

Draft Regulations laid before the Scottish Parliament under section 133(2ZA) of the Education (Scotland) Act 1980 for approval by resolution of the Scottish Parliament. This draft replaces the one laid on 14 May 2008.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2008 No.

EDUCATION

**The Nutritional Requirements for Food and
Drink in Schools (Scotland) Regulations 2008**

Made - - - -

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 56A, 56B and 56D of the Education (Scotland) Act 1980(1) and all other powers enabling them to do so.

In accordance with section 133(2ZA)(2) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008 and come into force on 4th August 2008.

(2) But—

- (a) regulation 3 shall not have effect until 3rd August 2009 in so far as it applies to the provision of school meals to secondary school pupils; and
- (b) regulation 4 shall not have effect until 3rd August 2009 in so far as it applies to the provision of food and drink to secondary school pupils.

Interpretation and application

2.—(1) In these Regulations—

“confectionery” means chewing gum, cereal bars, processed fruit bars, non chocolate confectionery (whether or not containing sugar), chocolate in any form, any product containing

(1) 1980 c. 44; sections 56A, 56B and 56D were inserted by section 3 of the [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#).

(2) Section 133(2ZA) was inserted by section 4 of the [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007](#).

or wholly or partially coated with chocolate and any chocolate flavoured substance, but excludes cocoa powder used in cakes, biscuits, puddings and drinks;

“evening meal” means any food or drink provided by an education authority as a meal at the end of a school day for consumption by pupils in attendance at a hostel provided and maintained by the education authority;

“fruit juice” means the designated products described by that name or by the name “fruit juice from concentrate” in Schedule 1 to the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003(3);

“primary school pupil” means a pupil receiving primary education;

“pupil” does not include pre-school children as defined in section 1(4B)(4) of the Education (Scotland) Act 1980;

“savoury snack” means any pre packaged item which may be consumed without preparation and consists of or includes as a basic ingredient potatoes, other root vegetables, cereals, nuts and seeds, but does not include sandwiches or nuts and seeds without added salt, sugar and fat;

“school lunch” means any food or drink provided in the middle of the day for consumption by pupils as a midday meal on a school day;

“school meal” means school lunch or evening meal;

“secondary school pupil” means a pupil receiving secondary education; and

“vegetable juice” means juice extracted from vegetables or tomatoes with no other substance added, except that any water extracted during concentration may be restored.

(2) Nothing in these Regulations shall apply to any food or drink provided—

- (a) by parents or pupils;
- (b) at any social, cultural or recreational event or to mark any religious or cultural occasion;
- (c) for use in teaching food preparation and cookery skills, provided that any food so prepared is not served to pupils as part of a school meal; or
- (d) as part of a medically recommended diet for any pupil.

School meal requirements

3.—(1) This regulation applies to the provision of school meals—

- (a) by an education authority under section 53(1)(a)(5) of the Education (Scotland) Act 1980 for pupils in attendance at—
 - (i) public schools; or
 - (ii) hostels provided and maintained by an education authority; and
- (b) by the managers of a grant aided school for pupils in attendance at such schools.

(2) The education authority and the managers of a grant aided school must ensure that the requirements in Schedule 1 are complied with.

(3) The education authority and the managers of a grant aided school must ensure that food and drink provided comply with the requirements in Schedule 2.

(4) The education authority and the managers of a grant aided school must ensure that the nutrient standards in Schedule 3 are complied with.

(3) S.S.I. 2003/293 as amended by S.S.I. 2005/616.

(4) Subsection (4B) of section 1 was inserted by section 32(5) of the [Standard's in Scotland's Schools etc. Act 2000 \(asp 6\)](#).

(5) Section 53(1)(a) was amended by section 77(1)(b) of the [Social Security Act 1986, \(c.50\)](#) and by section 6(2)(a) of the [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007 \(asp 15\)](#).

