STATUTORY INSTRUMENTS

2016 No. 985

FOOD

The Healthy Start Scheme and Welfare Food (Amendment) Regulations 2016

Made - - - -	*22nd September 2016*
Laid before Parliament	*11th October 2016*
Coming into force - -	*1st November 2016*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by section 13(1), (3) and (4)(h) of the Social Security Act 1988(**1**) and section 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(**2**).

In accordance with section 13(2) of the Social Security Act 1988, the Secretary of State has consulted the Scottish Ministers and the Welsh Ministers(**3**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2016 and come into force on 1st November 2016.

(2) In these regulations "the principal Regulations" means the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005(**4**).

(**1**) 1988 c.7. Section 13 of the Social Security Act 1988 ("the 1988 Act") was substituted by section 185 of the Health and Social Care (Community Health Standards) Act 2003 (c.43), subject to savings made by the Health and Social Care (Community Health and Standards Act 2003 (Commencement) No. 7 Order 2005, S.I. 2005/2279. The power in section 13(1) to prescribe descriptions of food is exercisable by the Welsh Ministers in relation to the operation of schemes in Wales by virtue of section 13(6) of the 1988 Act; and by the Scottish Ministers in relation to the operation of Schemes in Scotland by virtue of the Schedule to the Scotland Act 1988 (Transfer of Functions to the Scottish Ministers etc.) (No. 3) Order 2006, S.I. 2006/3258. For the definitions of "prescribed" and "regulations, see section 13(11) of the 1998 Act.

(**2**) 1992 c.4. Section 175(3) and (4) are applied by section 15A of the Social Security Act 1988 (c.7), which itself 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) and section 185(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

(**3**) Functions conferred or imposed on the National Assembly for Wales immediately before the first appointment of a First Minister under section 46 of the Government of Wales Act (c.32) by an enactment contained in an Act were transferred to the Welsh Ministers by paragraph 30(2) of Schedule 11 to that Act.

(**4**) S.I. 2005/3262.

Amendment of regulation 3 of the principal Regulations

2.—(1) Regulation 3 of the principal Regulations (entitlement to benefit)(**5**) is amended as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (b)(i), for "or (b)" substitute ", (aa) or (b)";

(b) in sub-paragraph (b)(ii), for "or (d)" substitute ", (d) or (da)";

(c) in sub-paragraph (b)(iii), after "(3)(e)" insert "or (f)";

(3) In paragraph (3)—

(a) after sub-paragraph (a) insert—

"(aa) a pregnant woman who is not under the age of 18, has been pregnant for more than 10 weeks and who—

(i) is entitled to universal credit and satisfies the condition in paragraph (8); or

(ii) is the responsibility (within the meaning of regulation 4 of the Universal Credit Regulations 2013(**6**)) of a person who is entitled to universal credit and who satisfies the condition in paragraph (8);";

(b) in sub-paragraph (d)(i), for "18" substitute "16";

(c) at the end of sub-paragraph (d)(iii) omit "or";

(d) after sub-paragraph (d) insert—

"(da) a mother who is not under the age of 16 who has parental responsibility for a child under the age of 1 year and who—

(i) is entitled to universal credit and satisfies the condition in paragraph (8); or

(ii) is the responsibility (within the meaning of regulation 4 of the Universal Credit Regulations 2013) of a person who is entitled to universal credit and satisfies the condition in paragraph (8);";

(e) at the end of sub-paragraph (e) insert "or";

(f) after sub-paragraph (e), insert

"(f) a child who is under the age of 4 years—

(i) who is the responsibility (within the meaning of regulation 4 of the Universal Credit Regulations 2013) of a person who is entitled to universal credit and who satisfies the condition in paragraph (8); or

(ii) for whom a relevant child has parental responsibility.";

(4) In paragraph (4), for "or (d)" substitute ", (d) or (da)".

(5) In paragraph (5), for "or (d)" substitute ", (d) or (da)".

(6) In paragraph (6), after "(3)(e) insert "or (f)".

(7) In paragraph (7), after "(e)" insert ", the definition of "relevant child" in paragraph (11)";

(8) After paragraph (7) insert—

"(8) A person satisfies the condition in this paragraph if the person—

(a) is a single claimant of universal credit and has earned income of £408 or less; or,

(**5**) Regulation 3 was amended by S.I. 2006/2818, S.I. 2008/408, S.I. 2008/1879, S.I. 2009/295 and S.I. 2010/434.
(**6**) S.I. 2013/376. Regulation 4 was amended by S.I. 2013/1508.

(b) is one of joint claimants of universal credit and the joint claimants have combined earned income of £408 or less,

in the period specified in paragraph (9).

(9) The period is—

(a) the most recent complete assessment period; or

(b) the assessment period immediately preceding that assessment period.

(10) A person who is entitled to benefit by virtue of only paragraph (9)(b) does not cease to be so entitled until the expiry of 8 weeks beginning with the day after the last day of the most recent complete assessment period.

(11) In this regulation—

"assessment period" has the meaning given in regulation 21 of the Universal Credit Regulations 2013(**7**);

"earned income" means a person's earned income calculated in accordance with Chapter 2 of Part 6 of the Universal Credit Regulations 2013(**8**);

"joint claimants" has the meaning given in section 40 of the Welfare Reform Act 2012;

"relevant child" means a child—

(a) who is the responsibility of, and member of the same household as, a person who—

(i) is entitled to income support, an income-based jobseeker's allowance, or child tax credit, where the relevant income of the person or persons to whom the award of child tax credit is made under section 14 of the Tax Credits Act 2002(**9**) is determined at the time of the award not to exceed £16,190; and

(ii) either is not entitled to working tax credit or is treated as not being so entitled by virtue of paragraph (7); or

(b) is the responsibility (within the meaning of regulation 4 of the Universal Credit Regulations 2013) of a person who is entitled to universal credit and satisfies the condition in paragraph (8);

"single claimant" has the meaning given in section 40 of the Welfare Reform Act 2012.".

Amendment of regulation 4 of the principal Regulations

3. In regulation 4 of the principal Regulations (claim for benefit)—

(a) in paragraph (2), after "3(3)(e)" insert "or (f)".

(b) after paragraph (3) insert—

"(3A) A mother described in regulation 3(3)(da) who has parental responsibility for a child whose date of birth has not been notified to the Secretary of State and in respect of whom the period of 4 months from the estimated date of delivery has not yet passed may become entitled to benefit from the date of birth of the child.".

(**7**) Regulation 21 was amended by S.I. 2014/2887 and S.I. 2015/1362.
(**8**) Chapter 2 of Part 6 was amended by S.I. 2013/1508, S.I. 2014/2888 and 3255 and S.I. 2015/67, 478 and 354.
(**9**) 2012 c.21.