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STATUTORY INSTRUMENTS

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**2003 No. 702**

**FOOD**

**The Welfare Food (Amendment) Regulations 2003**

<i>Made</i>	- - - -	<i>13th March 2003</i>
<i>Laid before Parliament</i>		<i>14th March 2003</i>
<i>Coming into force</i>	- -	<i>6th April 2003</i>

The Secretary of State for Health in exercise of the powers conferred on him by section 13(3) and (4) of the Social Security Act 1988(1), and 175(2) to (5) of the Social Security Contributions and Benefits Act 1992(2) and all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Welfare Food (Amendment) Regulations 2003 and shall come into force on 6th April 2003.

(2) In these Regulations “the principal Regulations” means the Welfare Food Regulations 1996(3).

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

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

- (a) after the definition of “registered day care provider” there is inserted ““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002(4)”; and
- (b) the definition of “working families' tax credit” is deleted.

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(1) 1988 c. 7. Section 13 was amended by section 21(1) and (2) of, and paragraph 8(11)(a) of Schedule 6 and Schedule 7 to, the Social Security Act 1990 (c. 27), and section 4 of, and Schedule 2, paragraph 94 to the Social Security (Consequential Provisions) Act 1992 (c. 6).

(2) 1992 c. 4. Section 175(2) to (5) is applied by section 15A of the Social Security Act 1988 (c. 7) which section was inserted by section 21(1) of, and paragraph 8(10) of Schedule 6 to, the Social Security Act 1990 (c. 27) and amended by section 4 of, and paragraph 96 of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6).

(3) S.I.1996/1434, as amended by the Welfare Food (Amendment) Regulations 2002, S.I. 2002/550. Previous amending instruments were revoked by regulation 3 of those Regulations.

(4) 2002 c. 21.

### **Amendment of regulation 3 of the principal Regulations**

3. In regulation 3(2)(b) of the principal Regulations (entitlement to free milk), after “allowance” there is inserted “or to child tax credit<sup>(5)</sup> where the relevant income of the person or persons to whom the award of the tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £13,230”—

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

4. In regulation 4 of the principal Regulations (child under the age of one year—entitlement to free dried milk or milk), for paragraph (1) there is substituted,

“(1) Subject to paragraph (3) and to the provisions as to milk tokens in Parts III and IV, a child in Great Britain who is under the age of one year and who is a member of the family of a person who is entitled to—

- (a) income support, or
- (b) an income-based jobseeker’s allowance, or
- (c) child tax credit where the relevant income of the person or persons to whom the award of tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £13,230,

is entitled to receive dried milk or milk for personal consumption, in accordance with these Regulations, free of charge.”.

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

5. In regulation 5(2)(b) and (4)(a) of the principal Regulations (entitlement to free vitamins), after “allowance” there is inserted “or to child tax credit where the relevant income of the person or persons to whom the award of tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £13,230”.

### **Amendment of regulation 6 of the principal Regulations**

6.—(1) Regulation 6 of the principal Regulations (inability to obtain free vitamins) is amended as follows.

(2) In paragraph (1)—

- (a) after “allowance” there is inserted “or to child tax credit where the relevant income of the person or persons to whom the award of tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £13,230”; and
- (b) for “an office of the Department of Social Security” there is substituted “the Department of Health”.

(3) In paragraph (2), after “the Secretary of State” there is inserted “or a person authorised by him” and for “his part” there is substituted “the part of the Secretary of State”.

### **Amendment of regulation 7 of the principal Regulations**

7.—(1) Regulation 7 of the principal Regulations (purchase of dried milk at a reduced price) is amended as follows.

(2) For paragraph (1) there is substituted—

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(5) Awarded under regulations pursuant to the Tax Credits Act 2002 (c. 21).

- “(1) A person who is entitled, or is a member of a family of a person who is entitled to working tax credit and child tax credit, shall if—
- (a) the relevant income of the person or persons to whom the award of tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200, and
  - (b) that person is responsible for a child who—
    - (i) is not entitled to dried milk or milk under regulation 4,
    - (ii) is under the age of one year, and
    - (iii) is a member of the family of that person,be entitled to purchase at any clinic, on behalf of that child, at a price of £4.15, 900 grammes of dried milk per week for consumption by that child.”

(3) For paragraph (1A) there is substituted—

“(1A) A person who is entitled to child tax credit (but is not entitled to working tax credit), shall if—

    - (a) the relevant income of the person to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award to be more than £13,230 but not more than £14,200, and
    - (b) that person is responsible for a child who—
      - (i) is not entitled to dried milk or milk under regulation 4,
      - (ii) is under the age of one year, and
      - (iii) is a member of the family of that person,be entitled to purchase at any clinic, on behalf of that child, at a price of £4.15, 900 grammes of dried milk per week for consumption by that child.”

(4) In paragraph (2)(a), “to working families' tax credit” is deleted.

