1968 No. 389

FOOD AND DRUGS

The Welfare Foods Order 1968

Made - - - -	15*th March* 1968
Laid before Parliament	25*th March* 1968
Coming into Operation	31st *March* 1968

The Minister of Health and the Secretary of State, acting jointly in exercise of the powers conferred on them by sections 4 and 7 of the Emergency Laws (Re-enactments and Repeals) Act 1964(a) 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 Foods Order 1968 and shall come into operation on 31st March 1968.

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

Interpretation

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

"beneficiary" means any of the following persons in Great Britain, namely, a young child, a handicapped child, an expectant mother or a nursing mother;

"dried milk" means National Dried Milk;

"enactment" includes any instrument made under an Act;

"handicapped child" in England and Wales means a child (other than a young child) who—

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

(*b*) is declared by the local education authority to be unable by reason of disability of mind or body to become a registered pupil of a school (other than a special school within the meaning of the Education Act 1944(b)),

(*c*) is not a registered pupil of such a special school, and

(*d*) is not in attendance at a full-time training centre;

and in Scotland means a child (other than a young child) who—

(i) is less than 16 years of age and is not in paid employment, and

(ii) is declared by the education authority to be unable by reason of disability of mind or body to become a pupil of a school (including a special school) within the meaning of the Education (Scotland) Act 1962(c);

"large family" means a family in which the number of beneficiaries entitled to welfare milk exceeds two;

(a) 1964 c. 60.
(b) 1944 c. 31.
(c) 1962 c. 47.

"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 maximum prices of milk);

"the Minister" means in relation to England and Wales the Minister of Health and in relation to Scotland the Secretary of State;

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

"registered day nursery" means a day nursery which is for the time being registered by the Minister for the purposes of this order;

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

"supplier" means a person who supplies milk under this order;

"token" means a token for welfare milk, free welfare milk or any other welfare food issued by the Minister under article 8;

"vitamin tablets" means vitamin A and D tablets;

"week" means a week ending at midnight between Saturday and Sunday;

"welfare food" means milk, dried milk, concentrated orange juice, cod liver oil or vitamin tablets;

"welfare milk", in relation to a beneficiary, means the milk or dried milk which he is entitled to obtain under Part II of this order;

"welfare price", in relation to milk, means a price of 6d. per pint, increased, where the supplier would be entitled under the Milk Order to charge the beneficiary for the milk supplied a price which exceeds the standard price, by the amount of the difference between these prices;

"young child" in England and Wales means a child aged not more than 5 years and 1 month, and in Scotland means a child aged not more than 5 years, so however that a child who does not attain the age of 5 years on a fixed date for commencing school attendance shall for the purpose of such attendance be deemed to attain that age on the fixed date next following the fifth anniversary of his birth.

(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) In this order, unless the context otherwise requires, any reference to any enactment shall be construed as a reference to that enactment as amended by or under any subsequent enactment.

PART II

ENTITLEMENT TO WELFARE FOODS

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 in respect of any period during which his requirements exceed his resources when calculated or estimated by the Minister according to the provisions of paragraphs 3 and 7 to 29 of

schedule 2 to the Ministry of Social Security Act 1966(a), subject to the following modifications—

(*a*) in sub-paragraph (*a*) of paragraph 23 (which relates to the calculation of weekly earnings) for the expression "20s." there shall be substituted the expression "40s."; and

(*b*) his requirements shall be deemed to include also—

(i) such amounts in respect of hire purchase transactions and mortgage repayments as the Minister may allow; and

(ii) the cost of welfare foods; and

(iii) any further amounts which the Minister may in special circumstances allow.

(2) Where by virtue of the said paragraph 3 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.

Entitlement to welfare milk

4.—(1) Subject to the provisions of this article, welfare milk shall be available, on application, to all beneficiaries at a rate for each beneficiary of 7 pints per week of liquid milk or one 20 oz. pack per week of dried milk, in the case of a beneficiary described in paragraph (2) of this article free of charge, and in any other case at a charge—

(*a*) for liquid milk, as provided in article 10, and

(*b*) for dried milk, of 2s. 4d. per 20 oz. pack:

Provided that where a nursing mother applies for welfare milk in respect of a young child whom she is suckling, she shall not be entitled under this paragraph to welfare milk in respect both of herself and the child; but nothing in article 20 shall prohibit her from consuming any welfare milk obtained for the child.

(2) The beneficiaries who are entitled to welfare milk free of charge under paragraph (1) of this article are—

(*a*) all but two of the beneficiaries in a large family, and

(*b*) all the beneficiaries in a family in special circumstances.

(3) Dried milk, additional to that to which he is entitled under paragraph (1) of this article, and on the same conditions as to payment, shall be available, on application, for a young child under one year of age who is being fed mainly on dried milk, in the quantities specified in column (2) of schedule 1 in relation to his age at the time of application as specified in column (1).

