3)(a), (3)(c), (3)(d) or (3)(e);
  - (iii) the other member of the couple described in paragraph (3)(ab)(ii) or (3)(db)(ii); or
  - (iv) the person responsible for the pregnant woman, mother or child described in paragraph (3)(aa)(ii), (3)(ab)(iii), (3)(da)(ii), (3)(db)(iii) or (3)(f).”.

(2) In regulation 3(2)(a), after “voucher” insert “or credit” and for “regulation 8(3)” substitute “regulation 8”.

(3) In regulation 3(3), for “paragraph (1)” substitute “paragraph (1)(a)”.

(4) After regulation 3(3) insert—

“(3A) A person is not entitled to benefit under these Regulations in respect of any week in respect of which the person is entitled to benefit in accordance with Part 5 of the Welfare Food (Best Start Foods) (Scotland) Regulations 2019.”.

**Amendment of regulation 4 (claim for benefit)**

5.—(1) In regulation 4(1)(3), for the words from “submits to the Secretary of State” to the end substitute “makes a claim to the Secretary of State that includes the information and declaration specified in Schedule 2”.

(2) In regulation 4(3) and (3B), for “submitted” substitute “made”.

**Amendment of regulation 5 (Healthy Start food and payments in lieu)**

6. For regulation 5(2)(4) substitute—

“(2) If the Secretary of State is satisfied that a beneficiary cannot use a voucher within a reasonable distance of beneficiary’s home, the Secretary of State may, instead of issuing a voucher or credit, pay the beneficiary an amount equal to the value represented by the voucher or credit the beneficiary would otherwise receive.”.

**Amendment of regulation 6 (advice on health and nutrition)**

7. In regulation 6(5), after “voucher” insert “or credit”.

(2) Regulation 3 was revoked in relation to Scotland by [S.S.I. 2019/193](#) and amended by [S.I. 2006/2818](#), [2008/408](#), [2008/1879](#), [2009/295](#), [2010/434](#), [2016/985](#), [2017/1032](#) and [2019/909](#).

(3) Regulation 4 was revoked in relation to Scotland by [S.S.I. 2019/193](#). There are amendments to regulation 4 which are not relevant to these Regulations.

(4) Regulation 5(2) was revoked in relation to Scotland by [S.S.I. 2019/193](#).

(5) Regulation 6 was revoked in relation to Scotland by [S.S.I. 2019/193](#).

### **Amendment of regulation 7 (cessation of entitlement to benefit)**

- 8.—(1) In regulation 7(1)(6), for “regulation 3 or 4” substitute “regulation 3, 4, 9(6) or 9A(4).  
(2) In regulation 7(2), after “vouchers” insert “, credit”.

### **Amendment of regulation 7A (functions of the NHS Business Services Authority)**

9. In regulation 7A(2)(7)—
- (a) for sub-paragraph (a) substitute—
    - “(a) carrying out administrative functions relating to—
      - (i) the issue or making of payments in lieu of vouchers or credit for the purchase of Healthy Start food;
      - (ii) the supply of Healthy Start vitamins;”;
  - (b) in sub-paragraph (b), for “regulation 15” substitute “regulation 9A”;
  - (c) after sub-paragraph (b) insert—
    - “(c) administering the Healthy Start scheme.”.

### **Substitution of regulation 8 (issue of voucher)**

10. For regulation 8(8) substitute—

#### **“Issue of voucher or credit**

8.—(1) For each week that a beneficiary is entitled to benefit under regulations 3 and 4 the Secretary of State must—

- (a) issue or cause to be issued to that beneficiary a voucher; or
- (b) credit an amount to a voucher previously issued to that beneficiary,

to enable the beneficiary to purchase Healthy Start food.

(2) A voucher issued under paragraph (1)(a) may be in paper form, electronic form or in the form of a pre-paid payment card.

(3) The value represented by a voucher or credit issued under paragraph (1) (“the voucher or credit value”) must not be less than £3.10.

(4) Subject to paragraph (3), the Secretary of State may increase or decrease the voucher or credit value.

(5) When determining whether to exercise the power in paragraph (4) the Secretary of State must have regard to the following—

- (a) the cost of purchasing Healthy Start food;
- (b) any matters relating to the supply of Healthy Start food; and
- (c) any other relevant factors.

(6) Where the power in paragraph (4) is exercised, the Secretary of State must publish, in such manner as the Secretary of State considers appropriate—

- (a) the revised voucher or credit value; and
- (b) the date from which the revision is to apply.”.

