

**FOOD BENEFIT SCHEMES
(NORTHERN IRELAND) ORDER 2003**

S.I. 2003 No. 3202 (N.I. 19)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Food Benefit Schemes (Northern Ireland) Order 2003 (“the Order”) was made on 10th December 2003 under paragraph 1 (1) of the Schedule to the Northern Ireland Act 2000, modified by section 186 of the Health and Social Care (Community Health and Standards) Act 2003, subject to annulment in pursuance of a resolution of either House of Parliament. The Order is made only for purposes corresponding to those of section 185 of the Health and Social Care (Community Health and Standards) Act 2003.
2. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety (“the Department”) in order to assist the reader in understanding the Order.

BACKGROUND AND POLICY OBJECTIVES

3. The Welfare Foods Scheme was introduced in 1940 as a wartime measure to protect the health of mothers and children at a time of shortages and rising prices. Since its inception the Northern Ireland scheme has been in parity with the Scheme in England, Scotland and Wales. Originally benefits were universal, but in more recent years, eligibility has been restricted to those in receipt of Income Support and Income Based Job Seekers’ Allowance. The nature of foods provided has been only slightly modified over the last 60 years. The current scheme provides tokens for milk (in both liquid and dried form) and vitamins to expectant mothers and children up to the age of 5 years. It also provides non-means tested milk to children up to the age of 5 years in nurseries and day care and to a very small number of disabled children.
4. A UK scientific review of the scheme was undertaken in 1999 by the Panel on Maternal and Child Nutrition of the Committee on the Medical Aspects of Food and Nutrition Policy (COMA). The COMA review concluded that whilst the scheme retained great potential for improving the health of nutritionally vulnerable pregnant women, mothers and young children, there were significant flaws within it. It found that the scheme does not meet the wider nutritional needs for pregnant women and young children, who would benefit from a wider choice of foods to help address health inequalities; is a disincentive to breastfeeding; provides up to twice as much infant formula as 6-12 month olds actually need; and provides too much milk to 1-5 year olds.

CONSULTATION

5. In Great Britain proposals for a new scheme, which were shaped by the COMA review and by consultation with health professionals and users of the scheme, were issued for public consultation in October 2002. In Northern Ireland, the Department issued the Great Britain consultation document “*Healthy Start*” in November 2002 for a

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three month consultation period. The document was issued to over 300 interested organisations and included all Northern Ireland political parties, Assembly Members and the Health Committee.

6. Responses were received from 44 organisations and individuals. In addition five focus groups were held across Northern Ireland. The majority of respondents supported the reform of the current scheme. Concerns were raised by the dairy industry about the consequences of changes for door-step deliveries of milk. A summary of the responses is available on the Department's website: www.dhsspsni.gov.uk.

COMMENTARY ON ARTICLES

7. The Order contains 3 Articles. Articles 1 and 2 are introductory provisions, Article 3 forms the main body of the Order and is described below.
8. In Article 3, paragraph (1) replaces Article 13 of the Social Security (Northern Ireland) Order 1988, which provided powers for a scheme or a number of schemes to be established to distribute welfare food. The new Article 13 provides powers for regulations to establish a new scheme or schemes, to help certain pregnant women, mothers and children to have access to and incorporate into their diets, food of a prescribed description.
9. It is intended that the nutritional basis of the current scheme will be extended under the first new scheme to include a broader range of foods in addition to milk and infant formula. It is likely that the only additional foods in the first instance will be fruit and vegetables, and that their role in the scheme will be evaluated before the range of foods is modified further. The aim is to use a voucher bearing a fixed value to enable beneficiaries to access these foods. It is also intended that the new scheme should be integrated with, and consistent with, the health services and health policies so that beneficiaries can receive appropriate advice on nutrition to complement the prescribed food benefit.
10. *Paragraph (1)* of the new Article 13 empowers the Department to make regulations to establish one or more schemes to provide benefits for specified categories of pregnant women, mothers and children to have access to food of a prescribed description. The first set of regulations will be subject to confirmatory procedure. Thereafter regulations will be subject to negative resolution. It is intended that the new scheme, like the existing scheme, will continue to be targeted primarily at low income families in receipt of specified benefits such as Income Support, Income based Job Seekers' Allowance and Tax Credits, and that the nursery element of the scheme will remain non means-tested.
11. *Paragraph (2)* of the new Article 13 provides for a scheme to specify requirements that must be met if pregnant women, mothers and children are to receive benefits or for a beneficiary to remain entitled to a continuing benefit. It is intended that any requirements set will be reasonable and proportionate, and consistent with existing and developing good practice in relation to the administration of health and social security benefits. Their effect is also intended to be fully evaluated from the outset, with modifications to be made if necessary. Regulations are likely to include definitions of, amongst other things, the qualifying benefits and low income thresholds for participation. Regulations are also likely to specify that beneficiaries are responsible for ensuring that they use vouchers they are given in accordance with the rules of the scheme.
12. The current Article 13 of the 1988 Order enables regulations to provide for the distribution or disposal of welfare food. *Paragraph (3)(a)* of the new Article 13 provides for a scheme to include the categories of providers who may supply food under the scheme. This could include food suppliers, providers of day care, and health service bodies. It is intended that retailers will supply the majority of foods in exchange for the voucher as they do presently with the current milk token and that nursery or

