STATUTORY INSTRUMENTS

1977 No. 25

FOOD AND DRUGS

The Welfare Food Order 1977

Made - - - -	10*th January* 1977
Laid before Parliament	18*th January* 1977
Coming into Operation	27*th February* 1977

The Secretary of State for Social Services and the Secretary of State for Wales in exercise of powers conferred by sections 4 and 7 of the Emergency Laws (Re-enactments and Repeals) Act 1964**(a)** and now vested in them **(b)**, acting with the Secretary of State for Scotland jointly in exercise of those powers and of all other powers enabling them in that behalf, hereby order as follows:—

PART I

PRELIMINARY

Title, commencement and extent

1.—(1) This order may be cited as the Welfare Food Order 1977 and shall come into operation on 27th February 1977.

(2) This order shall not extend to Northern Ireland.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

"approved child-minder" means a child-minder who is for the time being approved by the Secretary of State for the purposes of this order;

"approved day nursery" means a day nursery or playgroup which is for the time being approved by the Secretary of State for the purposes of this order;

"beneficiary" means any of the following persons in Great Britain, namely:

(*a*) an expectant or nursing mother who already has two young children or who is in a family in special circumstances;

(*b*) all but two of the young children in any one family;

(*c*) all young children in a family in special circumstances; and

(*d*) a handicapped child;

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

(a) 1964 c. 60.

(b) *See* Secretary of State for Social Services Order 1968 (S.I. 1968/1699 (1968 III, p.4585)) Article 2.

"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 Secretary of State for the purposes of this order;

"enactment" includes any instrument made under an Act;

"handicapped child" means a child (other than a young child) who—

(*a*) is not less than 5 years and is under 16 years of age and is not in paid employment; and

(*b*) by reason of disability of mind or body is neither a registered pupil at a school in accordance with the provisions of the Education Acts 1944 to 1976 nor a pupil at a school in accordance with the Education (Scotland) Acts 1939 to 1976;

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

"Milk Order" means the order for the time being in force under section 6 of the Emergency Laws (Re-enactments and Repeals) Act 1964 (which provides for controlling the maximum prices of milk);

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

"the Secretary of State" means in England, the Secretary of State for Social Services, in Wales, the Secretary of State for Wales and in Scotland, the Secretary of State for Scotland;

"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 this order;

"token" means a token for free welfare milk or any other welfare food issued by the Secretary of State under article 8;

"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 this order;

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

(2) Where any provision in this order (other than a provision in article 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.

(3) Any reference in this order to a numbered article or schedule shall, unless the reference is to an article of or a schedule to a specified enactment, be construed as a reference to the article or schedule bearing that number in this order.

(4) Any reference in this order to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it with or without modification.

PART II

ENTITLEMENT TO WELFARE FOOD

Meaning of a family in special circumstances

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

(*a*) if and for as long as that family is entitled to receive supplementary benefit in accordance with the provisions of Part I of the Supplementary Benefits Act 1976**(a)**; or

(*b*) in respect of any period during which his requirements exceed his resources when calculated or estimated by the Secretary of State in accordance with the provisions of paragraphs 3, 4(1)(*a*), 5, 6(1)(*a*), 6(1)(*b*)(i), 6(1)(*c*), 7, 8, 10, 11 and 13 to 22(1), 22(2) and 23 to 30 of Schedule 1 to the said Act and as if—

(i) in paragraph 22(1) of the said Schedule (calculation of weekly earnings) for the amount specified in sub-paragraph (*a*) there were substituted the amount specified in sub-paragraph (*c*); and

(ii) his requirements were deemed to include also

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

(*B*) an amount in respect of mortgage repayments as is reasonable in the circumstances;

and in considering what, if any, amount to allow under paragraph 4(1)(*a*) of Schedule 1 to the said Act of 1976 regard shall be had to the provisions made by paragraphs 6(2) and 6(3) of that Schedule.

(2) Where by virtue of paragraph 3 of the said Schedule 1 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) of this article shall continue to belong to such a family for such period not exceeding 12 months as the Secretary of State 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) of this article 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 this order.

