

Government Response: The Healthy Eating in Schools (Nutritional Standards and Requirements) (Maintained Primary Schools) (Wales) Regulations 2025.

Technical Scrutiny point 1: The Regulations define “maintained nursery school” as a nursery school which is maintained by a local authority and is not a special school. This definition matches the definition of “maintained nursery school” in section 22(9) of the School Standards and Framework Act 1998 and is intended to have the same meaning. The Welsh Government is confident that the definition will be readily understood by governing bodies and local authorities upon whom duties are placed in the Regulations.

Merit Scrutiny point 1: Our initial focus is on supporting partners to understand and comply with the new Regulations. As set out in the regulatory impact assessment, this is being achieved through the refinement of statutory guidance for caterers, to assist their interpretation and application of new requirements, alongside strengthened statutory guidance on the promotion of healthy eating and drinking, clarifying roles and responsibilities for local authorities, governing bodies and Estyn within the school food system.

In addition, we are working closely with catering providers, local authorities, and wider stakeholders to develop and provide implementation support in advance of the coming into force date.

As set out in section 8 of the Explanatory Memorandum, the Welsh Government is committed to monitoring implementation and reviewing the impact of the Regulations. Well established networks offer strengthened opportunities to do this, both in anticipation of the October coming into force date and beyond it, and these will provide a monitoring and policy feedback loop.

In relation to compliance, while the duty to comply sits firmly with local authorities and governing bodies of maintained primary schools (including maintained nursery schools), we are underpinning these expectations through grant terms and conditions associated with the Universal Primary Free School Meals grant. The Welsh Local Government Association (WLGA) also offer catering providers the opportunity to obtain a voluntary certificate of compliance upon assessment of their menus.

Evidence showing that the Regulations are being complied with should be shared with governors - informing their annual governors’ report. This will be considered during inspection by Estyn, who have a legal duty, under the Healthy Eating in School (Wales) Measure 2009, to keep Welsh Ministers informed about actions taken at maintained schools to promote healthy eating and drinking. Estyn will also note any obvious breaches of the Regulations in an inspection report.

Through these routes the Welsh Government will monitor compliance, seeking timely assurances of corrective action where the risk of non-compliance is identified. The powers of intervention under the School Standards and Organisation (Wales) Act

2013 would also be available to a local authority and to the Welsh Ministers if there is evidence that the grounds for intervention have been met.