

2011 No. 82

AGRICULTURE

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

Made - - - - *9th February 2011*

Laid before the Scottish Parliament *11th February 2011*

Coming into force - - *1st April 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(a) 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 in these Regulations, and in the Regulations which these Regulations amend, to—

- (a) Article 102 of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(b); 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(c),

to be construed as references to that Article and that Commission Regulation as amended from time to time.

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(d).

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by 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), in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. 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.

(b) O.J. L 299, 16.11.07, p.1; last amended by Regulation (EU) No 1234/2010 (O.J. L 346 30.12.10, p11).

(c) O.J. L 183, 11.7.08, p.17; last amended by Commission Regulation (EC) No 966/2009 (O.J. L 271, 16.10.09, p10).

(d) O.J. L 31, 1.2.02, p.1, to which there are no amendments relevant to Article 9.

Citation and commencement

1. These Regulations may be cited as the Milk and Milk Products (Pupils in Educational Establishments) (Scotland) Amendment Regulations 2011 and come into force on 1st April 2011.

Amendment of 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(a) are amended in accordance with regulations 3 and 4.

3. In regulation 2 (interpretation) for the definition—

(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(b), 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;”;

(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)(c), as amended from time to time.”.

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

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

(b) for paragraph (2)(a) to (h) substitute—

“(a) Article 2 (beneficiaries);

(b) Article 3(1) and (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 paragraph (1)(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 the aid);

(a) S.S.I. 2001/162.

(b) O.J. L 183, 11.7.08, p.17; last amended by Commission Regulation (EC) No. 966/2009 (O.J. L 271, 16.10.09, p.10).

(c) O.J. L 299, 16.11.07, p.1; last amended by Regulation (EU) No 1234/2010 (O.J. L 346, 30.12.10, p.11).

- (i) Article 14 (price monitoring); and
- (j) Article 15 (controls and sanctions),”.

St Andrew's House,
Edinburgh
9th February 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

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 (“the principal Regulations”).

These Regulations update references in the principal Regulations in light of changes in EU law (regulations 3 and 4). Council Regulation (EC) No 1255/1999 (O.J. L 160, 26.6.99, p.48) and Commission Regulation (EC) No 2707/2000 (O.J. L 311, 12.12.00, p.37) 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) 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 (“the Commission Regulation”). 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 Community aid for milk and milk products in educational establishments.

These Regulations replace references in the principal Regulations with the corresponding references to the replacement provisions in the Single CMO Regulation and the Commission Regulation. There are no major changes as a result of the replaced provisions although there are some minor changes as follows—

- (a) secondary schools may now also be beneficiaries of aid (Article 2);
- (b) new provision on eligible milk products for aid (Article 3(1) and (4));
- (c) changes to general conditions for approval, in relation to written commitments on scrutiny of records and repayment of unduly paid aid (Article 8);
- (d) less stringent record keeping requirements for suppliers of milk products and organisations acting on behalf of schools (Article 9);
- (e) extended period after which approval for aid may be restored at an applicant’s request, if it has been withdrawn (Article 10);
- (f) payment applications must now be lodged by the end of the third, rather than fourth, month following the end of the period of the application (Article 11);
- (g) small changes in relation to the detailed rules for the payment of aid, including aid must now be paid within three, rather than four, months of a valid application being lodged (Article 12);
- (h) provision on administrative checking of aid applications has been introduced, including on the spot checks (Article 15);
- (i) the provision previously allowing Member States to pay advances of aid is no longer incorporated.

The amendments to regulation 3 of the principal Regulations 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 paid under Article 102(1) of the Single CMO Regulation as implemented by the Commission Regulation.

These Regulations provide that references, in the principal Regulations, to Article 102 of the Single CMO Regulation and the Commission Regulation are to be construed as references to that Article and that Regulation as amended from time to time.

Any amendments to Article 102 and that Commission Regulation will be published on the Europa website, (http://europa.eu/documentation/legislation/index_en.htm). Additionally the Scottish Government will publish relevant information on the Scottish Government website (www.scotland.gov.uk) and updates will be sent to interested parties where considered appropriate.

A Business and Regulatory Impact Assessment has not been produced for this instrument, as there will be no cost to business.

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