(5) A beneficiary shall be deemed to belong to a family in special circumstances if and for as long as that family is entitled to receive Family Income Supplement in accordance with the provisions of the Family Income Supplements Act 1970**(b)**.

(a) 1976 c. 71. **(b)** 1970 c. 55.

Entitlement to welfare milk

4.—(1) Subject to the provisions of this article, 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 2 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) of this article to welfare milk in respect of both herself and the child; but nothing in article 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) of this article for such period as may elapse until he starts full-time education.

Entitlement to welfare food other than welfare milk

5.—(1) Subject to paragraph (2) of this article, a person of a class specified in column (1) of Schedule 1 may buy the welfare food specified in respect of him in column (2) at the price so specified in column (3) and where any such person is a beneficiary of a class defined in article 2(1)(*a*), (*b*) or (*c*) he shall be entitled to receive free of charge the quantity of welfare food specified in column (4).

(2) Where by reason of any shortage of any welfare food, stocks of any such food are not available in sufficient quantities for the purposes of paragraph (1) of this article, the Secretary of State may, if he thinks fit, limit or suspend the sale of any such food during any period of such shortage.

Milk for young children in day care

6.—(1) The Secretary of State may make arrangements for each young child attending an approved day nursery or who is minded by an approved child minder at premises approved by the Secretary of State for the purposes of this order to receive free of charge (without prejudice to his entitlement under article 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 Secretary of State 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) of this article 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 Secretary of State.

Issue of tokens

8. The Secretary of State shall issue tokens to enable beneficiaries to obtain free welfare milk under article 4 and free welfare food under article 5.

Use of tokens

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

(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.

(3) Tokens for children's vitamin drops and vitamin tablets may be used by a beneficiary of a class defined in article 2(1)(*a*), (*b*) or (*c*) 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) of this article 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) of this article 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 no milk has been supplied.

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

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 this order, 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 Secretary of State may from time to time direct, submit to the Secretary of State all tokens against which the supplier has supplied 7 pints of milk, or has made an allowance in accordance with article 11.

PART V

TOKENS

Property in tokens

14. Every token is and shall remain the property of the Secretary of State.

Replacement of tokens

15.—(1) The Secretary of State may replace tokens which have been lost.

(2) Where a supplier or a beneficiary to or in respect of whom replacement tokens have been issued subsequently finds the tokens supposed to have been lost, he shall deliver the latter forthwith to any office of the Department of Health and Social Security.

Validity and cancellation of tokens

16.—(1) Tokens shall be valid only if used by or on behalf of a beneficiary, and within the periods and in the manner specified in this order.

(2) The Secretary of State may cancel any token which cannot be validly used under this order.

Return of tokens

17.—(1) Any beneficiary or supplier holding tokens shall, when requested by the Secretary of State, produce or deliver all tokens in his possession within such time and to such place as the Secretary of State may direct.

(2) Where any beneficiary holding tokens ceases to be entitled thereto under this order, he shall forthwith deliver them to any office of the Department of Health and Social Security.

(3) When a beneficiary dies, any person who has, or comes into, possession of any token issued in respect of that beneficiary shall deliver it forthwith to any office of the Department of Health and Social Security.

Supplier losing possession of tokens

18.—(1) Where a supplier accepts any token for free welfare milk from a beneficiary but, before supplying milk against it or returning it to the beneficiary as provided for in article 10, loses possession of it he shall notify the Secretary of State forthwith.

(2) Where a supplier loses possession of a token and the Secretary of State replaces that token pursuant to article 15(1), the Secretary of State may, where that token has been used otherwise than in accordance with the provisions of this order and where there has been negligence or misconduct by the supplier, require the supplier to pay to him in respect of each such token, which is a token for free welfare milk, a sum equal to the standard price of 7 pints of liquid milk.

PART VI

MISCELLANEOUS

Restrictions on supply of welfare food

19.—(1) No person shall obtain any free welfare food unless he is a beneficiary or is obtaining that food on behalf of a beneficiary.

(2) A beneficiary or a person acting on behalf of a beneficiary shall not obtain free welfare milk pursuant to article 4 or free welfare food pursuant to article 5 in quantities exceeding those to which the beneficiary is entitled thereunder, or otherwise than in exchange for tokens pursuant to article 9.

