
11 January 2011

Dear Consultee

Consultation on the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011

I write to inform you of the proposal to make the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011 and to invite any comments. We anticipate that the new Scottish Statutory Instrument will come into force in March 2011.

The following documents can be found at
<http://www.scotland.gov.uk/Consultations/Current>

- Letter to consultees.
- Background note.
- List of consultees.
- Draft Statutory Instrument: Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011

The instrument will amend the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001 (SSI 2001/162). Certain changes were required as a result of the Council Regulation (EC) 1234/2007 (the Single CMO) including updating the references to the correct EU law.

A more detailed summary of the proposals is attached, and we would welcome your comments.

The changes should have no additional cost implication to the dairy industry.

If you wish to submit comments on these proposals, please send your views to my colleague Angela Felvus at Angela.Felvus@scotland.gsi.gov.uk or

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Food and Drink Industry Division
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I would welcome any comments by 31st **January**. This consultation package has also been published on the Scottish Government website.

Yours faithfully

MARTIN MORGAN
Livestock Policy Branch

Summary of the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011 (the 2011 Regulations)

The main objective of the 2011 Regulations is to amend the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001 and update EU law references.

Council Regulation (EC) No 1255/1999 which provided for the payment of an EU subsidy for milk and certain milk products in schools and allowed member States to pay national top up to the Community aid was repealed and replaced by Council Regulation (EC) No 1234/2007 (the Single CMO Regulation). The Single CMO Regulation was the result of a programme of work during 2007 to consolidate 21 EU Regulations, which set out the framework for the Common Market Organisation (CMO) into a single regulation, commonly referred to as the Single CMO Regulation.

Commission Regulation 2707/2000, which laid out the detailed implementing rules for the EU milk scheme was repealed and replaced by Commission Regulation 657/2008. Regulation 657/2008 has increased the scope of the EU subsidy scheme.

The 2011 Regulations also make provision for references to the single CMO Regulation and Commission Regulation 657/2008 to be references to those Regulations as amended from time to time. The following measures will be taken to ensure interested parties and the public are kept up to date with any amendments.

- European legislation is publicly available on http://europa.eu/documentation/legislation/index_en.htm
- Publications on the Scottish Government website.
- Updates sent to interested parties.

A saving provision is made to save the effect of the principal Regulations, unamended by the 2011 Regulations, in respect of Community aid and national top up payments made prior to the 2011 Regulations coming into force (regulation 5). This will allow for recovery or withholding of such payments after the 2011 Regulations come into force.

A Business Regulatory Impact Assessment has not been prepared for this instrument as no financial impact on the dairy industry is foreseen.

Consultation List

Arla Foods UK
Convention of Scottish Local Authorities
Dairy UK Scotland
First Milk
Food Standards Agency Scotland
Graham's Dairies
NFU Scotland
Orkney Milk
Robert Wiseman Dairies
Scottish Consumer Council
Scottish Dairy Cattle Association
Scottish Enterprise
Scottish Grocers Federation
Scottish Retail Consortium.
Sorn Milk

2011 No.

AGRICULTURE

**The Milk and Milk Products (Pupils in Educational Establishments)
(Scotland) Amendment Regulations 2011**

Made - - - -

Laid before the Scottish Parliament

Coming into force - - [] *March 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972⁽¹⁾ and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in that section and it appears to the Scottish Ministers that it is expedient for the references to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽²⁾; and
- (b) Commission Regulation (EC) No 657/2008 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments⁽³⁾.

The Scottish Ministers have carried out consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽⁴⁾.

Citation and commencement

These Regulations may be cited as the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011 and come into force on [5th] March.

(1) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46), (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”) and section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act, and so far as exercisable in or as regards Scotland in relation to food (including drink) including the primary production of food, are exercisable by the Scottish Ministers concurrently with the Minister of the Crown by virtue of article 3 of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, Schedule 1, Part 1.

(2) O.J. No. L 299, 16.11.07, p.1; last amended by [Council] Regulation (EU) No 1234/2010 (O.J. L 346 30.12.2010, p11.)

(3) O.J. No L 183, 11.7.08, p.17; last amended by Commission Regulation (EC) No 966/2009 (O.J. L 271, 16.10.2009, p10-11)]

(4) O.J. No. L 31, 1.2.02, p.1, to which there are no Amendments relevant to article 9.

Amendment to the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001

2. The Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001⁽⁵⁾ (“the principal Regulations”) are amended in accordance with regulations 3 to 5.