Entitlement to welfare foods other than liquid milk

5. A beneficiary described in column (1) of schedule 2 may buy the welfare foods specified in respect of him in column (2) at the price so specified in column (3), and where the beneficiary belongs to a family in special circumstances he shall be entitled to receive free of charge the quantity of those welfare foods so specified in column (4).

Milk for children attending registered day nurseries

6. The Minister may make arrangements for each young child attending a registered day nursery to receive (without prejudice to his entitlement under article 4) one third of a pint of milk, or dried milk made up to provide one third of a pint, in respect of each day of attendance, at a reduced price or free of charge.

(a) 1966 c. 20.

PART III

SUPPLY OF WELFARE FOODS

Application forms

7. Application for welfare foods shall be made by a beneficiary on a form supplied for the purpose by the Minister.

Issue of Tokens

8. The Minister shall issue tokens to enable beneficiaries to obtain welfare milk under article 4 and welfare foods free of charge under article 5.

Use of Tokens

9.—(1) To obtain the welfare foods 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 welfare milk may be used—

(*a*) to obtain 7 pints of milk during the week ending on the date specified on the token or during any of the four succeeding weeks, or

(*b*) to obtain a 20 oz. pack of dried milk during the period beginning one month before and ending one month after the date so specified;

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

(3) A token for additional supplies of dried milk may be used to obtain a 20 oz. pack of dried milk when a token for welfare milk is used to obtain dried milk.

(4) A token for free welfare milk shall be used together with, and in the same manner as, a token for welfare milk, but where a date is specified on a token for free welfare milk it may be used only with a token for welfare milk bearing the same date.

(5) A token for free additional supplies of dried milk may be used only with a token for additional supplies of dried milk.

(6) Tokens for concentrated orange juice, cod liver oil and vitamin tablets may be used by a beneficiary in a family in special circumstances to obtain free of charge the quantities of those welfare foods specified in respect of him in column (4) of schedule 2.

PART IV

DISTRIBUTION OF MILK

Suppliers of and charges for milk

10.—(1) Where any supplier has accepted from any beneficiary a token for welfare milk he shall (unless he has returned it to the beneficiary before it became valid) supply 7 pints of milk to the beneficiary against that token, during the period of validity of the token; and he may charge the beneficiary the welfare price for milk so supplied.

(2) Where any supplier has accepted from any beneficiary, together with a token for welfare milk, a token for free welfare milk, he shall (unless he has returned both tokens to the beneficiary before they became valid) supply 7 pints of milk to the beneficiary against the said tokens during the period of validity of the token for welfare milk; and—

(*a*) in any case where he would not be entitled under the Milk Order to charge for the milk supplied a price exceeding the standard price, he shall make no charge; and

(*b*) in any other case, he may charge the beneficiary for 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 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 reduced by 6d. or, if the token was accepted together with a token for free welfare milk, not so reduced.

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 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 Minister may from time to time direct, submit to the Minister all tokens against which the supplier has supplied 7 pints of milk.

PART V

TOKENS

Property in tokens

14. Every token is and shall remain the property of the Minister.

Replacement of tokens

15.—(1) The Minister 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 Ministry of 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 Minister 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 Minister, produce or deliver all tokens in his possession within such time and to such place as the Minister 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 Ministry of 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 Ministry of Social Security or, where death resulted from an infectious or contagious disease, in accordance with the instructions of the Medical Officer of Health.

Supplier losing possession of tokens

18.—(1) Where a supplier accepts any token for welfare milk or 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 (whether through accidental loss, theft or otherwise), he shall notify the Minister forthwith.

(2) Where—

(*a*) a supplier loses possession, as described in the last preceding paragraph, of a token and

(*b*) the Minister replaces that token pursuant to article 15(1),

the Minister may (unless satisfied that it has not been and can not be used by any person other than the beneficiary) require the supplier to pay to him—

(i) in respect of each such token which is a token for welfare milk, a sum equal to 7 times the difference between the standard price and 6d., and

(ii) in respect of each such token which is a token for free welfare milk, a sum of 3s. 6d.

(3) Any sum required to be paid under this article may be recovered as a civil debt.

(4) Where the Minister receives payment of a sum under this article but subsequently becomes satisfied that any tokens in respect of which payment was made were not misused, he shall make a refund to the supplier accordingly.

PART VI

MISCELLANEOUS

Restrictions on supply of welfare foods

19.—(1) No person shall obtain any 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 welfare milk pursuant to article 4 or welfare foods free of charge 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.

(3) A beneficiary or a person acting on behalf of a beneficiary shall not obtain free welfare milk pursuant to article 4 otherwise than in exchange for tokens pursuant to article 9.

Use of welfare foods

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

(*a*) if the food is liquid milk or dried milk, the beneficiary has consumed a

quantity of milk approximately equal to the quantity of 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 welfare milk referred to in the proviso to article 4(1).

