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## STATUTORY INSTRUMENTS

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# 1994 No. 2004

## FOOD

### The Welfare Food Amendment Regulations 1994

*Made* - - - - - *28th July 1994*

*Laid before Parliament* *29th July 1994*

*Coming into force* - - - *19th August 1994*

In exercise of the powers conferred upon me by section 13(3) and (4) of the Social Security Act 1988(1) and section 175(2) to (5) of the Social Security Contributions and Benefits Act 1992(2) (as applied by section 15A of the Social Security Act 1988) and all other powers enabling me in that behalf, I hereby make the following Regulations:—

#### **Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Welfare Food Amendment Regulations 1994 and shall come into force on 19th August 1994.

(2) In these Regulations “the principal Regulations” means the Welfare Food Regulations 1988(3).

#### **Amendment of regulation 2 of the principal Regulations**

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

- (a) for the definition of “local authority” there shall be substituted the following definition—  
““local authority” has the same meaning as in section 105(1) of the Children Act 1989(4);”; and
- (b) the definition of “local social services authority” shall be omitted.

#### **Amendment of regulation 4 of the principal Regulations**

**3.** In regulation 4 of the principal Regulations (additional milk or dried milk for children in day care) for paragraphs (1) to (4) there shall be substituted the following paragraphs—

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(1) [1988 c. 7](#). Section 13 was amended by paragraph 8(11) of Schedule 6 to the Social Security Act [1990 \(c. 27\)](#) and section 15A was inserted by paragraph 8(10) of that Schedule and amended by section 4 of, and paragraph 96 of Schedule 2 to, the Social Security (Consequential Provisions) Act [1992 \(c. 6\)](#).

(2) [1992 c. 4](#).

(3) S.I.[1988/536](#); the relevant amending instruments are S.I. [1989/524](#), [1990/3, 2012](#), [1991/585](#), [1992/637](#) and [1993/1105](#).

(4) [1989 c. 41](#).

“(1) Subject to paragraph (1C), a child who has not attained the age of 5 years and who is being looked after by, or provided with day care by, any person mentioned in paragraph (1B) who is approved by the Secretary of State under paragraph (4) shall be entitled, for each day on which he is so looked after for two hours or more or is so provided with day care for two hours or more—

- (a) if he has attained the age of one year, one-third of a pint of milk;
- (b) if he has not attained the age of one year, either one-third of a pint of milk or dried milk made up to provide one-third of a pint.

(1A) Entitlement under paragraph (1) is entitlement free of charge and is in addition to any entitlement under regulation 3.

(1B) The persons referred to in paragraph (1) are—

- (a) a registered childminder;
- (b) a registered day care provider;
- (c) a local authority;
- (d) a person who, though providing day care, is not required to be registered under section 71(1)(b) of the Children Act 1989 because of—
  - (i) an exemption provided by paragraph 3(1) of Schedule 9 to that Act (in this regulation called “the paragraph 3 exemption”), or
  - (ii) an exemption provided by paragraph 4(1) of that Schedule (in this regulation called “the paragraph 4 exemption”).

(1C) Entitlement under paragraph (1) is limited, in the case of a child being looked after or provided with day care by—

- (a) a local authority, to children being provided with day care in the exercise by the authority of functions under section 18 of the Children Act 1989 or under section 12 of the Social Work (Scotland) Act 1968(5);
- (b) a person to whom the paragraph 4 exemption applies, to children being looked after as part of the establishment’s activities only because they are children of persons carrying on or employed to work at that establishment.

(2) Any of the persons mentioned in paragraph (1B) may apply to the Secretary of State in accordance with paragraph (3) for approval under paragraph (4).

