STATUTORY INSTRUMENTS

1971 No. 1368

EDUCATION, ENGLAND AND WALES

The Provision of Milk and Meals (Amendment No. 2) Regulations 1971

Made - - - -	*17th August* 1971
Laid before Parliament	*25th August* 1971
Coming into Operation	*1st September* 1971

The Secretary of State for Education and Science and the Secretary of State for Wales, in joint exercise of their powers under section 49 of the Education Act 1944(a) and section 1 of the Education (Milk) Act 1971(b), hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Provision of Milk and Meals (Amendment No. 2) Regulations 1971 and shall be included among the regulations which may be cited together as the Provision of Milk and Meals Regulations 1969 to 1971.

(2) These regulations shall come into operation on 1st September 1971.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Amendment of Regulations

2. Regulations 4 and 10 of, and schedule 1 to, the Provision of Milk and Meals Regulations 1969(d) as amended (e) shall have effect subject to the amendments specified in Part A of the schedule and, in accordance with those provisions, shall have effect as set out in Part B of the schedule.

Regulation 2

SCHEDULE

PART A

AMENDMENT OF PROVISIONS OF 1969 REGULATIONS

Regulation 4

1. In paragraph (1) there shall be substituted for everything after the words "provided for" the following:—

"(*a*) every pupil in every special school;

(*b*) every pupil in every primary school until the end of the summer term ending next after the date on which he attains the age of seven; and

(a) 1944 c. 31.
(b) 1971 c. 74.
(c) 1889 c. 63.
(d) S.I. 1969/483 (1969 I, p. 1382).
(e) S.I. 1970/339, 511, 1417, 1971/169 (1970 I, p. 1225; I, p. 1715; III, p. 4667; 1971 I, p. 520).

(*c*) every other pupil in a primary school, and every junior pupil in an all-age school or a middle school, in respect of whom there is for the time being in force a certificate given by a medical officer of the authority stating that his health requires that he should be provided with milk at school."

2. After paragraph (2) there shall be inserted as a new paragraph—

"(3) On any school day milk may be provided for any pupil in any school whether or not milk is provided for him under paragraph (1) or (2) above."

3. At the end of the regulation there shall be added as a new paragraph—

"(6) In these regulations—

"primary school" means a school for providing primary education;

"all-age school" means a school which is deemed to be a primary school by virtue only of section 114(3) of the Education Act 1944;

"middle school" means a school which is deemed to be a primary school or a secondary school by virtue of an order under section 1(2) of the Education Act 1964(**a**)."

Regulation 10

4. After paragraph (1) there shall be inserted as a new paragraph—

"(2) The authority shall make arrangements for securing that the expense of providing milk under regulation 4(3) is defrayed by the pupil or his parent."

5. In paragraph (2)(*a*) after the word "in" there shall be inserted the words "a nursery school or".

6. In paragraph (3) for the reference to paragraph (2) there shall be substituted a reference to paragraph (3) and after the word "charge" there shall be inserted the words "under sub-paragraphs (*a*) and (*b*)".

7. In paragraph (4) for the reference to paragraph (3) there shall be substituted a reference to paragraph (4); after the words "Ministry of Social Security Act 1966" there shall be inserted the words "or a benefit under the Family Income Supplements Act 1970(**b**)"; and for the reference to paragraph (2)(*a*) there shall be substituted a reference to paragraph (3)(*a*).

SCHEDULE 1

8. In paragraph 1 for the table and the first note there shall be substituted the following table and note.

PART A PART B

Size of family	Net weekly income in £p					
	1	2	3	4	5	6
1	13·25					
2	16·35	15·75				
3	19·45	18·85	18·25			
4	22·55	21·95	21·35	20·75		
5	25·65	25·05	24·45	23·85	23·25	
6	28·75	28·15	27·55	26·95	26·35	25·75

(**a**) 1964 c. 82.

(**b**) 1970 c. 55.

For larger families, in respect of each child—

(*a*) £3·10 is to be added at each incremental point in every additional line.

(*b*) £0·60 is to be subtracted at each incremental point in every additional column.

9. In paragraph (3), sub-paragraph (2)(*f*) shall be omitted.

10. For the references to 40s. in paragraph 3(1), (2), (3) and (9) there shall be substituted references to £2.

11. For the references to 20s. in paragraph 3(2) and 3(4) there shall be substituted references to £1.

12. For the reference to 25s. in paragraph 3(8) there shall be substituted a reference to £1·25.

13. In paragraph 3(12) for everything before the words "received as a contribution" there shall be substituted the words "Any income".

