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S U B O R D I N A T E  
L E G I S L A T I O N

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**NWSI 2026 NO.3**

**FOOD, WALES**

**The Nursery Milk Scheme (Wales)  
Directions 2026**

*Made* **12 January 2026**

*Coming into force* **13 January 2026**

The Welsh Ministers, in exercise of the powers conferred on them by sections 23(1), 24(1) and 203(9) and (10) of the National Health Service (Wales) Act 2006<sup>(1)</sup>, and section 13(8) of the Social Security Act 1988<sup>(2)</sup>, give the following Directions.

The Welsh Ministers have agreed these Directions with the Secretary of State in accordance with section 13(8) of the Social Security Act 1988.

**Title, application and commencement**

- 1.—(1) The title of these Directions is the Nursery Milk Scheme (Wales) Directions 2026.
- (2) These Directions apply to Wales.
- (3) These Directions are given to the Authority.
- (4) These Directions come into force on 13 January 2026.

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(1) 2006 c. 42, to which there are amendments not relevant to these Directions. Sections 23 and 24 of the National Health Service (Wales) Act 2006 (“the 2006 Act”) confer powers on the Welsh Ministers to direct Special Health Authorities. Special Health Authorities are bodies established by order under section 22 of the 2006 Act. The Authority was established by order under an equivalent provision in the National Health Service Act 1977 (c. 49), which the 2006 Act consolidated. Under paragraph 1 of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006 (c. 43), subordinate legislation made under provisions repealed and re-enacted by the 2006 Act have effect as if made under corresponding provision. The Authority is therefore a Special Health Authority within the meaning of section 22 of the 2006 Act.

(2) 1988 c. 7. Section 13 was amended by section 21(1) of, and paragraph 8(11) of Schedule 6 to, the Social Security Act 1990 (c. 27).

## Interpretation

### 2. In these Directions—

“the 2022 Directions” (“*Cyfarwyddydau 2022*”) means the Nursery Milk Scheme (Wales) Directions 2022(1);

“Authority” (“*Awdurdod*”) means the NHS Business Services Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(2);

“the Nursery Milk Scheme in Wales” (“*y Cynllun Llaeth Meithrinfeydd yng Nghymru*”) means the scheme established by the Principal Regulations as it applies to Wales;

“the Principal Regulations” (“*y Prif Reoliadau*”) means the Welfare Food Regulations 1996(3).

## The Directed Functions

### 3. In these Directions, “the Directed Functions” means—

- (a) the functions of the Welsh Ministers in Parts 5 and 6 of the Principal Regulations(4), and
- (b) the functions set out in these Directions.

## Operation and administration of the Nursery Milk Scheme in Wales

4.—(1) The Authority must exercise the Directed Functions for the purpose of operating and administering the Nursery Milk Scheme in Wales.

### (2) This includes—

- (a) working with the Welsh Ministers to ensure that appropriate agreements and arrangements are put in place between the Authority and the Welsh Ministers detailing the administration and operation of the Nursery Milk Scheme in Wales, including specifications, key performance indicators and funding arrangements;

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(1) WG22-33, amended by WG22-34 and WG23-37. Only a courtesy translation of these Directions exists in the Welsh language.

(2) S.I. 2005/2414; the relevant amending instruments are S.I. 2006/632, S.I. 2007/1201, S.I. 2013/235 and S.I. 2017/959.

(3) S.I. 1996/1434; the relevant amending instruments are S.I. 2005/3262, S.I. 2006/2818, S.I. 2015/1580 and S.I. 2020/267.

(4) Functions of the Secretary of State under the Welfare Food Regulations 1996 (with the exception of regulations 6, 8, 12, 13(4) and 15) were transferred to the National Assembly for Wales by article 2 of, and paragraph 1 of Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were then transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

- (b) carrying out administrative functions relating to the supply of milk or dried milk under the Nursery Milk Scheme in Wales;
- (c) checking entitlement and approving suppliers in accordance with regulation 19 of the Principal Regulations;
- (d) checking claims and providing reimbursements in accordance with regulation 20 of the Principal Regulations;
- (e) requesting and receiving the information outlined in regulation 21 of the Principal Regulations;
- (f) handling any complaints in line with the Authority's published complaints procedure;
- (g) taking such action as is reasonably necessary for the purpose of preventing or detecting any fraudulent claims for reimbursement by suppliers or any other persons, in accordance with the Counter Fraud Directions;
- (h) where the Authority suspects that fraudulent claims have been made, investigating those claims in accordance with the Counter Fraud Directions and, where appropriate, liaise with the Welsh Government's counter fraud team and consider submitting a case file to the Crown Prosecution Service where criminal offences have been identified.