Provision of other food and drink

4.—(1) This regulation applies where food or drink is provided to pupils on the premises of—

- (a) a public school;
- (b) a hostel provided and maintained by an education authority; or
- (c) a grant aided school,

otherwise than as part of a school meal.

(2) The education authority and the managers of a grant aided school must ensure that the food or drink provided complies with the requirements in Schedule 4.

Provision of drinking water

5.—(1) Education authorities must ensure that drinking water is provided free of charge at all times, including during school meals, to pupils on the premises of—

- (a) public schools; and
- (b) hostels provided and maintained by the education authority.

(2) The managers of a grant aided school must ensure that drinking water is provided free of charge at all times, including during school meals, to pupils on the premises of the school.

St Andrew's House,
Edinburgh
2008

Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 3

School meal requirements – menu

- 1.—(1) Not less than 2 types of vegetable shall be provided every day.
(2) For the purposes of sub paragraph (1), “vegetable” does not include potatoes.
2. Not less than 2 types of fruit shall be provided every day.
3. Bread shall be provided every day.
4. Oily fish must be provided at least once every 3 weeks.
5. No savoury snacks shall be provided except—
 - (a) savoury crackers;
 - (b) oatcakes; or
 - (c) breadsticks.
- 6.—(1) No confectionery shall be provided.
(2) Cakes, biscuits and puddings must not contain any confectionery.
- 7.—(1) Food that has been deep fried in the cooking or manufacturing process shall not be provided more than 3 times in a week.
(2) Chips may only be served as an accompaniment to other food.

SCHEDULE 2

Regulation 3

Food and drink requirements in school meals

- 1.—(1) Oils must contain a total saturated fat content which does not exceed 16 grams per 100 grams and—
 - (a) a total monounsaturated fat content of at least 55 grams per 100 grams; or
 - (b) a total polyunsaturated fat content of at least 30 grams per 100 grams.
- (2) Fat spreads must contain—
 - (a) a total saturated fat content which does not exceed 20 grams per 100 grams; and
 - (b) a combined total monounsaturated and polyunsaturated fat content of at least 30 grams per 100 grams.
- 2.—(1) No salt shall be available to add to food after the cooking process is complete.
(2) Other condiments may be available to pupils only in individual portions of no more than 10 millilitres.
3. Subject to paragraphs 4 to 6 only the following drinks may be provided:—
 - (a) milk;
 - (b) milk drinks;
 - (c) drinking yoghurts;
 - (d) soya, oat and rice based drinks enriched with calcium;
 - (e) fruit juice;

- (f) vegetable juice;
 - (g) drinks comprising combinations of fruit juice or vegetable juice with water;
 - (h) drinks comprising blends of fruit, vegetables, fruit juice or vegetable juice in any combination;
 - (i) tea and coffee; and
 - (j) bottled water.
- 4.—(1) Milk must contain a total fat content which does not exceed 1.8 grams per 100 millilitres.
- (2) Milk drinks and drinking yoghurts must contain—
- (a) a total fat content which does not exceed 1.8 grams per 100 millilitres; and
 - (b) a total sugars content which does not exceed 10 grams per 100 millilitres provided that the total sugars content does not exceed 20 grams per portion.
5. Soya, oat and rice based drinks enriched with calcium must contain—
- (a) a total fat content which does not exceed 1.8 grams per 100 millilitres; and
 - (b) a total sugars content which does not exceed 5 grams per 100 millilitres provided that the total sugars content does not exceed 10 grams per portion.
- 6.—(1) Fruit juice and vegetable juice must—
- (a) have no added salt;
 - (b) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre; and
 - (c) be made available only in individual portions not exceeding 200 millilitres.
- (2) Drinks comprising combinations of fruit juice or vegetable juice with water must—
- (a) contain a minimum of 50% fruit juice or vegetable juice;
 - (b) be made available only in individual portions not exceeding 400 millilitres;
 - (c) have no added salt;
 - (d) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre; and
 - (e) contain a total sugars content which does not exceed 20 grams per portion.
- (3) Drinks comprising blends of fruit, vegetables, fruit juice or vegetable juice in any combination must—
- (a) be made available only in individual portions not exceeding 200 millilitres;
 - (b) have no added salt; and
 - (c) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre.

