1981 No. 159

WELFARE FOODS

Welfare Foods Regulations (Northern Ireland) 1981

Made	*19th May 1981*
Coming into operation . . .	*1st July 1981*

The Department(**a**) of Health and Social Services, in exercise of the powers conferred on it by section 1(3) of the Welfare Foods Act (Northern Ireland) 1968(**b**) and of all other powers enabling it in that behalf, and with the consent of the Department(**a**) of Finance, hereby makes the following regulations:

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Welfare Foods Regulations (Northern Ireland) 1981 and shall come into operation on 1st July 1981.

Interpretation

2.—(1) In these regulations—

"Education and Library Board" means the Education and Library Board constituted under Article 3 of the Education and Libraries (Northern Ireland) Order 1972(**c**);

"beneficiary" means any of the following persons, namely:

(*a*) an expectant or nursing mother who is in a family in special circumstances within the meaning assigned to that expression in regulation 3;

(*b*) all young children in such a family in special circumstances;

(*c*) a handicapped child;

"children's vitamin drops" means vitamins A, D and C combined in liquid form;

"Department" means the Department of Health and Social Services;

"dried milk" means one of the modified dried milks specified in column (1) of Schedule 2 manufactured by the person specified in column (2) thereof, being a modified dried milk approved by the Department for the purposes of these regulations;

"handicapped child" means a child (other than a young child) who is not less than 5 years and is under 16 years of age and who—

(*a*) has been determined by the appropriate Education and Library Board to require special educational treatment but who is not a registered pupil at a school; or

(*b*) has been determined by the appropriate Education and Library Board to be suffering from a disability of mind of such a nature or to such an extent as to make him unsuitable for education at school and who is not in attendance at a full-time instruction or training centre;

(**a**) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(**b**) 1968 c. 26 (N.I.)
(**c**) S.I. 1972/1263 (N.I. 12)

"milk" means liquid cows' milk but does not include separated milk, skimmed milk, condensed milk or evaporated milk;

"Milk Order" means the Milk (Northern Ireland) (No. 2) Order 1980(**a**);

"nursing mother" means a woman who has given birth to a child within the preceding 30 weeks and is herself suckling the child;

"standard price", in relation to milk, means the lowest of the maximum prices for milk specified in the Milk Order;

"supplier" means a person who supplies milk under these regulations;

"token" means a token for free welfare milk or any other welfare food issued by the Department under regulation 8 and includes a book of tokens or any part of such a book;

"vitamin tablets" means vitamin A, D and C tablets;

"welfare food" means milk, dried milk, children's vitamin drops or vitamin tablets;

"welfare milk" means the milk or dried milk which a beneficiary is entitled to obtain under Part II of these regulations;

"young child" means a child aged not more than 5 years and 1 month.

(2) Where any provision herein (other than a provision in regulation 19 or 20) requires or enables anything to be done by or in respect of a beneficiary and that beneficiary is a young child or a handicapped child, the provision shall, unless the context otherwise requires, be deemed to refer to one of his parents or his guardian or the person having custody of him.

PART II

ENTITLEMENT TO WELFARE FOOD

Meaning of a family in special circumstances

3.—(1) For the purposes of these regulations, a beneficiary shall be deemed to belong to a family in special circumstances—

(*a*) if and for as long as he, or some other person in the same household is entitled to receive supplementary benefit in accordance with the provisions of Part II of the Supplementary Benefits (Northern Ireland) Order 1977(**b**); or

(*b*) in respect of any period during which his requirements exceed his resources when determined by the Department in accordance with the provisions of Schedule 1 to that Order and—

(i) as if Articles 7 (power to require registration for employment), 8 (exclusion from supplementary benefit of persons not resident in the United Kingdom for a qualifying period), 9 (exclusion from supplementary benefit of certain employed persons and pupils), 12 (persons affected by trade disputes) and 14 (modification of right to supplementary allowance in certain cases) of, and paragraphs 2(5) and 3(2)(*b*) of Schedule 1 to, that Order did not apply, and