(3) As soon as practicable after these Directions come into force, the Authority must take reasonable steps to ensure that the persons (if any) affected by its operation and administration of the Nursery Milk Scheme in Wales are notified that the Authority is exercising the Directed Functions.

(4) In this paragraph—

- (a) “Counter Fraud Directions” means the Directions to NHS bodies on Counter Fraud Measures 2005(1);
- (b) “supplier” has the meaning given in regulation 2(1) of the Principal Regulations.

### **Record-keeping**

5.—(1) The Authority must maintain records about its exercise of the Directed Functions.

(2) The records must include—

- (a) records of all management and operational decisions;
- (b) documents relating to any litigation (whether actual or threatened);

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(1) WHC (2005) 095.

- (c) records of complaints made about the Nursery Milk Scheme in Wales or the Authority's administration of the Nursery Milk Scheme in Wales;
- (d) applications and claims for reimbursement made under the Principal Regulations.

### **Reporting**

6.—(1) The Authority must periodically provide to the Welsh Ministers written reports on the operation of, and the claims paid under, the Nursery Milk Scheme in Wales.

(2) The dates on which reports under paragraph (1) must be provided must be agreed between the Authority and the Welsh Ministers.

(3) As soon as practicable, the Authority must notify the Welsh Ministers of any challenge (including actual or threatened litigation) to the Nursery Milk Scheme in Wales.

(4) Where the Authority notifies the Welsh Ministers of a matter in accordance with paragraph (3), it must—

- (a) consult with the Welsh Ministers about the conduct of the matter, and
- (b) ensure that the Welsh Ministers are kept informed of the progress of the matter.

### **Use of third-party contractors**

7.—(1) The Authority may enter into an agreement with a third-party contractor to discharge the Directed Functions for and on behalf of the Authority.

(2) Before entering into an agreement with a third-party contractor under paragraph (1), the Authority must—

- (a) consult with the Welsh Ministers about the terms of the agreement, and
- (b) obtain the approval of the Welsh Ministers.

(3) The Authority must ensure that the third-party contractor—

- (a) handles any complaints in line with the requirements outlined in the agreement;
- (b) develops and implements a claim validation strategy and an anti-fraud strategy, which complies with any requirements outlined in the agreement;
- (c) provides the services under the name of the “Nursery Milk Reimbursement Unit”;
- (d) fulfils the record keeping obligations in direction 5;
- (e) otherwise complies with the terms of the agreement.

(4) Where a person challenges the third-party contractor's handling of a complaint under paragraph (3)(a), the Authority must handle and respond to any follow-up complaints.

#### **Guidance and advice**

**8.**—(1) The Authority must have regard to guidance on the Nursery Milk Scheme in Wales issued by the Welsh Ministers.

(2) Upon request by the Welsh Ministers, the Authority must provide advice to the Welsh Ministers about the Nursery Milk Scheme in Wales.

#### **Expiry of these Directions**

**9.**—(1) These Directions expire at the end of the period of 4 years beginning with the day on which they are made.

(2) The expiry of these Directions does not affect the validity of anything done pursuant to these Directions before they expire.

#### **Revocation**

**10.**—(1) The 2022 Directions are revoked.

(2) For the purpose of these Directions, the 2022 Directions are to be regarded as having expired immediately before the commencement date of these Directions and any act or omission under the 2022 Directions which applied immediately before the commencement date of these Directions is to be treated as an act or omission under these Directions.

Ed Wilson  
Deputy Director, Public Health, Improvements and  
Inequalities

**Signed on behalf of the Welsh Ministers**

12 January 2026

