Schools (Health Promotion and Nutrition) (Scotland) Act 2007

2007 asp 15

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 14th March 2007 and received Royal Assent on 19th April 2007

An Act of the Scottish Parliament to make provision about the promotion of health in certain schools and certain school hostels; and to amend the law in relation to the provision of food and drink for certain pupils.

Health promotion

1 Duties in relation to promotion of health

After section 2 of the 2000 Act insert—

"Health promotion

2A Duties in relation to promotion of health

(1) The Scottish Ministers must endeavour to ensure that—
(a) schools managed by education authorities,
(b) grant-aided schools, and
(c) hostels provided and maintained by education authorities for pupils,
are health-promoting.

(2) An education authority must endeavour to ensure that—
(a) schools managed by them, and
(b) hostels provided and maintained by them for pupils,
are health-promoting.

(3) The managers of a grant-aided school must endeavour to ensure that the school is health-promoting.

(4) In carrying out the duty imposed by subsection (2) or (3), an education authority or, as the case may be, the managers of a grant-aided school must have regard to any guidance issued by the Scottish Ministers for the purposes of this section.

Status: *Point in time view as at 03/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Health Promotion and Nutrition) (Scotland) Act 2007. (See end of Document for details)*

(5) In this section, a school or hostel is "health-promoting" if it provides (whether on its own or in conjunction with Health Boards, parents or any other person)—

(a) activities, and

(b) an environment and facilities,

which promote the physical, social, mental and emotional health and well-being of pupils in attendance at the school or residing in the hostel.".

Commencement Information

I1 S. 1 in force at 3.1.2008 by S.S.I. 2007/372, **art. 2(b)**

2 Annual statement: account of health promotion

In section 5 of the 2000 Act (education authority's annual statement of education improvement objectives)—

(a) in subsection (1), for "duty under section" substitute " duties under sections 2A(2) and ", and

(b) in subsection (2), after "account" insert—

"(za) of the ways in which the authority will seek to carry out the duty imposed by section 2A(2);".

Commencement Information

I2 S. 2 in force at 3.1.2008 by S.S.I. 2007/372, **art. 2(b)**

Food and drink

VALID FROM 12/05/2008

3 Food and drink: nutritional requirements

After section 56 of the 1980 Act insert—

"Food and drink: nutritional requirements

56A Food and drink: nutritional requirements

(1) Where subsection (2) applies in relation to food or drink provided for pupils in attendance at public schools, an education authority must ensure that the food or, as the case may be, drink complies with nutritional requirements specified by the Scottish Ministers by regulations.

(2) This subsection applies where—

(a) food or drink is provided under section 53(1)(a), or

(b) food or drink provided on the premises of a public school or on the premises of a hostel provided and maintained by the education authority for pupils—

(i) is not provided under section 53(1)(a), and
(ii) does not fall within subsection (3).

(3) Food or drink falls within this subsection if it is—
(a) brought onto the premises of the school or hostel by a pupil, or
(b) provided as part of a social, cultural or recreative activity (whether or not the activity is organised by an education authority).

(4) It is immaterial for the purposes of subsection (1) whether food or drink is provided by—
(a) the education authority, or
(b) another person in pursuance of an agreement or other arrangement with the authority.

56B Regulations under section 56A: further provision

(1) Regulations such as are mentioned in section 56A(1) may, in particular, include provision for or in connection with—
(a) specifying particular foods or drinks which satisfy, or fail to satisfy, nutritional requirements specified in the regulations,
(b) specifying circumstances where food or drink may be provided to a pupil even if it does not satisfy nutritional requirements specified in the regulations,
(c) requiring that drinking water be made available for every pupil, free of charge, on the premises of—
(i) a public school, or
(ii) a hostel provided and maintained by an education authority for pupils.

(2) Regulations under section 56A(1) may make different provision for different purposes and for different descriptions of pupil.

56C Guidance

An education authority must, in carrying out the duty imposed on them by section 56A(1), have regard to any relevant guidance issued by the Scottish Ministers.