(ii) as if his requirements included—

(*aa*) the standard price of milk at the rate of one pint per day and the cost of other welfare foods as set out in Schedule 1 to these regulations plus the sum of £2·50;

(**a**) S.I. 1980/2023

(**b**) S.I. 1977/2156 (N.I. 27); the Order as amended (other than Articles 1, 42 and Schedules 4 to 7) is set out in Part II of Sch. 2 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(*bb*) such amount in respect of repayment of mortgage capital as is reasonable in the circumstances;

(*cc*) such amount in respect of life insurance premiums payable by and in respect of a policy on his life as is reasonable in the circumstances; and

(*dd*) such amount in respect of hire purchase payments under a hire purchase agreement for such essential items as would be provided pursuant to the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1980(**a**) as if he were in receipt of a supplementary pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977 and as if paragraph 15(*d*) of Schedule 3 to the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**b**) did not apply.

(2) Where by virtue of paragraph 3 of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977 the resources of the beneficiary would be aggregated with those of some other person, the requirements and resources of that other person when calculated as aforesaid shall be deemed to be the requirements and resources of the beneficiary.

(3) A beneficiary deemed to belong to a family in special circumstances by virtue of sub-paragraph (*b*) of paragraph (1) shall continue to belong to such a family for such period not exceeding 12 months as the Department may allow or, where the beneficiary is a child, until he attains the age of 5 years and 1 month, whichever is the earlier.

(4) For the purposes of paragraph (3) where a mother in a family in special circumstances becomes an expectant mother during such period as is mentioned in that paragraph, she shall be deemed to be a beneficiary in that family during that period without making a further application under these regulations.

(5) A beneficiary shall be deemed to belong to a family in special circumstances if and for as long as family income supplement is payable for that family in accordance with the provisions of the Family Income Supplements Act (Northern Ireland) 1971(**c**).

Entitlement to welfare milk

4.—(1) Subject to the provisions of this regulation, welfare milk shall be available, on application, to all beneficiaries free of charge at a rate for each beneficiary—

(*a*) of 7 pints per week of liquid milk, or

(*b*) where the beneficiary is a young child under one year of age, of two packs per week of dried milk.

(2) Where a nursing mother applies for welfare milk in respect of a young child whom she is suckling, she shall not be entitled under paragraph (1) to welfare milk in respect of both herself and the child; but nothing in regulation 20 shall prohibit her from consuming any welfare milk obtained for the child.

(3) A child who has not started school at the age of 5 years and 1 month shall continue to be entitled to welfare milk under paragraph (1) for such period as may elapse until he starts full-time education.

(**a**) S.R. 1980 No. 363; the relevant amending regulations are S.R. 1980 No. 415 and S.R. 1980 No. 422

(**b**) S.R. 1980 No. 347; to which there are amendments not relevant to the subject matter of these regulations

(**c**) 1971 c. 8 (N.I.)

Entitlement to welfare food other than welfare milk

5.—(1) A person of a class specified in column (1) of Schedule 1 shall be entitled—

(*a*) if he is a person who is a beneficiary within the meaning given to that expression in sub-paragraph (*a*) or (*b*) of the definition in regulation 2(1), to receive free of charge the welfare food specified in his case in column (2) in the quantity specified in column (4) of that Schedule;

(*b*) in any other case, subject to paragraph (2) to buy the welfare food specified in his case in column (2) at the price specified in column (3) of that Schedule.

(2) Paragraph (1)(*b*) shall not apply in respect of any welfare food where by reason of a shortage stocks of that food are not available in sufficient quantities to meet the requirements of the persons entitled by virtue of paragraph (1)(*a*) and the expected requirements of all the persons who but for this provision would be entitled by virtue of paragraph (1)(*b*).

