

HEALTHY EATING IN SCHOOLS (WALES) MEASURE 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Promoting healthy eating and drinking by pupils in maintained schools

2. This section imposes a duty on local authorities and governing bodies of maintained schools to take action to promote healthy eating and drinking. In fulfilling that duty, they have to have regard to any guidance issued by Welsh Ministers in relation to what constitutes healthy eating and drinking; what action would be appropriate and how the principles of sustainable development should apply to healthy eating and drinking.

Section 2: Governors' reports

3. This section requires the governing body to include in their annual report information about the action taken to promote healthy eating and drinking by pupils of the school.

Section 3: Functions of the Chief Inspector of Education and Training in Wales

4. Section 20(1) of the Education Act 2005 sets out the matters upon which the Chief Inspector of Education and Training in Wales has a duty to keep Welsh Ministers informed. This section adds a new paragraph (g) to that sub-section so as to require the Chief Inspector also to report on the action taken to promote healthy eating and drinking.

Section 4: Requirements for food and drink provided on school premises etc.

5. This section is based on the current section 114A of the School Standards and Framework Act 1998, which is brought into the Measure so that all the relevant legislation about nutritional standards in schools is dealt with in one piece of primary legislation. It continues to empower Welsh Ministers to make regulations to prescribe requirements applicable to food and drink provided on the premises of any maintained school. Regulations may also be made in relation to food and drink provided by the local authority or governing body elsewhere to pupils registered at the school. The requirements will not, however, apply to packed lunches.
6. It also adds, in subsection (2), a power to specify maximum levels of fat, saturated fat, salt and sugar in food and drink provided for pupils.
7. It also includes a requirement for Welsh Ministers to ascertain the views of pupils and others before making regulations under this section.

Section 5: Drinking Water in Schools

8. This section imposes a duty on local authorities to ensure that a supply of water is available free of charge, and to have regard to any guidance issued by Welsh Ministers

Section 6: Promotion of meals in schools and other educational establishments

9. This section requires local authorities to promote the availability and consumption of school meals and milk in general, and free school lunches and milk in particular.

Section 7: Protection of the identity of pupils receiving free school lunches or milk

10. In order to encourage the take-up of healthy school meals, this section imposes a duty on local authorities and governing bodies to protect the identity of those entitled to free school lunches or milk, and to do so in accordance with any guidance issued by Welsh Ministers. This is done by inserting a new section 512ZC into the Education Act 1996 immediately after the section of that Act that deals with entitlement to free school lunches.

Section 8: Consequential amendments

11. As section 7 of this Measure replaces section 114A of the School Standards and Framework Act 1998 in relation to Wales, this section makes consequential changes to section 114A to make it clear that it does not apply to Wales.

Section 9: Saving

12. This section gives continuing effect to any regulations made under section 114A before this Measure comes into force, so that there is no lack of regulations during the period before regulations are made under the powers contained in this Measure.

Section 10: Orders and regulations

13. This section contains the usual details about the power of Welsh Ministers to make subordinate legislation. This would be subject to the negative procedure in the National Assembly, with one exception. In accordance with normal practice, there would be no procedure in relation to commencement orders made under section 12(3).

Section 11: Interpretation

14. This section defines a number of terms used in the Measure, but contains no substantive provisions.

Section 16: Short title and commencement

15. This section introduces the title by which the Measure will generally be known. It also provides for the coming into force of the Measure. This section comes into force on the date that it is approved by Her Majesty at a meeting of the Privy Council, and the remainder of the Measure would come into force in accordance with a Commencement Order made by Welsh Ministers.
16. The section also provides that the Measure is to be included in the list of Education Acts set out in section 578 of the Education Act 1996. This will enable Welsh Ministers to exercise default powers if local authorities or governing bodies are in breach of the provisions of this Measure.