Use of welfare food

20. Where any free welfare food is obtained by or on behalf of a beneficiary, it shall not be consumed otherwise than by that beneficiary unless—

(*a*) the food is liquid milk or dried milk, and the beneficiary has consumed a quantity of milk approximately equal to the quantity of free welfare milk obtained in respect of him; or

(*b*) any such consumption is reasonably necessary to avoid waste or is trifling in amount; or

(*c*) the food is free welfare milk referred to in article 4(2).

Northern Ireland tokens to be valid in Great Britain

21. Any token issued by the Department of Health and Social Services in Northern Ireland shall be valid in Great Britain as if it had been issued by the Secretary of State under this order.

Revocation

22. The Welfare Food Order 1975**(a)**, the Welfare Food (Amendment) Order 1976**(b)**, the Welfare Food (Amendment No. 2) Order 1976**(c)** and the Welfare Food (Amendment No. 3) Order 1976**(d)** are hereby revoked:

provided that—

(*a*) such revocation shall not affect any right or liability acquired or incurred, or anything duly done or suffered, under those orders;

(*b*) such revocation shall not affect any legal proceedings in respect of any contravention of those orders, but any such proceedings may be continued or commenced as if this order had not been made;

(*c*) such revocation shall not affect any declaration, registration or authorisation made or granted under those orders, and every such declaration, registration or authorisation shall, so far as it could have been made or granted under this order, have effect as if it had been so made or granted.

David Ennals,
Secretary of State for Social Services.

23rd December 1976.

John Morris,
Secretary of State for Wales.

4th January 1977.

Bruce Millan,
Secretary of State for Scotland.

10th January 1977.

(a) S.I. 1975/1686 (1975 III, p. 5757).
(b) S.I. 1976/517 (1976 I, p. 1547).
(c) S.I. 1976/1682 (1976 III, p. 4531).
(d) S.I. 1976/1856 (1976 III, p. 4990).

Article 5

SCHEDULE 1

Entitlement to welfare food other than welfare milk

(1) Class of Person	(2) Welfare Food	(3) Price	(4) Quantity of welfare food supplied free of charge to beneficiaries of a class defined in article 2(1)(*a*), (*b*) or (*c*)
Young child	Children's vitamin drops	8p per bottle containing not less than 10 millilitres	At the rate of 2 bottles every 13 weeks
Expectant mother	Vitamin tablets	10p per container of 45 tablets	At the rate of 2 containers of 45 tablets every 13 weeks
Nursing mother	Vitamin tablets	10p per container of 45 tablets	5 containers of 45 tablets

Article 2(1)

SCHEDULE 2

Modified dried milk approved for the purposes of this Order

Dried milk (1)	Manufacturer (2)
Cow and Gate Baby Milk Plus	Unigate Foods Ltd.
Cow and Gate Premium Baby Food	Unigate Foods Ltd.
C. and G.V. Formula	Unigate Foods Ltd.
New Improved Formula Ostermilk 2	Farley Health Products Ltd.
Ostermilk Complete Formula	Farley Health Products Ltd.
SMA Gold Cap	John Wyeth and Brother Ltd.
SMA Regular (Powder)	John Wyeth and Brother Ltd.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates and amends the Orders relating to the welfare food scheme operated in Great Britain by the Secretary of State for Social Services, the Secretary of State for Wales and the Secretary of State for Scotland.

The provisions relating to National Dried Milk are not reproduced in this Order. Accordingly on the operative date, the 27th February 1977, the entitlement to, or benefit of, National Dried Milk, ceases.

The principal matters dealt with in the Order include:—

(1) a description of the beneficiaries and the welfare milk and vitamins to which each is entitled;

(2) the meaning of a family in special circumstances and how it is assessed for entitlement;

(3) the method of using, and the period of validity of, the tokens by which welfare milk and food is obtainable;

(4) the responsibilities of suppliers of liquid milk under the scheme;

(5) the restrictions on the use of any welfare food by non-beneficiaries;

(6) the prices at which vitamin drops and vitamin tablets may be purchased.

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