STATUTORY INSTRUMENTS

2026 No. 1092

FOOD, ENGLAND AND WALES

The Welfare Food (Amendment) (England and Wales) Regulations 2026

Made - - - -	*13th October 2026*
Laid before Parliament	*15th October 2026*
Coming into force in accordance with regulation 1(2)	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 13(1)(c), (3), (4) and (5) of the Social Security Act 1988 ("the 1988 Act")(**a**) and section 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(**b**).

In accordance with section 13(2) of the 1988 Act, the Secretary of State has consulted the Welsh Ministers(**c**).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Welfare Food (Amendment) (England and Wales) Regulations 2026.

(2) These Regulations come into force on 12th November 2026, except regulation 10 which comes into force on 1st April 2027.

(3) These Regulations extend to England and Wales.

(4) Regulation 2, in so far as it relates to—

(a) the amendments made by regulations 3 to 9, applies in relation to England and Wales;

(b) the amendments made by regulation 10, applies in relation to Wales only.

(**a**) 1988 c. 7 ("the 1988 Act"). Section 13 was amended by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) ("the 2003 Act"). Saving provisions were made by S.I. 2005/2279. See section 13(11) for the meanings of "prescribed" and "regulations".

(**b**) 1992 c. 4. Section 175(4) was amended by section 2 of, and sub-paragraphs 29(1) and (4) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) 1999 (c. 2). Section 175(5) was amended section 16(3) of, and paragraph 36 of Schedule 1 to, the Social Security (Incapacity for Work) Act 1994 (c. 18). Section 175(3), (4) and (5) are applied by section 15A(1) of the 1988 Act. Section 15A was inserted by paragraph 8(10) of Schedule 6 to the Social Security Act 1990 (c. 27) and amended by paragraph 96 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6) and by section 185(2) of the 2003 Act.

(**c**) 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 2006 (c. 32) ("GOWA") by an enactment contained in an Act were transferred to the Welsh Ministers by section 162(1) of, and paragraph 30(2) of Schedule 11 to, GOWA.

Amendment of the Welfare Food Regulations 1996

2. The Welfare Food Regulations 1996(**a**) are amended in accordance with regulations 3 to 10.

Amendment of regulation 2 (interpretation)

3. In regulation 2(1)—

(a) insert the following definitions in the appropriate places—

""childcare"—

(a) in relation to England, has the same meaning as in section 18 of the Childcare Act 2006(**b**);

(b) in relation to Wales, means—

(i) child minding or day care for children within the meaning of section 19(2) and (3) of the Children and Families (Wales) Measure 2010(**c**); or

(ii) care provided to a child at a school which is not day care for the purposes of Part 2 of that Measure by virtue of article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010(**d**);

"childcare provider" means a childcare provider specified in regulation 18(2);";

(b) omit the definitions of "day care", "day care provider", "exempt establishment", "exempt school", "registered child minder", "registered day care provider", and "school milk subsidy".

Amendment to Part V

4. In the heading of Part V, for "in day care", substitute "provided with childcare".

Amendment of regulation 18

5.—(1) In the heading of regulation 18, for "in day care" substitute "provided with childcare".

(2) For regulation 18, substitute—

"(1) A child who is under the age of five years on each day that the child is provided with childcare for two hours or more, by any childcare provider who is approved as a supplier in accordance with regulation 19, is entitled, free of charge—

(a) if that child has attained the age of one year, to 189 millilitres(**e**) of milk or, where milk is supplied in containers of 200 millilitres only, to 200 millilitres of milk; or

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(**a**) S.I. 1996/1434. Amending instruments are S.I. 2005/3262, 2006/2818, 2015/1580, 2020/267 and S.S.I. 2021/82. There are other amending instruments but none are relevant.

(**b**) 2006 c. 21. Section 18(5)(a)(i) was substituted by section 44(4) of, and paragraph 19(2) of Schedule 1 to, the Children and Young Persons Act 2008 (c. 23) ("the 2008 Act"). Section 18(7)(a) was amended by section 95(1) of, and paragraph 21(a) of Schedule 9 to, the Criminal Justice and Courts Act 2015 (c. 2) ("the 2015 Act"). Section 18(7)(b) was amended by section 95(1) of, and paragraph 21(b) of Schedule 9 to, the 2015 Act. Section 18(7)(c) was amended by section 95(1) of, and paragraph 21(c) of Schedule 9 to, the 2015 Act. Section 18(8)(a) was amended by section 44(4) of, and paragraph 19(3)(a) of Schedule 1 to, and Schedule 4 to, the 2008 Act. Section 18(8)(b) was amended by section 44(4) of, and paragraph 19(3)(b) of Schedule 1 to, the 2008 Act. Section 18(8)(b) was also amended by S.I. 2010/813. Section 18(8)(ba) was inserted by S.I. 2010/813. Section 30 was amended in Wales by S.I. 2010/2582 (W. 216). Part 3, Chapter 2A was inserted by section 139(6) of, and paragraph 13 of Schedule 4 to, the Children and Families Act 2014 (c. 6).