Amendment to regulation 2 of the principal Regulations

3. In regulation 2 (interpretation) of the principal Regulations, for the definition of—

(a) “the Commission Regulation”, substitute—

““the Commission Regulation” means Commission Regulation (EC) No. 657/2008 laying down detailed rules for applying Council Regulation (EC) No. 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments⁽⁶⁾, as amended from time to time;”;

(b) “Community aid” substitute—

““Community aid” means Community aid granted pursuant to Article 102(1) of the Council Regulation and in accordance with the Commission Regulation”; and

(c) “the Council Regulation”, substitute—

““the Council Regulation” means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽⁷⁾, as amended from time to time;”.

Amendment to regulation 3 of the principal Regulations

4. In regulation 3 (additional payments under Article 14(2) of the Council Regulation)—

(a) in paragraph (1) for “Article 14(2)” substitute “Article 102(2)”; and

(b) for sub-paragraph (3)(a) to (h) substitute—

“(a) Article 2 (beneficiaries);

(b) Articles 3(1) and 3(4) (eligible products);

(c) Article 5(4), first sub-paragraph (milk and milk products used in preparation of meals not to benefit from aid);

(d) Article 8 (general conditions of approval), except for the words in sub-paragraph (b) following the reference to Article 2;

(e) Article 9 (specific conditions for the approval of certain applicants);

(f) Article 10 (suspension and withdrawal of approval);

(g) Article 11 (payment applications);

(h) Article 12 (payment of aid);

(i) Article 14 (price monitoring);

(j) Article 15 (controls and sanctions).”.

Savings

5.—a) Notwithstanding regulation 2, in respect of a payment of Community aid or a payment made under regulation 3 of the principal Regulations before the coming into force of these Regulations, the principal Regulations shall continue to have effect as if the amendments made by these Regulations had not been made.

(1) For the purposes of this regulation “Community aid” means Community aid granted to pupils in educational establishments (except secondary schools) pursuant to Article 14(1) of Council Regulation (EC) 1255/1999 on the common organisation of the market in milk and milk products ⁽⁸⁾ as amended by

⁽⁵⁾ S.S.I. 2001/162.

⁽⁶⁾ O.J. No. L 183, 11.7.08, p.17; last amended [].]

⁽⁷⁾ O.J. No. L 299, 16.11.07, p.1; last amended by [Council] Regulation (EU) No 1234/2010 (OJ L 346 30.12.2010, p.11.)

⁽⁸⁾ O.J. No. L 160 26.6.99, p.48.

Council Regulation (EC) No. 1040/2000⁽⁹⁾ and Council Regulation (EC)1670/2000⁽¹⁰⁾, as read with Commission Regulation (EC) No. 2707/2000 laying down rules for applying Council Regulation (EC) 1255/1999 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments.

A member of the Scottish Executive

St Andrew's House,
Edinburgh
[] 2011

⁽⁹⁾ O.J. No. L 118 19.5.00, p.1.
⁽¹⁰⁾ O.J. No. L 193,29.7.00, p.10.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001 (S.S.I. 2001/162).

Regulations 3 and 4 of these Regulations update references in the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Regulations 2001 (“the principal Regulations”) in light of changes in EU law. Council Regulation (EC) No. 1255/1999 and Commission Regulation (EC) No. 2707/2000 were repealed and replaced by Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (O.J. No. L 200, 16.11.07, P.1) and Commission Regulation (EC) No. 657/2008 laying down detailed rules for applying Council Regulation 1234/2007 as regards aid for supplying milk and certain milk products to pupils in educational establishments (O.J. No. L 183, 11.7.08, p.17). The new EU law deals with the same subject matter as the EU law which it revoked and replaced i.e. the rules governing the provision of aid for milk and milk products in educational establishments.

The amendments to regulation 3 of the principal regulations (regulation 4) ensure that any national aid payments under regulation 3 of the principal regulations shall be subject to the same rules, requirements and conditions as apply to Community aid, which is made under Article 102(1) of the Single CMO Regulation as implemented by Commission Regulation (EC) No. 657/2008.

A saving provision is made to save the effect of the principal Regulations, unamended by these Regulations, in respect of payments of Community aid and payments made under regulation 3 of the principal Regulations prior to these Regulations coming into force (regulation 5). This will allow for recovery or withholding of such payments after these Regulations come into force.

These regulations provide that references, in the principal Regulations, to Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (O.J. No. L 200, 16.11.07, P.1) and Commission Regulation (EC) No. 657/2008 laying down detailed rules for applying Council Regulation 1234/2007 as regards aid for supplying milk and certain milk products to pupils in educational establishments (O.J. No. L 183, 11.7.08, p.17) are references to those Regulations as amended from time to time.

[A business and Regulatory Impact Assessment has not been produced, as there will be no cost to business.]

Milk and Milk Products (Pupils in Educational Establishments) (Scotland) (Amendment) Regulations 2011.



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

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<input type="text"/>		
<input type="text"/>		
Postcode	Phone	Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No



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