14. In paragraph 4(6) for the reference to 12s. 6d. there shall be substituted a reference to 75p.

PART B

TEXT OF PROVISIONS AS AMENDED

Regulation 4

Provision of milk

4.—(1) On every school day one third of a pint of milk shall be provided for—

(*a*) every pupil in every special school;

(*b*) every pupil in every primary school until the end of the summer term ending next after the date on which he attains the age of seven; and

(*c*) every other pupil in a primary school, and every junior pupil in an all-age school or a middle school, in respect of whom there is for the time being in force a certificate given by a medical officer of the authority stating that his health requires that he should be provided with milk at school.

(2) On any school day a further third of a pint of milk may be provided in any special school for any delicate pupil within the meaning of the Handicapped Pupils and Special Schools Regulations 1959**(a)** as amended **(b)**.

(3) On any school day milk may be provided for any pupil in any school whether or not milk is provided for him under paragraph (1) or (2) above.

(4) The authority shall provide milk—

(*d*) which is pasteurised or ultra heat treated or, if no such milk is obtainable, designated for sale as untreated; and

(*b*) from sources and of a quality approved for the purposes of these regulations by the medical officer of health for the area of the authority after consultation with the medical officer of health for any county district concerned and the school medical officer.

(a) S.I. 1959/365 (1959 I, p. 1024).
(b) The amending Regulations are not relevant to the subject matter of these Regulations.

(5) If it is not reasonably practicable for the authority to comply with the requirements of paragraph (4)(*b*) above, they shall provide full-cream dried milk prepared for drinking or milk tablets.

(6) In these regulations—

"primary school" means a school for providing primary education;

"all-age school" means a school which is deemed to be a primary school by virtue only of section 114(3) of the Education Act 1944;

"middle school" means a school which is deemed to be a primary school or a secondary school by virtue of an order under section 1(2) of the Education Act 1964(**a**).

Regulation 10

Expenses

10.—(1) Subject to the provisions of this regulation, the expense incurred in providing milk, meals and other refreshment under these regulations shall be defrayed by the authority.

(2) The authority shall make arrangements for securing that the expense of providing milk under regulation 4(3) is defrayed by the pupil or his parent.

(3) The authority shall make arrangements for the payment by the parent of—

(*a*) a charge of 12p. for every meal provided in a nursery school or a county or voluntary school under regulation 5(1);

(*b*) such a charge (if any) as they consider appropriate for any meal provided in a special school under regulation 5(1); and

(*c*) such charges as they consider appropriate for meals and refreshment provided under regulation 5(2).

(4) The arrangements made by the authority under paragraph (3) above shall include provision for the remission of the charge under sub-paragraphs (*a*) and (*b*) in the case of any parent who satisfies them that he is unable to pay it without hardship.

(5) For the purposes of paragraph (4) above, a parent who is in receipt of a supplementary pension or a supplementary allowance under section 4 of the Ministry of Social Security Act 1966(**b**) or a benefit under the Family Income Supplements Act 1970(**c**) shall be treated as unable to pay the charge without hardship; and in the case of the charge under paragraph (3)(*a*) above, the question whether any parent not in receipt of such benefit is so unable to pay shall be determined in accordance with schedule 1.

SCHEDULE 1

Regulation 10(5)

Determination of Financial Hardship

Net income scale

1. Where the net weekly income of the parent of a family of any size specified in Part A of the following table is less than any amount shown in the corresponding entry in Part B, the number of children in respect of whom the charge

(**a**) 1964 c. 82.
(**b**) 1966 c. 20.
(**c**) 1970 c. 55.

shall be remitted is the number at the head of the column in Part B in which there appears the lowest amount in that entry which exceeds his income.

PART A — PART B

Size of Family	Net weekly income in £p					
	1	2	3	4	5	6
1	13·25					
2	16·35	15·75				
3	19·45	18·85	18·25			
4	22·55	21·95	21·35	20·75		
5	25·65	25·05	24·45	23·85	23·25	
6	28·75	28·15	27·55	26·95	26·35	25·75

For larger families, in respect of each child—

(*a*) £3·10 is to be added at each incremental point in every additional line.

