

# Proposed Healthy Eating in Schools (Wales) Measure 2008 [AS INTRODUCED]

5 A MEASURE of the National Assembly for Wales to make provision about the promotion of healthy eating in schools in Wales; and for connected purposes.

**This Measure, passed by the National Assembly for Wales on [ ] and approved by Her Majesty in Council on [ ], enacts the following provisions:-**

## **1 Duties in relation to the promotion of healthy eating in schools**

- 5 (1) Every authority referred to in subsection (2) must exercise its functions so as to promote healthy eating by registered pupils of schools maintained by local education authorities in Wales whilst those pupils are at school or whilst they are engaging in any activity which is incidental to their education and which is organised by or on behalf of the head teacher of that school or by the local education authority.
- (2) The authorities referred to in subsection (1) are –
- (a) the Welsh Ministers;
  - (b) any local education authority in Wales;

10 (c) the governing body of any school maintained by a local education authority in Wales; and

  - (d) the head teacher of any school maintained by a local education authority in Wales.
- 15 (3) For the purpose of deciding how best to discharge its duty under subsection (1) an authority must –
- (a) have regard to any guidance issued by the Welsh Ministers under this section;
  - (b) have regard to any relevant reputable scientific advice, whether published or commissioned by the authority for the purpose; and

20 (c) in the case of those authorities which are referred to in subsection (2)(c) and (d) –

    - (i) from time to time consult the school council of any relevant school on how the authority should best discharge that duty; and
    - (ii) have regard to any view which such a school council may at any time express in relation to that matter.
- 25 (4) Nothing in this section requires an authority to impose any restriction on the nature, quality or quantity of food or drink brought by a pupil for that pupil's own consumption on to the premises of a school or to any place where any activity of the kind referred to in subsection (1) is taking place.
- 30 (5) The Welsh Ministers must have particular regard to their duty under subsection (1) when deciding whether to exercise their power to make regulations under section 7 and in what way to do so.

## **2 Further duty on the Welsh Ministers**

The Welsh Ministers must also exercise their functions relating to the curriculum in schools maintained by local education authorities so as to promote healthy eating.

### 3 Meaning of “healthy eating”

In this Measure “healthy eating” means eating (and drinking) food (and drink) whose nature, quality and quantity –

- (a) benefit the health of the person consuming it;
- 5 (b) do not damage the health of the person consuming it; and
- (c) cause as little damage as is reasonably possible to the environment during the course of its production, processing and distribution.

### 4 Inclusion in governors’ reports of information on the promotion of healthy eating

Section 30 of the 2002 Act is amended by inserting, after subsection (1) –

- 10 “(1A) Regulations specifying what matters are to be dealt with in a governors’ report must require such a report to describe what steps have been taken to promote healthy eating in the school during the period to which the report relates and on the extent to which those steps appear to have been successful.”

### 15 5 Functions of the Chief Inspector of Schools

Section 20 of the 2005 Act is amended by inserting, after paragraph (1)(f) –

- 20 “(g) the extent to which the duty imposed by section 1 of the Healthy Eating in Schools (Wales) Measure 2008 –
- (i) is being complied with in relation to schools maintained by local education authorities in Wales; and
  - (ii) appears to have resulted in an increase in healthy eating in those schools.”.

### 6 Reports by the Welsh Ministers

25 The Welsh Ministers must, at least once in every calendar year, lay before the Assembly a report setting out –

- (a) the steps taken by them during the period to which the report relates to promote healthy eating in schools maintained by local education authorities in Wales;
- 30 (b) the extent to which there appears to have been an increase in healthy eating in those schools;
- (c) any information which they have received from the Chief Inspector of Schools under section 20(1)(g) of the 2005 Act during the period to which the report relates; and
- 35 (d) when they have asked the Chief Inspector of Schools to give advice to them under section 20(2)(a) of the 2005 Act on a matter relating to the extent to which the duty under section 1(1) is being discharged effectively, the advice which they have received from the Chief Inspector during the period to which the report relates.

**7 Requirements for food and drink provided on school premises etc.**

- (1) The Welsh Ministers may by regulations prescribe requirements which, subject to such exceptions as may be provided for by or under the regulations, are to be complied with in connection with—
- 5 (a) food or drink provided on the premises of any school maintained by a local education authority in Wales; or
- (b) food or drink provided at a place other than school premises by a local education authority in Wales or the governing body of a school maintained by such an authority to any registered pupil at the school.
- 10 (2) Regulations made under this section must specify, in such manner and subject to such exceptions as the regulations may provide, maximum amounts of—
- (a) fat;
- (b) salt;
- (c) sugar; and
- 15 (d) artificial additives;
- which the food or drink to which the regulations apply can contain.
- (3) Regulations under this section may in particular—
- (a) specify nutritional standards, or other nutritional requirements, which are to be complied with;
- 20 (b) require that specified descriptions of food or drink are not to be provided.
- (4) Requirements prescribed by virtue of subsection (1)(a) do not apply to food or drink brought on to the premises of a school maintained by a local education authority where the food or drink is brought on to those premises by any person for that person's own consumption.
- 25 (5) When a local education authority in Wales or the governing body of a school maintained by such an authority provides food or drink—
- (a) to anyone on the premises of the school; or
- (b) to any registered pupil at the school at a place other than school premises;
- 30 that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.
- (6) Subsection (5) applies whether the food or drink is provided in pursuance of any statutory requirement or otherwise.
- (7) When—
- 35 (a) food or drink is provided on the premises of a school maintained by a local education authority in Wales;

