

2021 No. 26

FOOD

**The Healthy Start Scheme and Day Care Food Scheme
(Amendment) Regulations (Northern Ireland) 2021**

Made - - - - *4th February 2021*

Coming into operation - *5th February 2021*

The Department of Health^(a) makes the following Regulations in exercise of the powers conferred by Article 13(1) to (4), (6) and (8) of the Social Security (Northern Ireland) Order 1988^(b) and section 171(2) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992^(c).

PART 1

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Healthy Start Scheme and Day Care Food Scheme (Amendment) Regulations (Northern Ireland) 2021, and shall come into operation on the 5th February 2021.

(2) In these regulations “the principal Regulations” means the Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006^(d).

PART 2

Amendments to the principal Regulations

2. The 2006 Regulations are amended in accordance with regulations 3 to 19.

Amendments of regulation 3 (interpretation)

3.—(1) In regulation 3(1)—

(a) after the definition of “child” insert —

(a) Formerly the Department of Health, Social Services and Public Safety, see 2016 c. 5 (N.I.), section 1(5)
(b) S.I. 1988/594 (N.I. 2) Article 13 is substituted by Article 3 of S.I. 2003/3202 (N.I. 19) see S.R. 2006 No. 418 (C. 24) as amended by S.R. 2006 No. 437 (C. 26)
(c) 1992 c. 7, section 171 (2) and (5) is applied by Article 15A of the Social Security (Northern Ireland) Order 1988, which Article was inserted by Article 22(1) of, and paragraph 6(9) of Schedule 6 to, the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)), and amended by section 4 of, and paragraph 35(4) and (5) of Schedule 2 to, the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), and Article 3(2) of S.I. 2003/3202 (N.I. 19)
(d) S.R. 2006 No. 478 as amended by S.R. 2007 No. 188, S.R. 2008 No. 131 and 412, S.R. 2009 No. 87, S.R. 2010 No.98, S.R. 2011 No. 41, S.R. 2011 No. 320, S.I. 2012/1916, S.R. 2013 No. 178, S.R. 2017 No. 200 and S.R. 2019 No. 117

““credit” and related expressions (however expressed and except in the expression “state pension credit”, “tax credit” and “universal credit”) is to be construed in accordance with regulation 10(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 1;”;

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

(d) omit the definition of “health professional”;

(e) omit the definition of “period of validity”;

(f) after the definition of “the 1988 Regulations” insert—

““universal credit” means universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015(a);”

Amendment of regulation 4 (entitlement to benefit)

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

“(1) 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 Northern Ireland;

(i) the pregnant woman, mother or child;

(ii) the member of the family member 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)(ii), (3)(da)(ii) or (3)(f).”.

(2) In regulation 4(2)(a), after “voucher” insert “or credit” and for “regulation 10(3)” substitute “regulation 10”.

(3) In regulation 4(3) for “paragraph (1)” substitute “paragraph (1)(a)”.

Amendment of regulation 5 (claim for benefit)

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

(2) In paragraphs (5)(3) and (3B) for “submitted” substitute “made”.

Amendment of regulation 6 (Healthy Start food and payment in lieu)

6. For regulation 6(2) substitute—

“(2) If the Department is satisfied that a beneficiary cannot use a voucher within a reasonable distance of their home, the Department 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 8 (advice on health and nutrition)

7. In regulation 8 after “voucher” insert “or credit.”

Amendment of regulation 9 (cessation of entitlement to benefit)

8.—(1) In regulation 9, for “regulation 4 or 5” substitute “regulations 4, 5, 12(6) or 12A(4)”.

(2) In Regulation (9)(2) after “vouchers” insert “, credit”.

Substitution of regulation 10 (issue of voucher)

9. For regulation 10(a) substitute—

“Issue of voucher or credit

10.—(1) For each week that a beneficiary is entitled to benefit under regulation 4 and 5 the Department 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) (“voucher or credit value”) must not be less than £3.10.

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

(5) When determining whether to exercise the power in paragraph (4) the Department 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 Department must publish, in such a manner as the Department considers appropriate—

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

Amendment of regulation 11 (provision of Healthy Start vitamins)

10.—(1) In regulation 11(5), omit the word “documentary”.

(2) In regulation 11(6) omit the word “documentary” in each place where it occurs.

Amendment of regulation 12 (use of voucher)

11.—(1) For regulation 12(1), for “within the period of its validity exchange a voucher for” substitute “only use a voucher to purchase”.

(2) In regulation 12(3) for “exchanged for” substitute “used to purchase”.

(3) In regulation 12(4)(b) for “supplied in exchange for” substitute “purchased with”.

(4) After regulation 12(4) insert—

(a) Relevant amending instruments are S.R. 2008 No.131 and S.R. 2009 No. 87

“(5) Where a voucher issued to a beneficiary has not been used for a period of 16 consecutive weeks the Department 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 12A Regulations (requirement to provide information or evidence)

12. After regulation 12 insert—

“Requirement to provide information or evidence

12A.—(1) The Department 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 Department, if requested.