(**c**) 2010 nawm 1. Amendments to this section have been made by articles 1(2), 3(a) and 3(b) of the Regulation of Child Minding and Day Care (Wales) Order 2016 (S.I. 2016/98 (W. 47)). There are other amendments to this instrument but none are relevant.

(**d**) S.I. 2010/2839 (W. 233). Article 14 was amended by S.I. 2021/933 (W. 213).

(**e**) 189 millilitres is equivalent to a third of a pint.

(b) if that child has not attained the age of one year, dried milk made up to provide 189 millilitres.

(2) For the purposes of paragraph (1) a childcare provider is—

(a) in relation to England, an early years provider to whom section 40 of the Childcare Act 2006 (duty to implement Early Years Foundation Stage) applies; or

(b) in relation to Wales—

(i) a person registered as a child minder or provider of day care under Part 2 of the Children and Families (Wales) Measure 2010; or

(ii) a person who provides care to a child at a school which is not day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010 by virtue of article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010.".

Amendment of regulation 19 (approval of suppliers)

6. In regulation 19—

(a) in paragraph (1), for "day care" substitute "childcare";

(b) for paragraph (2), substitute—

"(2) An application for approval under paragraph (1) must be in writing and the application shall include the information specified in paragraph 1(a) to (g) of Schedule 5.";

(c) in paragraph (3), for "day care, or looking after," substitute "childcare for";

(d) in paragraph (4), for "day care" substitute "childcare"; and

(e) in paragraph (5)(a), for "day care" substitute "childcare".

Amendment of regulation 20 (reimbursement of approved suppliers)

7. In regulation 20—

(a) in paragraph (1)—

(i) for "to (4)" substitute "and (3)";

(ii) for "day care" substitute "childcare".

(b) omit paragraph (4).

Amendment of regulation 21A (functions of the NHS Business Services Authority)

8. In regulation 21A(1)(a), for "day care" substitute "childcare".

Amendment of Schedule 5

9. In Schedule 5—

(a) in the heading, for "in day care", substitute "provided with childcare".

(b) in paragraph 1—

(i) for sub-paragraph (b), substitute—

"(b) information sufficient to identify the type of childcare provision provided by the applicant;";

(ii) for sub-paragraph (d), substitute—

"(d) the hours each week during which the applicant provides childcare;";

(iii) in sub-paragraph (e), for "likely to be cared for at a session" substitute "reasonably expected to be provided with childcare for two hours or more a day for the day for which a claim is being made;";

(iv) for sub-paragraph (g), substitute—

"(g) either—

(i) the reference number assigned to the applicant, or

(ii) a copy of the certificate or other document evidencing that the applicant falls within regulation 18(2), or if the Secretary of State so requires it, the original of that certificate or document;";

(v) omit sub-paragraph (h); and

(vi) omit sub-paragraph (i).

(c) in paragraph 2—

(i) in sub-paragraph (b), for "children are cared for" substitute "childcare is provided";

(ii) in sub-paragraph (e), for "number of sessions each week" substitute "the hours each week during which the applicant provides childcare;"; and

(iii) omit sub-paragraph (g).

Consequential amendments relating to childcare in Wales

10.—(1) In regulation 2(1), in paragraph (b)(ii) of the definition of "childcare"(**a**), for "article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010" substitute "article 16 of the Child Minding and Day Care Exceptions (Revocation and Transitional Provision) (Wales) Order 2026(**b**)"; and

(2) In regulation 18(2)(b)(ii), for "article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010"(**c**) substitute "article 16 of the Child Minding and Day Care Exceptions (Revocation and Transitional Provision) (Wales) Order 2026".

Signed by authority of the Secretary of State for Health and Social Care

Diana Johnson
Minister of State
Department of Health and Social Care

13th October 2026

(**a**) See regulation 3(a).
(**b**) S.I. 2026/100.
(**c**) See regulation 5(2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Welfare Food Regulations 1996 (S.I. 1996/1434) ("the 1996 Regulations"). The 1996 Regulations provide for a scheme (the "Nursery Milk Scheme") which entitles children under the age of five years to one-third of a pint of milk (189ml) on any day where they are provided with childcare, by an approved childcare provider, for two hours or more. Regulations 3 to 10 amend the 1996 Regulations to replace references to day care with childcare and to update references to childcare legislation in England and Wales which have been updated since the 1996 Regulations came into force. These include changes made by the Childcare Act 2006 (c. 21) for England, and the Children and Families (Wales) Measure 2010 (nawm 1) and the Child Minding and Day Care Exceptions (Wales) Order 2010 (S.I. 2010/2839) (W.233)) for Wales. These Regulations also extend eligibility under the Nursery Milk Scheme to childcare providers registered with Childminder Agencies. Those providers will be able to claim reimbursement for milk they provide to eligible children in their care in the same way as childcare providers that are currently registered with Ofsted, or for providers registered with the Welsh Ministers in Wales. These Regulations also make provision in consequence of the repeal and replacement of the Child Minding and Day Care Exceptions (Wales) Order 2010 with the Child Minding and Day Care Exceptions (Revocation and Transitional Provision) (Wales) Order 2026 (S.I. 2026/100).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum has been published alongside this instrument at www.legislation.gov.uk.

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