56D Application of sections 56A to 56C to grant-aided schools

(1) Sections 56A to 56C apply in relation to the managers of a grant-aided school as they apply in relation to an education authority.

(2) For the purposes of that application, those sections are to be read as if the modifications mentioned in subsections (3) to (5) had been made.

(3) For subsections (1) and (2) of section 56A substitute—

"(1) The managers of a grant-aided school must ensure that food and drink provided for pupils in attendance at the school which—
(a) is provided on the premises, and
(b) does not fall within subsection (3),

Status: *Point in time view as at 03/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Health Promotion and Nutrition) (Scotland) Act 2007. (See end of Document for details)*

complies with nutritional requirements specified by the Scottish Ministers by regulations.”.

(4) In sections 56A(3)(a) and 56B(1)(c) the references to a hostel are omitted.

(5) In section 56B(1)(c) the reference to a public school is to be read as a reference to a grant-aided school.”.

VALID FROM 12/05/2008

4 Regulations specifying nutritional requirements: procedure

In section 133 of the 1980 Act (regulations)—

(a) in subsection (2), for “(2A)” substitute “ (2ZA) ”, and

(b) after that subsection insert—

“(2ZA) Subsection (2) shall not apply to the first regulations to be made under section 56A(1); and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, the Scottish Parliament.”.

VALID FROM 04/08/2008

5 Education authorities' arrangements with independent schools

(1) In section 49 of the 1980 Act (power to assist persons to take advantage of educational facilities), after subsection (2) insert—

“(2ZA) Before exercising the power conferred by subsection (2)(b) in respect of a person attending an independent school an education authority must have regard to the matter mentioned in section 50A.”.

(2) In section 50 of that Act (education of pupils in exceptional circumstances)—

(a) in subsection (1), in paragraph (b), after “can” insert “ , subject to subsection (1ZA), ”, and

(b) after that subsection insert—

“(1ZA) In deciding whether school education suitable to the age, ability and aptitude of a pupil is best provided at a particular independent school, an education authority must have regard to the matter mentioned in section 50A.”.

(3) After section 50 of that Act insert—

"**50A Sections 49 and 50: matter to which education authority must have regard**

The matter referred to in sections 49(2ZA) and 50(1ZA) is the extent to which food and drink provided for pupils in attendance at the independent school which—

(a) is provided on the premises of the school, and

(b) is not—

(i) brought onto the premises by a pupil, or

(ii) provided as part of a social, cultural or recreative activity (whether or not the activity is organised by the proprietor of the independent school),

would comply with nutritional requirements specified by the Scottish Ministers by regulations such as are mentioned in section 56A(1) if those regulations applied in relation to the independent school.".

6 School meals and snacks

(1) Section 53 of the 1980 Act (provision of school meals) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "milk, meals or other refreshment" substitute " food or drink ", and

(b) in paragraph (b), for "meals or other refreshment" substitute " food or drink ".

(3) For subsection (2) substitute—

"(2) Where an education authority provide school lunches under subsection (1)(a), they must, subject to subsection (3), charge pupils for the lunches.

(2A) Subsection (2B) applies where an education authority provide, under subsection (1)(a), anything other than school lunches.

(2B) The authority may—

(a) provide any food or drink free of charge, or

(b) charge pupils for any food or drink.

(2C) An education authority may exercise the power conferred by subsection (2B)(a) in relation to—

(a) pupils who satisfy such conditions as the authority think fit,

(b) the provision of food or drink at such times of the day (other than in the middle of the day) as they think fit.

(2D) Where, by virtue of subsection (2) or (2B)(b), an education authority charge for a particular food or drink, they must charge the same price for the same quantity of the food or drink.".

(4) In subsection (3AA), for the words from "such" to "him" substitute " a school lunch is provided for the pupil ".

(5) After subsection (4) add—

"(5) In this section and sections 53A and 53B, "school lunch" means anything provided under subsection (1)(a) in the middle of the day which the education authority consider is appropriate for consumption as a meal at that time of day.".