(*b*) £0·60 is to be subtracted at each incremental point in every additional column.

For the purposes of this paragraph the expression "size of family" means the number of dependent children in the family who have not attained the age of 19.

Calculation of net income

2. In calculating the net income of the parent there shall be taken into account his income (reduced by income tax and national insurance contributions but including any benefit in kind other than a dwelling) from all sources, but there shall be disregarded the resources specified in paragraph 3 below and a deduction shall be made in respect of the expenses specified in paragraph 4 below.

Resources to be disregarded

3.—(1) £2 of the income consisting of any one or more of the following—

(*a*) workmen's compensation;

(*b*) disablement benefit;

(*c*) disability pension;

(*d*) the amount by which—

(i) a war widow's pension;

(ii) a widow's pension under section 19(3) of the National Insurance (Industrial Injuries) Act 1965(**a**) or an analogous payment—

exceeds the rate of pension payable under schedule 3 of the National Insurance Act 1965(**b**).

(2) £1 of any income other than any earnings or any of the following—

(*a*) benefit under the National Insurance Acts 1965 and 1966(**c**);

(**a**) 1965 c. 52. (**b**) 1965 c. 51.
(**c**) 1965 c. 51; 1966 c. 6.

(*b*) industrial injury benefit under the National Insurance (Industrial Injuries) Acts 1965 and 1966;

(*c*) family allowances;

(*d*) payments for maintenance (including any marriage allowance);

(*e*) any rent received in respect of accommodation whether let furnished or unfurnished:

provided that the amount disregarded under this sub-paragraph shall not, together with the amount disregarded under sub-paragraph (1) above, exceed £2.

(3) £2 of the earnings of a mother or female guardian.

(4) £1 of the casual earnings of an unemployed father or male guardian.

(5) Any maternity grant under section 23 of the National Insurance Act 1965.

(6) Any death grant under section 39 of the National Insurance Act 1965.

(7) Any payment in respect of a pupil under the Regulations for Scholarships and Other Benefits 1945(a) as amended (b).

(8) £1·25 of any income if one parent is blind.

(9) £2 of any income if both parents are blind.

(10) One-tenth of the rent received in respect of accommodation let unfurnished.

(11) One-quarter of the rent received in respect of accommodation let furnished.

(12) Any income received as a contribution towards the expenses of the household from any other member of, or person living with, the family.

Expenses to be deducted

4.—(1) The amount of any premium on a policy of assurance on the life of either parent.

(2) Any expenses reasonably incurred in the provision of necessary household assistance and necessary day care for a child below compulsory school age where—

(*a*) the parent is widowed, divorced or permanently separated from the other party to the marriage;

(*b*) either parent is incapacitated;

(*c*) the parent is an unmarried woman.

(3) Any expenses necessarily incurred in the course of the parent's employment, including travelling expenses, trade union subscriptions and superannuation contributions.

(4) The amount of any rent, general and water rates and mortgage payments in respect of the home and of any hire purchase payments in respect of any caravan or houseboat which is the permanent home of the family.

(a) S.R. & O. 1945/666 (Rev. VI, p. 378: 1945 I, p. 340).
(b) S.I. 1948/688, 2223 (Rev. VI, p. 378: 1948 I, p. 754; 1948 I, p. 755), S.I. 1964/1294 (1964 II, p. 2974).

(5) Any payment made—

(*a*) for the maintenance of a former wife or her child;

(*b*) under an affiliation order;

(*c*) under a contribution order in respect of a child in the care of a local authority.

(6) 75p. of the cost of any special diet prescribed by a registered medical practitioner.

Given under the Official Seal of the Secretary of State for Education and Science on 16th August 1971.

(L.S.)

Margaret Thatcher,
Secretary of State for Education
and Science.

Given under my hand on 17th August 1971.

Peter Thomas,
Secretary of State for Wales.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations amend those parts of the Provision of Milk and Meals Regulations 1969 to 1971 which regulate the supply of milk, and the arrangements for defraying the expenses of providing milk and meals, for pupils attending schools maintained by local education authorities. The changes relating to milk give effect to section 1 of the Education (Milk) Act 1971. The principal change relating to the arrangements for the defraying of expenditure is the amendment of the provisions for the calculation of a parent's income for the purpose of determining his entitlement to remission of the charge for school dinner.

The text of the amended provisions is set out in Part B of the schedule to the regulations.