(3) An application under paragraph (2) shall—

- (a) be in writing;
- (b) be accompanied by the information specified in paragraph 1 of Schedule 3;
- (c) include a declaration that the information supplied is correct and complete;
- (d) in the case of an application by a person referred to in paragraph (1B)(a) or (b), also be accompanied or supported by a copy of the, or if the Secretary of State so requires the original, certificate of registration issued to that person under paragraph 6 of Schedule 9 to the Children Act 1989;
- (e) in the case of an application by a person to whom the paragraph 3 exemption applies, also be accompanied by a declaration in writing—
  - (i) that he is carrying on an establishment of a type referred to in paragraph 3(1) of Schedule 9 to the Children Act 1989 and the provision for day care is made as part of the establishment’s activities, or

- (ii) that he is a person employed to work at such an establishment and is authorised to make provision for day care as part of the establishment's activities;
  - (f) in the case of an application by a person to whom the paragraph 4 exemption applies, also be accompanied by a declaration in writing—
    - (i) that he is carrying on an establishment of a type referred to in paragraph 4(1) of Schedule 9 to the Children Act 1989, and that provision for day care is made as part of the establishment's activities for the children of persons carrying on or employed to work at the establishment, or
    - (ii) that he is a person employed to work at such an establishment and is authorised to make such provision for day care as part of the establishment's activities.
- (4) The Secretary of State shall give his approval in writing if satisfied that the applicant is a person mentioned in paragraph (1B) who can make adequate arrangements for the provision of milk or dried milk or provide milk or dried milk for the purposes of this regulation; and the Secretary of State may withdraw his approval if he ceases to be so satisfied.
- (4A) A person who is approved by the Secretary of State under paragraph (4) shall notify the Secretary of State of any change to the information specified in paragraph 1 of Schedule 3.”.

#### **Amendment of regulation 5 of the principal Regulations**

4. In regulation 5(1) of the principal Regulations (purchase of welfare food) for “£3.40” there shall be substituted “£3.50”.

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

5. In Schedule 1 to the principal Regulations (dried milk specified for the purpose of the regulations)—
- (a) for the entry in column (1) “Farley’s OsterMilk” there shall be substituted the entry “Farley’s First Milk”; and
  - (b) for the entry in column (1) “Farley’s OsterMilk Two” there shall be substituted the entry “Farley’s Second Milk”.

#### **Amendment of Schedule 3 to the principal Regulations**

6. In Schedule 3 to the principal regulations (applications for approval and reimbursement—milk and dried milk for children in day care)—
- (a) in paragraph 1(a) after the word “applicant” there shall be added the following words “and whether a registered childminder, a registered day care provider, a local authority or a person carrying on or employed to work at an establishment mentioned in paragraph 3(1) or 4(1) of Schedule 9 to the Children Act 1989 and if so the type of establishment”;
  - (b) after paragraph 1(c) there shall be inserted the following sub-paragraph—
    - “(cc) the name and address of the person to whom payment is to be made”; and
  - (c) in paragraph 1(e) before the word “number” there shall be inserted the word “maximum”.

## **Amendment of Schedule 5 to the principal Regulations**

7. At the end of paragraph 2 of Schedule 5 to the principal Regulations (submission of tokens to Secretary of State for reimbursement) there shall be added the following sub-paragraph—  
“(6) a description of the business carried on by the supplier.”.

## **Revocations**

8. Regulations 2(2) to (6) and 3 of the Welfare Food Amendment Regulations 1992(6) and regulation 4(1) of the Welfare Food Amendment Regulations 1993(7) are hereby revoked.

Department of Health  
28th July 1994

*Virginia Bottomley*  
One of Her Majesty's Principal Secretaries of  
State

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(6) S.I. 1992/637.  
(7) S.I. 1993/1105.

## EXPLANATORY NOTE

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

These Regulations amend the Welfare Food Regulations 1988 (“the principal Regulations”).

Regulation 3 amends regulation 4 of the principal Regulations (additional milk or dried milk for children in day care) to enable certain persons looking after or providing day care to children under the age of 5 who are not required to be registered under the Children Act 1989 as registered childminders or day care providers to apply to the Secretary of State for approval to participate in the arrangements to provide milk or dried milk under that regulation. Children are entitled to free milk for each day on which they are looked after or provided with day care for 2 hours or more.

Regulation 4 amends regulation 5 of the principal Regulations (purchase of welfare food) by increasing the price paid for dried milk by a person entitled to purchase it from £3.40 to £3.50 for 900 grammes per week.

Regulation 5 amends Schedule 1 to the principal Regulations to take account of changes in the names of two dried milk products.

Regulation 6 amends Schedule 3 to the principal Regulations to require additional information to be provided on applications submitted under regulation 4.

Regulation 7 requires suppliers submitting milk tokens with a claim for reimbursement to provide a description of their business.

Regulation 8 makes consequential revocations.