Commencement Information

I3 S. 6 in force at 10.8.2007 by S.S.I. 2007/372, **art. 2(a)**

VALID FROM 04/08/2008

7 Promotion of school lunches

After section 53 of the 1980 Act insert—

"**53A Promotion of school lunches**

(1) An education authority must—

(a) promote the availability of school lunches in public schools and other educational establishments under the authority's management, and

(b) encourage pupils in attendance at those schools and other educational establishments to consume school lunches.

(2) In particular, an education authority must take reasonable steps to ensure that every pupil who is entitled, by virtue of section 53(3), to receive school lunches free of charge, receives those lunches.".

VALID FROM 04/08/2008

8 Protection of identity of pupils receiving free school lunches

After section 53A of the 1980 Act (inserted by section 7) insert—

"**53B Protection of identity of pupils receiving free school lunches**

(1) This section applies where a school lunch is provided for a pupil free of charge by virtue of section 53(3).

(2) An education authority must take reasonable steps to ensure that the pupil cannot be identified by any person other than an authorised person as a pupil who receives a school lunch free of charge.

(3) An education authority must take reasonable steps to ensure that none of the persons mentioned in subsection (4) discloses to any person other than an authorised person the fact that the pupil receives school lunches free of charge.

(4) Those persons are—

(a) a teacher in the school,
(b) any person (other than a teacher) who is—
(i) employed (whether by the education authority or by another person) in the school, or
(ii) working there on an unpaid basis,
(c) any other person employed by the education authority.

(5) In subsections (2) and (3), "authorised person" means—
(a) a parent of the pupil,
(b) a person mentioned in subsection (4) who is authorised by the education authority to have access to information about a pupil's entitlement, by virtue of section 53(3), to receive school lunches free of charge.".

VALID FROM 04/08/2008

9 Food and drink: guidance about sustainable development

After section 56D of the 1980 Act (inserted by section 3), insert—

"Food and drink: guidance about sustainable development

56E Food and drink: guidance about sustainable development

(1) Subsection (2) applies where an education authority—
(a) provide food or drink under section 53(1)(a),
(b) for the purpose of providing food or drink under that section, provide services relating to the provision of the food or drink, or
(c) enter into an agreement for the provision by another person of—
(i) food or drink to be provided under that section, or
(ii) services relating to the provision of the food or drink.

(2) The authority must have regard to any guidance issued by the Scottish Ministers about the application of the principles of sustainable development.

(3) Subsection (4) applies where the managers of a grant-aided school—
(a) provide—
(i) food or drink for pupils in attendance at the school, or
(ii) services relating to the provision of such food or drink, or
(b) enter into an agreement for the provision by another person of—
(i) food or drink for pupils in attendance at the school, or
(ii) services relating to the provision of such food or drink.

(4) The managers must have regard to any guidance issued by the Scottish Ministers about the application of the principles of sustainable development.

(5) Guidance issued under subsection (2) or (4) may, in particular, include guidance about the extent to which the application of the principles of sustainable development may be affected by considerations relating to—

Status: *Point in time view as at 03/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Schools (Health Promotion and Nutrition) (Scotland) Act 2007. (See end of Document for details)*

(a) fair and ethical trading,
(b) the places where food or drink is produced or processed.”.

General

10 Interpretation

In this Act—
“the 1980 Act” means the Education (Scotland) Act 1980 (c. 44), and
“the 2000 Act” means the Standards in Scotland's Schools etc. Act 2000 (asp 6).

Commencement Information
I4 S. 10 in force at 10.8.2007 by S.S.I. 2007/372, **art. 2(a)**

11 Short title and commencement

(1) This Act may be cited as the Schools (Health Promotion and Nutrition) (Scotland) Act 2007.

(2) This Act, other than this section, comes into force on such day as the Scottish Ministers may by order made by statutory instrument appoint.

(3) Different days may be so appointed for different purposes.

(4) An order under subsection (2) may include such consequential, transitional or transitory provision as the Scottish Ministers think fit.

Status:
Point in time view as at 03/01/2008. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Schools (Health Promotion and Nutrition) (Scotland) Act 2007.