

## EXECUTIVE NOTE

### THE NUTRITIONAL REQUIREMENTS FOR FOOD AND DRINK IN SCHOOLS (SCOTLAND) REGULATIONS 2008 (SSI/2008/265)

The above instrument is made under sections 56A, 56B and 56D of the Education (Scotland) Act 1980 which provisions are inserted by section 3 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007("the Act"). The instrument is subject to affirmative resolution procedure.

The Regulations were notified to the European Commission under the Technical Standards and Regulations Directive (European Commission Directive 98/34/EC as amended by Directive 98/48/EC). The Directive sets out a notification procedure for any proposed technical regulations relating to products which may potentially create a technical barrier to trade within the European Community. It is designed to maintain transparency and to help avoid the creation of potential barriers to trade. The Regulations were notified in draft to the Commission and a 3 month standstill period observed to allow other Member States and the Commission to raise concerns. The standstill period expired on 25<sup>th</sup> April 2008 and no concerns about potential barriers to trade were raised.

#### Policy objectives

The Scottish Government is committed to improving the health of the nation and poor diet is a significant contributor to Scotland's poor health record. School meals in Scotland have undergone a transformation due to the *Hungry for Success* initiative. The Act builds on *Hungry for Success* and places duties on local authorities and managers of grant-aided schools to ensure that all food and drinks provided in schools comply with nutritional requirements specified by regulations by Scottish Ministers. The Regulations will help to change eating habits and make an important contribution to improving the health of young people in Scotland.

The Regulations prescribe nutritional requirements for food and drink in schools in Scotland. They apply to public schools and grant-aided schools as well as hostels provided and maintained by education authorities. The 2 areas regulated are school meals and other food and drink provided on school premises. "School meals" refers to school lunches in all schools covered by the Regulations as well as evening meals provided in hostels. In addition regulation 5 provides that free drinking water must be provided in all public schools, hostels and grant-aided schools.

The requirements do not apply to any food or drink which is provided by parents or pupils themselves or where the food is part of a medically recommended diet. They do not apply where the food and drink is provided at any social, cultural or recreational event to mark any religious or cultural occasion or for use in cookery classes (regulation 2(2)).

The Regulations will come into effect on 4<sup>th</sup> August 2008. However the requirements set out in Schedules 1 to 4 (introduced by regulations 3 and 4) shall have effect on 3<sup>rd</sup> August 2009 for secondary school pupils. Schedule 3 sets nutrient standards for school meals and specifies the different energy and nutrient contents which must be provided in the average school meal. There are different levels of nutrient and energy levels for primary and secondary school pupils. Lower sodium levels for both primary and secondary pupils will have effect on 31<sup>st</sup>

December 2010. This phased approach takes account of the current difficulty of achieving the *Hungry for Success* target for sodium for school meals.

The Regulations form part of the wider health promoting schools approach set out in the Act.

### **Consultation**

Healthy food in schools has been extensively debated in, and consulted on by, the Scottish Parliament, most recently during the passage of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007. The Regulations result from proposals made by an independent Expert Group of nutrition, child health, dental and education experts. The Expert Group's proposals and the draft Regulations were shared widely with interested stakeholders. The draft Regulations were also published on the Scottish Government website. The resulting Regulations took into account views gathered from stakeholders but also recognised that the diets of many children and young people in Scotland contain inadequate amounts of fruit and vegetables and too many foods high in fat, saturated fat, salt and sugar.

### **Financial effects**

We do not expect the Regulations to impose any significant additional costs. Local authorities have already implemented the recommendations of *Hungry for Success* so implementing the requirements for school meals should not impose additional costs.

It is possible that there may initially be some loss of earnings from vending machines and tuck shops where products currently on sale fail to meet the healthy requirements for food and drink outwith school meals as required by the Regulations. However, a gradual phasing in of healthier products may ensure that any loss of earnings is minimised and secondary schools will have a year to make this transition by the time the Regulations commence. Some food and drinks manufacturers may incur some costs developing products that meet the healthier nutritional requirements.

Scottish Government Schools Directorate  
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