

SCHOOLS (HEALTH PROMOTION AND NUTRITION) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Food and drink

Section 3: Food and drink: nutritional requirements

14. This section inserts new sections 56A to 56D into the 1980 Act.
15. Section 56A requires education authorities to ensure that food and drink provided in schools, and hostels provided and maintained by education authorities for pupils, complies with the nutritional requirements specified in regulations. In this section “school” has the meaning given in section 135(1) of the 1980 Act (which defines various terms used in that Act).
16. Subsection (2) sets out the categories of food and drink which must comply with the nutritional requirements. Paragraph (a) covers food and drink provided for pupils under section 53(1)(a) of the 1980 Act. That is food and drink provided as a school lunch, breakfast or snacks at any other time of the day. Paragraph (b) covers any other food and drink provided for pupils on the school premises or in a hostel, where that hostel is provided and maintained by education authorities for pupils. Food and drink covered by the exceptions listed in subsection (3) is not required to comply with the nutritional requirements.
17. Subsection (2)(b) deals only with food and drink provided for pupils on the premises of a school or hostel. Food and drink provided outwith a school or hostel (for example food and drink brought into school from a pupil’s home or from a shop) does not have to meet the nutritional requirements. It also means that food and drink provided in a school for persons who are not pupils (for example teachers or members of the public) does not have to meet the requirements.
18. Subsection (3) of section 56A provides for exceptions where food and drink will not have to meet the nutritional requirements. Paragraph (a) ensures the nutritional requirements will not apply to food or drink brought onto the premises of a school or hostel by a pupil (for example, packed lunches). Paragraph (b) provides an exception for food or drink provided as part of a social, cultural or recreative activity. For example, school discos or sports days or cultural events such as school-organised Burns suppers or Christmas lunches. It also makes clear that the exception applies to an activity covered by paragraph (b) whether it is organised by the education authority or another person. Examples might be Parent Teacher Association meetings or community events.
19. Subsection (4) makes it clear that food or drink to which the duty in subsection (1) applies must comply with the nutritional requirements even if it is not the education authority itself who provides the food or drink. So the requirements will apply if food or drink is provided by a catering company or a supplier of vending machines under

*These notes relate to the Schools (Health Promotion and Nutrition)
(Scotland) Act 2007 (asp 15) which received Royal Assent on 19 April 2007*

contract with the education authority or a breakfast club or after school club which has made an arrangement with an education authority.

20. New section 56B of the 1980 Act sets out some of the particular things that may be covered by the regulations specifying the nutritional requirements. In subsection (1), paragraph (a) provides that the regulations can specify or list foods or drinks which are nutritional and specify those which are not. Paragraph (b) provides that the regulations may set out circumstances where the nutritional requirements might not need to be adhered to. For example, the regulations could permit food or drink to be provided to pupils for various reasons including health, cultural or faith-based reasons even though the food or drink in question does not meet the nutritional requirements. Paragraph (c) makes clear that the regulations may require education authority schools or hostels to provide drinking water to all pupils free of charge. Subsection (2) makes it clear that the regulations might set out different requirements in different circumstances. For example, the nutritional requirements could be different for pupils of different ages.
21. New section 56C of the 1980 Act provides that education authorities have to take account of any guidance about the nutritional requirements that the Scottish Ministers may issue.
22. New section 56D of the 1980 Act provides that managers of grant-aided schools have to comply with sections 56A to 56C (and any regulations made under section 56A(1) specifying nutritional requirements) but subject to certain modifications to the new section 56A, set out in subsections (3) to (5). The modification set out in subsection (3) clarifies that food and drink provided as a school lunch, breakfast, meals or snacks at any other time of the day, must comply with the nutritional requirements. Subsection (4) omits hostels from the duty placed on managers of grant-aided schools as this reference is not relevant. Accommodation provided at a grant-aided school will be covered as part of the school.