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day care institutions will provide the non means-tested element of the scheme. Other suppliers, such as food co-operatives or voluntary and community organisations will also be encouraged to participate. As set out in the consultation document, ‘*Healthy Start*’, the Department intends to shift the supply of dried milk (infant formula) to retail outlets and to end distribution via Health Service clinics in order to remove a potential barrier to the promotion of breastfeeding. It is not intended that a provider be required to provide the full range of foods available under the scheme in order to participate. This means, for example, that milk deliverers could participate and provide only milk, greengrocers or farmers’ markets could participate and provide only fruit and vegetables, and pharmacies could participate and provide only infant formula.

13. *Paragraph (3)(b)* of the new Article 13 provides that a scheme may make provision to enable beneficiaries to gain access to the prescribed food by means of a voucher or other arrangement. The current scheme is based primarily upon the use of tokens that are exchangeable for specified quantities of liquid or formula food. As it is the policy intention to provide a wider range of foods under a new scheme or schemes, different mechanisms for enabling access to the foods may be required. These may include, for example, a system based on vouchers of a fixed value, which will enable parents or beneficiaries to obtain food of a prescribed description from a wide variety of retailers.
14. Under *paragraphs (3)(d) and (e)* of the new Article 13 a scheme may provide for the recompense of registered persons and the payment of beneficiaries, for example, those who fail to receive the benefit for whatever reason. These provisions, amongst other things, replace respectively paragraphs (4) (c) and (3) (b) of the current Article 13.
15. Under *paragraphs (3)(f) and (g)* of the new Article 13 a scheme may provide for the delegation of the operation of all or part of a scheme, to be carried out by Health Service or other bodies that are specified in regulations. The Department, for example, may wish to contract-out elements of the scheme, which relate to the distribution of vouchers to beneficiaries and reimbursement of suppliers.
16. *Paragraphs (3)(h) and (4)* of the new Article 13 largely replace and update paragraphs (4)(d) and (5) of the current Article 13. A scheme may provide for prescribed persons to be required to supply information to assist in the administration of the scheme. For example, suppliers may be required to provide information to verify that vouchers have been properly exchanged in accordance with the provisions of the scheme.
17. *Paragraph (4) (a)* of the new Article 13 provides that a scheme may require information to be provided in legible form. Such a provision could, for example, ensure that computerised records are made available in printed form.
18. *Paragraph (5)* of the new Article 13 provides the power for the Department to direct a body, such as a health body or contracted service provider, in relation to the operation of the scheme.
19. *Paragraph (6)* of the new Article 13 replaces the current power in Article 13(4)(e) of the 1988 Order relating to prosecution of some offences.
20. *Paragraph (7)* of the new Article 13 applies the confirmatory procedure under section 166 (1) of the Social Security Administration (Northern Ireland) Act 1992 to the first set of regulations made under paragraph (1) of that Article.
21. *Paragraph (8)* of the new Article 13 contains a number of definitions, including a definition of “woman” that includes persons under the age of 18.
22. Paragraph (2) of Article 3 makes an amendment that is consequential upon paragraph (7) of the new Article 13.