- (b) the provision is by a person (“X”) other than the authority or the governing body of the school; and
- (c) X uses or occupies the whole or a part of the premises in circumstances related to a use or occupation agreement made (whether by X or any other person) with the authority or the governing body;
- 5 that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.
- (8) A “use or occupation agreement”, in relation to the premises of a school, is an agreement or other arrangement relating to the use or occupation of the whole or any part of the premises.
- 10 (9) Without prejudice to the generality of section 13, regulations under this section may prescribe—
- (a) different requirements in relation to different classes or descriptions of school as specified in the regulations;
- 15 (b) different requirements in connection with food or drink provided by or to different classes or descriptions of person as specified in the regulations;
- (c) requirements which apply during different periods of the day as specified in the regulations.
- (10) A “place other than school premises” means a place other than the premises of any school maintained by a local education authority.
- 20 (11) References in this section to food or drink provided by a local education authority or the governing body of a school include references to food or drink provided in pursuance of an agreement or other arrangement made by such an authority or body for the provision of food or drink.
- 25 (12) Before making regulations under this section the Welsh Ministers must—
- (a) take steps to ascertain the views of pupils as to the provisions proposed to be made by the regulations; and
- (b) consult such other persons as they consider appropriate.

## 8 Drinking water in schools

- 30 (1) A local education authority in Wales must ensure that a supply of drinking water is available, free of charge, on the premises of any school which it maintains.
- (2) When deciding how best to discharge its duty under subsection (1) a local education authority must have regard to any guidance issued by the Welsh Ministers under this subsection.

## 9 Promotion of meals in schools and other educational establishments

- (1) A local education authority in Wales must –
- (a) promote the availability of school meals in schools which it maintains and other educational establishments under its management; and
  - (b) encourage pupils who attend those schools and other educational establishments to consume school meals.
- (2) In particular, an education authority in Wales must take reasonable steps to ensure that every pupil who is entitled to receive school lunches free of charge receives those lunches.

## 10 Protection of the identity of pupils receiving free school lunches

After section 512A of the 1996 Act insert –

### "512B Protection of identity of pupils receiving free school lunches

- (1) This section applies when a school lunch is provided for a pupil in Wales free of charge by virtue of section 512ZB.
- (2) A local education authority in Wales must take reasonable steps to ensure that the pupil cannot be identified as a pupil who receives a school lunch free of charge by any person other than an authorised person.
- (3) A local education authority in Wales 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) The persons referred to in subsection (3) are –
- (a) a teacher in the school;
  - (b) any person (other than a teacher) who is –
    - (i) employed (whether by the local education authority or by another person) in the school, or
    - (ii) working there on an unpaid basis; and
  - (c) any other person employed by the local education authority.
- (5) In subsections (2) and (3), “authorised person” means –
- (a) a parent of the pupil; and
  - (b) a person mentioned in subsection (4) who is authorised by the local education authority to have access to information about a pupil's entitlement to receive school lunches free of charge."
- (6) When deciding what steps to take in order to comply with their duties under subsections (2) and (3) a local education authority in Wales must

have regard to any guidance issued by the Welsh Ministers under this section.”

### 11 Consequential amendments

Section 114A of the 1998 Act is amended by inserting, after subsection (10)–

5 “(11) This section does not apply in relation to Wales.”

### 12 Saving

10 Any regulations made under section 114A of the 1998 Act by the Assembly constituted by the Government of Wales Act 1998 or by the Welsh Ministers or which have effect as if made under that section and which have effect immediately before the commencement of this section have effect in relation to Wales after that commencement as if made by the Welsh Ministers under section 7 of this Measure.

### 13 Orders and regulations

- 15 (1) Any power to make an order or regulations conferred by this Measure is exercisable by statutory instrument.
- 20 (2) Any power of the Welsh Ministers to make regulations under this Measure includes power–
- (a) to make provision generally or in relation to specific cases;
  - (b) to make different provision for different cases; and
  - (c) to make such incidental, supplementary, saving or transitional provision as the Welsh Ministers think fit.
- (3) Any power of the Welsh Ministers to make regulations or orders under this Measure (as well as being exercisable in relation to all cases to which it extends) may be exercised in relation to all those cases subject to exceptions or in relation to any particular case or class of case.
- 25 (4) Subject to subsections (5) and (6) any statutory instrument containing an order or regulations made under this Measure is subject to annulment in pursuance of a resolution of the Assembly.
- 30 (5) A statutory instrument which contains regulations made by the Welsh Ministers under section 14 which amend or repeal any part of the text of an Act of Parliament or an Assembly Measure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly.
- (6) Subsection (4) does not apply to a statutory instrument containing an order which makes provision only under section 16(3).

**14 Power to make further supplementary and consequential provision etc.**

(1) The Welsh Ministers may at any time by regulations make –

(a) such supplementary, incidental or consequential provision; and

(b) such transitional or saving provision;

5 as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Measure.

(2) Regulations under subsection (1) may, in particular, make provision –

(a) amending or repealing any enactment passed before, or during the same Assembly year as, this Measure; and

10 (b) amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978 (c.30)) made before the passing of this Measure.

**15 Interpretation**

In this Measure –

“the 1996 Act” means the Education Act 1996 (c.56);

15 “the 1998 Act” means the School Standards and Framework Act 1998 (c.31);

“the 2002 Act” means the Education Act 2002 (c.32);

“the 2005 Act” means the Education Act 2005 (c.18);

“the Assembly” means the National Assembly for Wales; and

“healthy eating” is defined in section 3.

20 **16 Short title and commencement**

(1) This Measure may be referred to as the Healthy Eating in Schools (Wales) Measure 200-.

(2) This section comes into force on the day on which this Measure is approved by Her Majesty in Council.

25 (3) The remaining provisions of this Measure come into force on such day or days as the Welsh Ministers may appoint by order.