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(6) Regulation 7 was revoked in relation to Scotland by [S.S.I. 2019/193](#).

(7) Regulation 7A was inserted by [S.I. 2017/1032](#) and revoked in relation to Scotland by [S.S.I. 2019/193](#).

(8) Regulation 8 was revoked in relation to Scotland by [S.S.I. 2019/193](#) and amended by [S.I. 2006/2818](#), [2008/408](#) and [2009/295](#).

**Amendment of regulation 8A (provision of Healthy Start vitamins)**

- 11.**—(1) In regulation 8A(1)(9)—
- (a) at the end of sub-paragraph (a) insert “and”;
  - (b) omit sub-paragraph (b) and the “and” before it.
- (2) In regulation 8A(5), omit the word “documentary”.
- (3) In regulation 8A(6)—
- (a) for “paragraph (4)” substitute “paragraph (5)”;
  - (b) omit the word “documentary” in both places it occurs.

**Amendment of regulation 9 (use of voucher)**

- 12.**—(1) In regulation 9(1)(10), for “within the period of its validity exchange a voucher for” substitute “only use a voucher to purchase”.
- (2) In regulation 9(3), for “exchanged for” substitute “used to purchase”.
- (3) In regulation 9(4)(b), for “supplied in exchange for” substitute “purchased with”.
- (4) After regulation 9(4) insert—
- “(5) Where a voucher issued to a beneficiary has not been used for a period of 16 consecutive weeks the Secretary of State may cancel the voucher.
  - (6) Where a voucher has been cancelled under paragraph (5) the beneficiary ceases to be entitled to benefit under these Regulations.”.

**New regulation 9A (requirement to provide information or evidence)**

- 13.** After regulation 9 insert—

**“Requirement to provide information or evidence**

**9A.**—(1) The Secretary of State may require a person to take reasonable steps to provide 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 provide information or evidence under paragraph (1) must produce to that person evidence of his authority from the Secretary of State, if requested.

(3) Where a person fails to provide the information or evidence required the Secretary of State may suspend the issue of vouchers or credit to the person until—

- (a) the information or evidence required is provided;
- (b) the Secretary of State is satisfied of the person’s entitlement to benefit pursuant to these Regulations or the person’s compliance with the requirements of the Healthy Start scheme; or
- (c) the person ceases to be entitled to benefit under these Regulations (whether in accordance with paragraph (4) or another provision, as to which see regulation 7).

(4) Where the issue of vouchers or credit has been suspended under paragraph (3) for a period of 16 consecutive weeks, the person ceases to be entitled to benefit under these Regulations.”.

(9) Regulation 8A was inserted by [S.I. 2006/2818](#) and amended by [S.I. 2013/235](#); it was revoked in relation to Scotland by [S.S.I. 2019/193](#).

(10) Regulation 9 was revoked in relation to Scotland by [S.S.I. 2019/193](#) and amended by [S.I. 2006/2818](#).

**Amendment of regulation 10 (failure to receive benefit)**

- 14.—(1) In the heading to regulation 10(11), omit “represented by the voucher”.
- (2) In regulation 10(1), after “voucher” insert “or credit”.
- (3) For regulation 10(2) substitute—
- “(2) If a beneficiary who is entitled to benefit under regulations 3 and 4 receives a voucher or a credit to a voucher, and—
- (a) the voucher is lost or stolen or accidentally destroyed; or
- (b) it is not possible to use the voucher to purchase Healthy Start food within a reasonable distance of the beneficiary’s home; or
- (c) the beneficiary is a child under the age of one year and it is not possible to use the voucher to purchase Healthy Start food consisting of infant formula as described in Schedule 3 within a reasonable distance of the child’s home,
- the beneficiary may, in accordance with paragraph (3), so notify in writing the Secretary of State for the purposes of this regulation.”.
- (4) In regulation 10(3)—
- (a) in sub-paragraph (a)—
- (i) for “submitted” substitute “made”;
- (ii) for “within four weeks of the date of expiry of her last voucher” substitute “within eight weeks of the date the voucher or credit was due to be received”;
- (b) for sub-paragraph (b) substitute—
- “(b) (i) in paragraph (2)(a), must do so within 16 weeks beginning with the date on which the voucher or credit was received;
- (ii) in paragraph (2)(b) and (c), must do so within 8 weeks beginning with the date on which the voucher or credit was received.”.
- (5) In regulation 10(4)—
- (a) in sub-paragraph (a), after “voucher” insert “or credit”;
- (b) for sub-paragraph (c) substitute —
- “(c) on a notification pursuant to paragraph (2)(b) or (c), that it is not possible to use the voucher to purchase Healthy Start food, or Healthy Start food consisting of infant formula as described in Schedule 3, within a reasonable distance of the beneficiary’s home,”;
- (c) in the full out words—
- (i) after “shall” insert “, subject to paragraph (5),”;
- (ii) after the first reference to “voucher” insert “or credit” and after the second reference insert “or, as the case may be, credit”.
- (6) After regulation 10(4) insert—
- “(5) Where a voucher is issued or a payment made in a case falling within paragraph (4) (b) or (c), the amount of any credit spent prior to the notification being made may be deducted from the value represented by the voucher or payment.”.