(5) Paragraph (3) is deleted, and for paragraph (4) there is substituted—

“(3) A person may purchase dried milk for a period of up to four weeks from the date of the claim provided that she satisfies the person responsible for the distribution of welfare food at the clinic—

      - (a) as to entitlement under this regulation for the weeks for which the dried milk is purchased, and
      - (b) if requested by the person to whom the claim is made, as to the age of the child on whose behalf the dried milk is purchased during the weeks for which it is purchased.”

### **Amendment of regulation 8 of the principal Regulations**

**8.—**(1) Regulation 8 of the principal Regulations (inability to purchase dried milk at a reduced price) is amended as follows.

- (2) In paragraph (1)—
- (a) for “child” there is substituted “person”;
  - (b) “to working families' tax credit,” is deleted; and
  - (c) for “an office of the Department of Social Security” there is substituted “the Department of Health”.

(3) In paragraph (2), after “the Secretary of State” there is inserted “or a person authorised by him” and for “his part” there is substituted “the part of the Secretary of State”.

**Amendment of regulation 12 of the principal Regulations**

9. In regulation 12 of the principal Regulations (failure to receive milk tokens)—
- (a) in paragraph (1), for “an office of the Department of Social Security” there is substituted “the Department of Health”;
  - (b) in paragraph (2), after “the Secretary of State” there is inserted “or a person authorised by him”, and after “paragraph (1)” there is inserted “or otherwise”.

**Amendment of regulation 13 of the principal Regulations**

10. In regulation 13(4) of the principal Regulations (control of milk tokens), for “at an office of the Department of Social Security” there is substituted “to the Department of Health”, and after “the Secretary of State” there is inserted “or a person authorised by him”.

**Amendment of regulation 15 of the principal Regulations**

11. In regulation 15 of the principal Regulations (inability to exchange milk tokens for milk)—
- (a) in paragraph (1), for “an office of the Department of Social Security in the area in which she usually resides” there is substituted “the Department of Health”;
  - (b) in paragraph (2), after “the Secretary of State” there is inserted “or a person authorised by him”.

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

12. In Schedule 1 to the principal Regulations (dried milk specified for the purpose of the Regulations)—
- (a) in Column 1, after “Farley’s Second Milk”, there is inserted “Hipp Organic”; and
  - (b) in Column 2, after “H J Heinz Company Ltd”, the second time it appears, there is inserted “Hipp UK Ltd”.

**Amendment of Schedule 6 to the principal Regulations**

13. In Schedule 6 to the principal Regulations (enactments applied for the purposes of these Regulations), in the entry relating to Section 113 of the Social Security Administration Act 1992 in Column 2 there is substituted the following entry—

“After paragraph (a) of sub-section (1A) there is added “(aa) section 13 of the Social Security Act 1988.””.

Signed by authority of the Secretary of State

13th March 2003

*Hazel Blears*  
Parliamentary Under Secretary of State,  
Department of Health

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## EXPLANATORY NOTE

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

These Regulations further amend the Welfare Food Regulations 1996 (“the principal Regulations”). Regulation 2 inserts a definition of “relevant income” that is used in relation to tax credits and removes the definition of “working families’ tax credit”. Working families’ tax credit ceases on 5 April 2003.

Regulation 3 amends regulation 3(2)(b) of the principal Regulations. It alters the basis of entitlement to free milk of certain children. A child who meets certain conditions and who is a member of the family of a person who is entitled to child tax credit in certain circumstances is entitled to receive milk for personal consumption. For the child to be entitled, the relevant income of the person or persons to whom the award of child tax credit is made must not exceed £13,230.

Similar amendments are made to regulations 4 and 5 in respect of the entitlement of certain children under the age of one year to free dried milk or milk and of certain children under the age of five years to free vitamins.

Regulation 6 makes a consequential amendment to regulation 6 of the principal Regulations by inserting a reference to evidence to entitlement founded on child tax credit based on the specified income. It also substitutes the Department of Health as the place to which a beneficiary may apply for a payment in certain circumstances, and adds provision to enable a person authorised by the Secretary of State to make a payment in certain circumstances. Similar amendments with regard to the place to which a beneficiary may apply and who may make a payment or replace a milk token are made to regulations 8, 12, 13 and 15.

Regulation 7 amends regulation 7 of the principal Regulations. It removes entitlement to purchase dried milk at a reduced price based on entitlement to working families’ tax credit and satisfaction of other conditions. It replaces this with entitlement based on entitlement to working tax credit and child tax credit if the relevant income of the person or persons to whom the award of tax credit is made does not exceed £14,200, and other conditions are satisfied. It also extends entitlement to a person who is entitled to child tax credit (but not entitled to working tax credit) if the relevant income of the person to whom the award of child tax credit is made is more than £13,230 but not more than £14,200 and that person meets other conditions. It makes other consequential amendments.

Regulation 9 amends regulation 12 of the principal Regulations. Amongst other things, it enables a payment to be made to a beneficiary in specified circumstances whether or not the beneficiary has made an application under regulation 12(1).

Regulation 12 adds a reference in Schedule 1 to the dried milk of another manufacturer. Regulation 13 amends the wording of section 113 of the Social Security Administration Act 1992 (breach of regulations) referred to in Column 2 of Schedule 6 for the purposes of the principal Regulations.