Milk for young children in day care

6.—(1) The Department may make arrangements for each young child attending any premises which are registered under section 11 of the Children and Young Persons Act (Northern Ireland) 1968(**a**) or any play-bus to receive free of charge (without prejudice to his entitlement under regulation 4) one-third of a pint of milk, or, where a young child is under one year of age, dried milk made up to provide one-third of a pint, in respect of each day of attendance.

(2) The Department may make arrangements for a child who has not started school at the age of 5 years and 1 month to continue to receive milk under paragraph (1) for such period as may elapse until he starts full-time education.

PART III

SUPPLY OF WELFARE FOOD

Application forms

7. Applications for free welfare milk and food shall be made by beneficiaries on forms supplied for the purpose by the Department.

Issue of tokens

8. The Department shall issue tokens to enable beneficiaries to obtain free welfare milk under regulation 4 and free welfare food under regulation 5.

Use of tokens

9.—(1) To obtain the free welfare milk and food to which he is entitled, a beneficiary shall use the relevant tokens in the manner described in this regulation.

(2) A token for free welfare milk may be used—

(*a*) to obtain 7 pints of milk during one period of 7 consecutive days which period shall start on a Sunday and which, where a date is specified on a token, shall be the period ending on the Saturday following that date or during any of the 4 successive periods of 7 consecutive days; or

(*b*) to obtain two packs of dried milk for a young child under one year of age during a period which, where a date is specified on a token, shall be a period of 28 consecutive days before or after the date so specified;

and a token shall not be used in any other manner.

(**a**) 1968 c. 34 (N.I.); section 11 was amended by Article 109(3) of, and Sch. 18 to, the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

(3) Tokens for children's vitamin drops and vitamin tablets may be used by a person who is a beneficiary within the meaning given to that expression in sub-paragraph (*a*) or (*b*) of the definition in regulation 2(1) to obtain free of charge the quantities of welfare food specified in respect of him in column (4) of Schedule 1.

PART IV

DISTRIBUTION OF MILK

Suppliers of and charges for milk

10.—(1) Subject to paragraph (2) where a supplier has accepted from any beneficiary a token for free welfare milk he shall (unless he has returned the token to the beneficiary before it became valid) supply 7 pints of milk to the beneficiary free of charge against the said token during the period of its validity.

(2) Where a supplier would be entitled under the Milk Order to charge for the milk supplied in accordance with paragraph (1) a price exceeding the standard price he may charge the beneficiary for the milk so supplied at a rate not exceeding the difference between the standard price and the price which he would be entitled to charge under the Milk Order.

(3) A supplier may accept tokens from a beneficiary before they have become valid; but he shall on demand return to the beneficiary all tokens in respect of which milk has not been supplied.

(4) If a supplier is prevented by circumstances beyond his control from supplying milk under this regulation he shall be deemed not to have contravened this regulation.

Absence for less than a week

11. Where any beneficiary is absent from his usual place of residence for more than one day but less than 7 days during the period of validity of any token for free welfare milk which a supplier has accepted from him, and the supplier has supplied against that token some, but not all, of the requisite 7 pints, the supplier shall, if the beneficiary so requests within the said period of validity, forthwith pay or allow the beneficiary, in respect of each pint not supplied, a sum equal to the standard price.

Absence for a week

12. Where a young child or handicapped child is absent from his usual place of residence for any period of 7 consecutive days during which the person for the time being in charge of that child has provided him with 7 pints of milk, that person shall, notwithstanding anything to the contrary in these regulations, be entitled to retain a token for free welfare milk issued in respect of the child and to use it free from all restrictions as to the use of the milk so obtained.

Submission of tokens by suppliers

13. A supplier shall, in such manner as the Department may from time to time direct, submit to the Milk Marketing Board for Northern Ireland all tokens against which the supplier has supplied 7 pints of milk, or has made an allowance in accordance with regulation 11.