

EXPLANATORY MEMORANDUM TO
THE MILK AND MILK PRODUCTS (PUPILS IN EDUCATIONAL
ESTABLISHMENTS) (ENGLAND) REGULATIONS 2008

2008 No. 2072

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Statutory Instrument, which applies in England, revokes and replaces the Milk and Milk Products (Pupils in Educational Establishments) (England) Regulations 2001 S.I. 2001/994, and the Milk and Milk Products (Pupils in Educational Establishments) (England) (Amendment) Regulations 2007 S.I. 2007/3429.

2.2 This instrument allows the continuation of a scheme for making national “top up” payments to beneficiaries of an EU subsidy for milk and certain milk products in schools. It revokes and replaces a previous scheme. It allows the Secretary of State to determine which beneficiaries or products may benefit from the national top up. It provides enforcement powers to recover payments made to applicants who are not eligible to the aid or if the commitments have been breached. The Instrument also updates references to European legislation.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 This Statutory Instrument, which applies in England, revokes and replaces the Milk and Milk Products (Pupils in Educational Establishments) (England) Regulations 2001 S.I. 2001/994, and the Milk and Milk Products (Pupils in Educational Establishments) (England) (Amendment) Regulations 2007 S.I. 2007/3429. The Instrument also updates references to European legislation as a result of the coming into force of certain provisions of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulations) and 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. It makes references to those Regulations ambulatory.

5. Territorial Extent and Application

5.1 This instrument applies to England. Similar legislation is planned by the devolved authorities in Scotland, Wales, and Northern Ireland.

6. European Convention on Human Rights

6.1 As the Instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

7.1 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 a national top up to the Community aid, was repealed by Council Regulation (EC) No 1234/2007 (the Single CMO Regulation). The Single CMO Regulation consolidated a number of Regulations but made no policy changes to the regimes covered. Commission Regulation 2707/2000, which laid out the detailed implementing rules for the EU School Milk Scheme was repealed by Regulation 657/2008. It is therefore necessary to update the references to Community legislation in domestic legislation. Regulation 657/2008 has increased the scope of the EU subsidy scheme to include secondary schools (nursery and primary schools were previously covered). A wider range of products have also been made eligible for subsidy.

7.2 A formal consultation for this Instrument has not been conducted, but a consultation on the implementation of the EU School Milk Scheme and the application of the national top up and the products offered is planned for the autumn. Formal consultations on Council Regulation (EC) No 1234/2007 and Commission Regulation (EC) No 657/2008 were held, and no issues of concern were raised.

7.3 This instrument will allow the Secretary of State to decide which beneficiaries will benefit from the national top up, following the formal consultation on the implementation of the Scheme. Until such time as the consultation has been completed, the Secretary of State will continue to pay the top up to those currently eligible for it (primary school children).

8. Impact

8.1 No impact assessment has been prepared in respect of this instrument as it has no effect on the costs of business or the voluntary sector. An impact assessment will be prepared as part of the formal consultation in the autumn.

9. Contact

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Who can answer enquiries regarding this instrument.