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

- (a) the information or evidence requested is provided;
- (b) the Department 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 9).

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

Amendment of regulation 13 (failure to receive benefit)

13.—(1) In the heading to regulation 13 omit “represented by the voucher”.

(2) In regulation 13(1) after “voucher” insert “or credit”.

(3) For regulation 13(2) substitute—

“(2) If a beneficiary who is entitled to benefit under regulations 4 and 5 receives a voucher or 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 2 within a reasonable distance of the child’s home,

the beneficiary may, in accordance with paragraph (3), so notify in writing the Department for the purposes of this regulation.”.

(4) In regulation 13(3)—

(a) in sub-paragraph (a)—

(i) for “submitted” substitute “made”.

(ii) for “within four weeks of and including the date of expiry of his last voucher” substitute “within eight weeks and including 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 13(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 2, 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 13(4) insert—

“(5) Where a voucher is issued or payment is made in a case falling within under paragraph (4)(b) or (c), the amount of any credit spent prior to such notification being made may be deducted from the value represented by the voucher or payment.”.

Revocation of Part 5 (food outlets)

14. Omit Part 5

Amendment of regulation 22 (Day Care Food Scheme Interpretation)

15. In regulation 22(1) for the definition of “infant formula” substitute—

““infant formula” 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 Schedule 1 (application for benefit)

16. In Schedule 1(a)—

- (a) in paragraph (1)—
 - (i) at the end of sub-paragraph (c) omit “and”;
 - (ii) in sub-paragraph (d)(i), after “regulation 4(3)(a),” insert “4(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 Department requires.”;

(a) Schedule 1 was amended by S.R. 2008 No.131, 2009 No.87, 2010 No.98, 2017 No.200 and 2019 No.117

- (d) omit paragraph 5.

Amendment of Schedule 2 (Healthy Start food)

17. In Schedule 2(a)—

- (a) in column 1, for the entry relating to fresh or frozen fruit and vegetables substitute “Fresh, frozen or canned fruit and vegetables”;
- (i) 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.”.
- (b) 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 Schedule 3 (application for registration as a food outlet) and 4 (information for claim for payment of food outlet)

18. Omit Schedules 3 and 4.

PART 3

Transitional provision

19.—(1) The principal Regulations as applied immediately before the coming into operation of these Regulations, continue to apply as if the amendments made by regulations 3 to 18, with the exception of regulation 17, had not been made where—

- (a) (i) a beneficiary seeks to exchange a voucher for Healthy Start food at a food outlet;
- (ii) a beneficiary has,
- (aa) prior to the coming into operation of these Regulations, failed to receive a benefit as set out in regulation 13(1) of the principal Regulations; or
- (bb) failed to receive a benefit represented by a voucher in the circumstances set out in regulation 13(2) of the principal Regulations;
- (iii) a food outlet has accepted a voucher from a beneficiary and failed on that occasion to supply Healthy Start food to the beneficiary as provided for in regulation 16(3) of the principal Regulations; or
- (iv) a food outlet makes a claim for payment in relation to a voucher in accordance with the principal Regulations;
- (b) the voucher referred to in sub-paragraph (a)(i), (ii)(bb) and (iv), is in paper form; and
- (c) the food outlet referred to in sub-paragraph (a)(i), (iii) and (iv) was registered as a food outlet by the Department under regulation 15 of the principal Regulations prior to the coming into operation of these Regulations.

(2) The terms used in this regulation have the same meaning as the principal Regulations as they applied immediately before the coming into operation of these Regulations.

(a) Schedule 2 was amended by S.R. 2011 No. 41

Sealed with the Official Seal of the Department of Health on 4th February 2021
(L.S.)

Elizabeth Redmond
A senior officer of the
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006 (S.R. 2006 No. 478) (“the Principal Regulations”).

Part 2 makes amendments to the principal Regulations.

- Regulations 3 to 18 amend the principal Regulations. The principal Regulations establish a scheme to improve nutrition in pregnant women, mothers and young children by providing for vouchers to be issued to beneficiaries to enable the purchase of certain basic food and vitamins (“the scheme”). These Regulations make amendments to the principal Regulations to provide for the digitisation of the scheme. This includes the gradual replacement of paper vouchers with vouchers in electronic form or in the form of a pre-paid payment card and removal of the requirement to provide evidence in writing, signed by a health professional, of the estimated date of delivery of the pregnant woman. In addition, regulation 17 expands the definition of ‘Healthy Start food’ (which may be purchased with vouchers) to include pulses and canned fruit and vegetables.
- Regulation 19 amends Part VII. Part VII provides for a scheme (“the Day Care Food Scheme”) which entitles children under the age of five years to free milk where they are looked after, or provided with day care, by an approved day care provider, for two hours or more. Regulation 19 substitutes the definition of ‘infant formula’ so that a greater variety of dried milk, which are not limited to certain brands, may be provided to children under the nursery milk scheme.

Part 3 makes transitional provisions.

An impact assessment has not been prepared for this rule as no, or no significant, impact on the private or voluntary sector is foreseen.

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