

EXECUTIVE NOTE

THE MILK AND MILK PRODUCTS (PUPILS IN EDUCATIONAL ESTABLISHMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2011

SSI 2011/82

1. Introduction

1.1 The Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations (“the Regulations”) are made in exercise of powers conferred upon Scottish Ministers by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(1) and all other powers enabling them to do so. The Regulations are subject to negative resolution procedure.

2. Purpose of Instrument

2.1 The Regulations will:

- amend the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001 (“the principal Regulations”) to update EU law references with new references required as a result of Council Regulation (EC) 1234/2007 (The Single CMO Regulation);
- make specific references to EU law ambulatory.

3. Legislative Context

3.1 The Regulations amend the principal Regulations. The principal Regulations lay out the detailed implementing rules for the EU milk scheme, providing for the payment of an EU subsidy for milk and certain milk products in educational establishments and allow member states to pay national ‘top-ups’ to that Community aid.

Specifically, the principal Regulations provide that any national ‘top-up’ aid payments made, as permitted by EU Law, for the supply of milk and milk products in educational establishments, shall be subject to the same rules as apply to Community aid under EU law. The principal Regulations also provide for the withholding or recovery of any Community aid or any national payments to which the applicant is not entitled or where the applicant is in breach of any commitments given as a condition of such Community aid or national payment.

3.2 The Regulations update references in the principal Regulations in light of changes in EU Law. Council Regulation (EC) 1255/1999 which provided for the payment of an EU subsidy for milk and milk products in schools and allowed member states to pay national top up payments in addition to the Community aid was repealed and replaced by the Single CMO Regulation. Commission Regulation 2707/2000, which laid out detailed implementing rules for the EU milk scheme was repealed and replaced by Commission Regulation 657/2008.

There are no major changes as a result of the replaced provisions although Regulation 657/2008 has increased the scope of the EU subsidy scheme. The changes are as follows:-

- (a) secondary schools may now also be beneficiaries of aid;
- (b) new provision on eligible milk products for aid;
- (c) changes to general conditions for approval, in relation to written commitments on scrutiny of records and repayment of unduly paid aid;
- (d) less stringent record keeping requirements for suppliers of milk products and organisations acting on behalf of schools;
- (e) extended period after which approval for aid may be restored at an applicant's request, if it has been withdrawn;
- (f) payment applications must now be lodged by the end of the third, rather than fourth, month following the end of the period of the application;
- (g) small changes in relation to the detailed rules for the payment of aid, including aid must now be paid within three, rather than four, months of a valid application being lodged;
- (h) provision on administrative checking of aid applications has been introduced, including on the spot checks;
- (i) the provision previously allowing Member States to pay advances of aid is no longer incorporated.

3.3 The Regulations have been the subject of consultation with interested stakeholders as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down general principles of food law, establishing the European Food and Safety Authority and laying down procedures in matters of food safety. Scottish Ministers have also had regard to relevant advice given by the Food Standards Agency.

3.4 The Regulations also provide that any references to the relevant provisions of the Single CMO Regulation and Commission Regulation (EC) No 657/2008 are to be construed as references to those provisions as amended from time to time. Should further amendments be made to those provisions of the Single CMO Regulation, the Scottish Government will publish relevant information on its website and send updates to interested parties where considered appropriate. Any amendments to these provisions will also be published on the Europa website, (http://europa.eu/documentation/legislation/index_en.htm).

4. Territorial Extent and Application

4.1 This instrument applies to Scotland only.

5. Policy Background

5.1 The main objective of the Regulations is to amend the principal Regulations for Scotland with updated EU law in this area. The Regulations again ensure that the provision of any national 'top-up' aid for the provision of milk in educational establishments shall be subject to the same rules as apply to Community aid under EU law. To this end references in the principal Regulations to have been updated to reflect this new EU law.

6. Consultation Outcome

6.1 The bodies listed in Annex A have been consulted during the preparation of the instrument. The consultation was also published on the SG website. Only one substantive response was received; this was from the Food Standards Agency who was generally supportive.

7. Financial Effects

7.1 The changes to the principal Regulations should have no cost implications for the dairy industry. For this reason a Business Regulatory Impact Assessment has not been prepared.

8. Contact

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The Scottish Government Rural and Environment Directorate
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Consultation List

Arla Foods UK
Convention of Scottish Local Authorities
Dairy UK Scotland
First Milk
Food Standards Agency Scotland
Graham's Dairies
National Farmers Union Scotland
Orkney Milk
Robert Wiseman Dairies
Scottish Consumer Council
Scottish dairy Association
Scottish Enterprise
Scottish Grocers Federation
Scottish retail Consortium
Sorn Milk