
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations repeal and replace the School Milk (Wales) Regulations 2008 (“the 2008 Regulations”) (as amended) in light of changes in EU law. Regulation 10 of these Regulations provides for the revocation of the 2008 Regulations and the other provisions which have amended the 2008 Regulations.

Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products is being amended by Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016 amending Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables and milk in educational establishments.

The new EU instruments which are relevant in supplementing Regulation (EU) No 1308/2013 in this context are Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 and Commission Delegated Regulation (EU) 2017/40 of 3 November 2016.

The new EU law deals with the same subject matter as the EU law which it revokes and replaces i.e. the rules governing the provision of Union aid for milk and other products in educational establishments.

National aid payments are permitted by Article 23a(6) of Regulation (EU) No 1308/2013 (as amended). Regulation 3 of these Regulations provides that the Welsh Ministers can pay this national aid to applicants in receipt of Union aid and confirms that the Welsh Ministers may determine the type or class of educational establishment or milk products in relation to which national aid may be paid. It also provides that any national aid payment is subject to the same rules, requirements and conditions as apply to Union aid.

Regulation 4 provides that where national aid is granted in connection with the supply of flavoured or unflavoured, whole or semi skimmed milk to pupils receiving education at a qualifying educational establishment and are in reception, year 1 or year 2, that aid may amount to a sum sufficient for the purposes of defraying any cost that would otherwise have to be borne by those pupils or their parents or guardians in circumstances where Community aid does not fully meet the cost of supplying that product.

These Regulations also provide for the withholding or recovery of any Union aid or any national payment, made under regulation 3 of the Regulations, to which an applicant is not entitled or where the applicant is in breach of any commitments given as a condition of such Union aid or national aid (regulation 5). Regulation 6 provides for interest to be charged.

Member states are required to undertake administrative checks and on-the-spot checks of applicants premises under Articles 9 and 10 of Commission Implementing Regulation (EU) 2017/39. Regulations 7 (powers of entry) and 8 (powers of inspection) help the Welsh Ministers (via authorised persons) to comply with EU obligations to undertake effective on-the-spot checks to ensure compliance and prevent error and fraud.

Regulation 9 amends the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Wales) Regulations 2004 in consequence of the changes being made to EU law. Under those Regulations the Welsh Ministers can continue to establish a procedure for the further consideration of an initial determination made under the School Milk Scheme.

Changes to legislation:

There are currently no known outstanding effects for the The School Milk (Wales) Regulations 2017.