STATUTORY INSTRUMENTS

1980 No. 1648

FOOD AND DRUGS

The Welfare Food Order 1980

Made - - - -	30*th October* 1980
Laid before Parliament	3*rd November* 1980
Coming into Operation	24*th November* 1980

The Secretary of State for Social Services, as respects England, the Secretary of State for Wales, as respects Wales and the Secretary of State for Scotland, as respects Scotland, 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**), and of all other powers enabling them in that behalf, hereby make the following order:—

PART I

PRELIMINARY

Citation and commencement

1. This order may be cited as the Welfare Food Order 1980 and shall come into operation on 24th November 1980.

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 is in a family in special circumstances within the meaning assigned to that expression in Article 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;

(a) 1964 c. 60; section 4(2) was amended by the Welfare Food (Extension of Definition) Order 1971 (S. I. 1971/422).
(b) *See* Secretary of State for Social Services Order 1968 (S.I. 1968/1699) Article 2 and the Transfer of Functions (Wales) Order 1969 (S.I. 1969/388).

"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;

"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 1980 nor a pupil at a school in accordance with the provisions of the Education (Scotland) Act 1980 (**a**);

"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, where the reference is not 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.

(a) 1980 c. 44.

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 he, or some other person in the same household 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 determined by the Secretary of State in accordance with the provisions of Schedule 1 to that Act and—

(i) as if sections 5 (power to require registration for employment), 6 (exclusion of certain employed persons and pupils), 8 (persons affected by trade disputes) and 10 (modification of right to supplementary allowance in certain cases) of and paragraphs 2(5) and 3(2)(*b*) of Schedule 1 to, that Act did not apply, and

(ii) as if his requirements included—

(I) 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 plus the sum of £2.50;

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

(III) 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;

(IV) 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 1980**(b)** as if he were in receipt of a supplementary pension or allowance under the Supplementary Benefits Act 1976 and as if paragraph 15(d) of Schedule 3 to the Supplementary Benefit (Requirements) Regulations 1980 (*c*) did not apply.

(2) Where by virtue of paragraph 3 of Schedule 1 to the Supplementary Benefits Act 1976 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 (2) 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.

(*a*) 1976 c.71; the Act as amended (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (c.30).
(*b*) S. I. 1980/985.
(*c*) S. I. 1980/1299.

(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 1970(a).

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) 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 paragraph (*a*) or (*b*) of the definition in article 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) of this article, 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*) of this article 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*) of this article.

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.

(a) 1970 c.55.

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 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 person who is a beneficiary within the meaning given to that expression in paragraph (*a*) or (*b*) of the definition in article 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) 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.

Transitory provision

22. Where, before the 1st January 1980 a token was issued for use after that date by an expectant or nursing mother, or in respect of a young child in the family, who, in either case, ceased to be a beneficiary at that date, such mother or young child shall continue to be treated as a beneficiary in the application of the provisions of this order connected with the use of such token to obtain free welfare milk or, as the case may be, welfare food, or with the loss or replacement of such token.

Revocation

23. The Welfare Food Order 1977(**a**), the Welfare Food (Amendment) Order 1977(**b**), the Welfare Food (Amendment No.2) Order 1977(**c**), the Welfare Food (Amendment) Order 1978(**d**), the Welfare Food (Amendment No.2) Order 1978(**e**) and the Welfare Food (Amendment) Order 1979(**f**) are hereby revoked.

Patrick Jenkin,
Secretary of State for Social Services.

28th October 1980.

Nicholas Edwards,
Secretary of State for Wales.

29th October 1980.

George Younger,
Secretary of State for Scotland.

30th October 1980.

(**a**) S. I. 1977/25.
(**b**) S. I. 1977/1492.
(**c**) S. I. 1977/1620.
(**d**) S. I. 1978/269.
(**e**) S. I. 1978/1876.
(**f**) S. I. 1979/1568.

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 persons who are beneficiaries within the meaning given in paragraph (a) or (b) of the definition in article 2(1)
Young child	Children's vitamin drops	14p per bottle containing not less than 10 millilitres	At the rate of 2 bottles every 13 weeks
Expectant mother	Vitamin tablets	30p per container of 45 tablets	At the rate of 2 containers of 45 tablets every 13 weeks
Nursing mother	Vitamin tablets	30p 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.
Milumil Clinic Pack	Milupa Ltd.
New Improved Formula Ostermilk 2	Farley Health Products Ltd.
Osterfeed	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 amendments take account of amendments made by the Social Security Act 1980 to provisions of the Supplementary Benefits Act 1976 referred to in this order.

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.

SI 1980/1648
ISBN 0-11-007648-6