**Revocation of Part 4 (food outlets)**

15. Omit Part 4(12).

**Amendment of Schedule 2 (application for benefit)**

16. In Schedule 2(13)—

(a) in paragraph 1—

(i) at the end of sub-paragraph (c) omit “and”;

(ii) in sub-paragraph (d)(i), after “regulation 3(3)(a),” insert “3(3)(c),”;

(iii) at the end of sub-paragraph (d)(iii) insert “and”;

(iv) after sub-paragraph (d) insert—

“(e) the estimated date of delivery of the pregnant woman.”;

(b) omit paragraphs 2 and 3;

(c) in paragraph 4—

(i) omit the word “signed” in each place it occurs;

(ii) after sub-paragraph (2) insert—

“(3) A declaration provided under this paragraph must be in the format that the Secretary of State requires.”;

(d) omit paragraph 5.

**Amendment of Schedule 3 (Healthy Start food)**

17. In the table in Schedule 3(14)—

(a) in column 1, for the entry relating to fresh or frozen fruit and vegetables substitute “Fresh, frozen or canned fruit and vegetables”;

(b) for the corresponding entry in column 2 substitute “Fresh, frozen or canned fruit and vegetables including loose, pre-packed, whole, sliced, chopped or mixed fruit or vegetables, fruit in fruit juice, or fruit or vegetables in water, but not those to which fat, salt, sugar or flavouring have been added.”;

(c) at the end of the table insert—

“Pulses	Fresh, dried or canned pulses, including but not limited to lentils, beans, peas and chickpeas but not those to which fat, salt, sugar or flavouring have been added.”.
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**Revocation of Schedules 4 (application for registration as a food outlet) and 5 (information for claim for payment of food outlet)**

18. Omit Schedules 4 and 5.

(12) Part 4 was amended by [S.I. 2006/2818](#).

(13) Schedule 2 was revoked in relation to Scotland by [S.S.I. 2019/193](#) and amended by [S.I. 2008/1879](#), [2009/295](#), [2010/434](#), [2016/985](#) and [2019/909](#).

(14) Schedule 3 was amended by [S.I. 2011/426](#).

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

19. The 1996 Regulations are amended in accordance with regulations 20 to 24.

### **Amendment of regulation 2 (interpretation)**

20. In regulation 2(1)(15), for the definition of “dried milk” substitute—

““dried milk” 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, which has been concentrated to the form of powder, granule or solid by the removal of water;”.

### **Amendment of regulation 18 (milk or dried milk for children in day care)**

21. In regulation 18(1)(b)(16), for “either to milk as in paragraph (a) or dried milk,” substitute “dried milk”.

### **Amendment of regulation 21A (functions of the NHS Business Services Authority)**

22. In regulation 21A(17)—

(a) after paragraph (1)(b) insert—

“(c) carrying out administrative functions relating to the approval of suppliers under Part V;

(d) administering the Nursery Milk Scheme.”;

(b) in paragraph (2), after “paragraph (1)” insert “—(a)” and after “Order 2005” insert;

“(b) the “Nursery Milk Scheme” means the scheme set out in these Regulations.”.

### **Amendment of regulation 22 (application of enactments)**

23. In regulation 22(2)(18), omit “regulation 13(1);” and “regulation 13(3);”.

### **Revocation of Schedule 1 (dried milk specified for the purpose of the Regulations)**

24. Omit Schedule 1(19).

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(15) The definition was substituted by [S.I. 2015/917](#).

(16) Regulation 18 was amended by [S.I. 2005/3262](#) and [2006/2818](#).

(17) Regulation 21A was inserted by [S.I. 2017/1032](#).

(18) Regulation 22 was amended by [S.I. 2005/3262](#) and [2006/2818](#).

(19) Schedule 1 was substituted by [S.I. 2015/917](#).