Northern Ireland tokens to be valid in Great Britain

21. Any token issued by a department of the Government of Northern Ireland under the provisions of the Welfare Foods (Northern Ireland) Order 1968 (a) shall be valid in Great Britain as if it had been issued by the Minister under this order.

Revocations

22. The orders specified in schedule 3 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.

Article 4(3) SCHEDULE 1

Additional supplies of dried milk for a young child under one year of age who is being fed mainly on dried milk.

Age of child at time of application (1)	Amount (2)
Not exceeding 3 months	31 20 oz. packs
3 months but not exceeding 4 months	28 " " "
4 " " " " 5 "	24 " " "
5 " " " " 6 "	20 " " "
6 " " " " 7 "	16 " " "
7 " " " " 8 "	12 " " "
8 " " " " 9 "	8 " " "
9 " " " " 10 "	8 " " "
10 " " " " 11 "	4 " " "
11 " " " " 12 "	2 " " "

S.I. 1968/427 (1968 I, p. 1118).

Article 5

SCHEDULE 2

Entitlement to welfare foods other than liquid milk

(1) Class of beneficiary	(2) Welfare food	(3) Price	(4) Quantity of welfare food supplied free of charge to beneficiaries in a family in special circumstances
All beneficiaries	Dried milk	4s. 0d. per 20 oz. pack	As specified in article 4(1)
Young child	Concentrated orange juice	1s. 6d. per bottle	From birth to 6 months of age at the rate of 3 bottles every 13 weeks From 6 months to 2 years of age at the rate of 7 bottles every 13 weeks
	Cod liver oil	1s. 0d. per bottle	At the rate of 2 bottles every 13 weeks
Expectant mother	Concentrated orange juice	1s. 6d. per bottle	At the rate of 10 bottles every 13 weeks
	Vitamin tablets	6d. per packet of 45 tablets	At the rate of 2 packets of 45 tablets every 13 weeks
Nursing mother	Concentrated orange juice	1s. 6d. per bottle	At the rate of 10 bottles every 13 weeks
	Vitamin tablets	6d. per packet of 45 tablets	5 packets of 45 tablets

In this schedule "bottle" means a bottle containing not less than 6 oz.

Article 22 SCHEDULE 3

Orders revoked (1)	References (2)
The Welfare Foods (Great Britain) Order 1954 ...	S.I. 1954/1401 (1954 II, p. 2119).
The Welfare Foods (Great Britain) (Amendment) Order 1955	S.I. 1955/1369 (1955 II, p. 2511).
The Welfare Foods (Great Britain) Amendment (No. 2) Order 1955	S.I. 1955/1796 (1955 II, p. 2512).
The Welfare Foods (Great Britain) Amendment Order 1956	S.I. 1956/1130 (1956 II, p. 2266).
The Welfare Foods (Great Britain) Amendment Order 1957	S.I. 1957/411 (1957 II, p. 2343).
The Welfare Foods (Great Britain) Amendment (No. 2) Order 1957	S.I. 1957/1759 (1957 II, p. 2344).
The Welfare Foods (Great Britain) Amendment Order 1961	S.I. 1961/352 (1961 I, p. 561).

Given under the official seal of the Minister of Health on 15th March 1968.

(L.S.) *Kenneth Robinson,*
Minister of Health.

Given under the seal of the Secretary of State for Scotland on 14th March 1968.

(L.S.) *William Ross,*
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order re-enacts with amendments the Orders relevant to the administration of the welfare foods scheme operated in Great Britain by the Minister of Health and the Secretary of State.

The principal matters dealt with in the Order include:—

(1) a description of the beneficiaries (expectant and nursing mothers, children under 5 and handicapped children) and a list of the foods to which each is entitled;

(2) the method of using, and the period of validity of, the tokens by which welfare foods are obtainable;

(3) restrictions on the use of welfare foods by non-beneficiaries;

(4) the prices to be charged for welfare foods.

The price of milk supplied under the scheme to beneficiaries is 6d. per pint of milk normally sold at the lowest of the maximum controlled prices for milk (which, currently, is 10d. per pint). If the beneficiary takes milk which would normally be sold at a price higher than that price, he pays the balance also.

The principal changes from the revoked Orders are that—

(*a*) a definition is provided of beneficiaries who are to receive free welfare foods—namely, beneficiaries in families in special circumstances, defined by reference to criteria employed by the Ministry of Social Security in the payment of benefit;

(*b*) the provision for welfare milk to be supplied free is extended to all but two of the beneficiaries in large families (those containing three or more beneficiaries);

(*c*) provision is made for the obligations of the supplier in respect of lost tokens;

(*d*) some drafting changes are necessary because the Order is not made under the same enabling powers as the revoked Orders. Certain of the penal provisions hitherto applicable (mainly with respect to misuse of tokens) are now contained in the enabling Act—namely the Emergency Laws (Re-enactments and Repeals) Act 1964.