SCHEDULE 3

Regulation 3

Nutrient standards for school meals

1. In this Schedule—

“average school meal” has the meaning given by paragraph 2;

“non milk extrinsic sugars” means any sugar which is not contained within cell walls, except lactose in milk and milk products; and

“nutrient” means any substance listed in Table A in paragraph 3.

2. The average school meal for a school must be calculated in accordance with the following formula:–

$AB \div C$

Where–

“A” is the total amount of energy and nutrient content provided in all school meals served in the course of a school week;

“B” is the estimated number of school meals served to pupils during that school week; and

“C” is the number of days in the school week.

3. The average school meal must provide–

- (a) an amount of energy which shall be either the figure shown in Table A or within 10% of that figure;
- (b) no more than the amounts of fat, saturated fat, non milk extrinsic sugars and sodium shown in Table A; and
- (c) as a minimum the amounts of all other nutrients shown in Table A.

Table A

<i>Nutrient</i>	<i>Minimum or maximum value</i>	<i>School meal provided to primary school pupils</i>	<i>School meal provided to secondary school pupils</i>
Energy			
(kilo calories)		557	664
(kilojoules)		(2328)	(2776)
Total fat (grams)	Max	21.7	25.8
Saturated fat (grams)	Max	6.8	8.1
Total carbohydrate (grams)	Min	74.3	88.5
Non milk extrinsic sugars (grams)	Max	16.3	19.5
Fibre (grams)	Min	4.5	5.3
Protein (grams)	Min	8.5	13.6
Iron (milligrams)	Min	3	4.4
Calcium (milligrams)	Min	165	300
Vitamin A (micrograms)	Min	150	187

<i>Nutrient</i>	<i>Minimum or maximum value</i>	<i>School meal provided to primary school pupils</i>	<i>School meal provided to secondary school pupils</i>
Vitamin C (milligrams)	Min	9	11.0
Folate (micrograms)	Min	45	60
Sodium (milligrams)	Max	745	894
Zinc (milligrams)	Min	2.1	2.8

Table B

<i>Nutrient</i>	<i>Minimum or maximum value</i>	<i>School meal provided to primary school pupils</i>	<i>School meal provided to secondary school pupils</i>
Sodium (milligrams)	Max	686	824

4.—(1) On and after 31st December 2010 the requirements in paragraph 3 shall continue to apply to the provision of school meals but with the modification mentioned in sub paragraph (2) below.

(2) For paragraph 3(b) substitute—

“(b) no more than the amounts of—

- (i) fat, saturated fat and non milk extrinsic sugars shown in Table A; and
- (ii) sodium shown in Table B; and”.

SCHEDULE 4

Regulation 4

Food and drink requirements otherwise than as part of a school meal

1. Fruit and vegetables must be made available in any place within the premises where food is provided.

2.—(1) No salt shall be available to add to food after the cooking process is complete.

(2) Other condiments may be available to pupils only in individual portions of no more than 10 millilitres.

3.—(1) With the exception of savoury snacks no food that has been fried in the cooking or manufacturing process shall be made available in any place within school premises where food is provided.

(2) Savoury snacks—

- (a) may be made available only in individual portions which do not exceed 25 grams; and
- (b) must contain—
 - (i) a total fat content which does not exceed 22 grams per 100 grams;

- (ii) a total saturated fat content which does not exceed 2 grams per 100 grams;
- (iii) a total sodium content which does not exceed 0.6 grams per 100 grams; and
- (iv) a total sugars content which does not exceed 3 grams per 100 grams.

4.—(1) No confectionery shall be made available in any place within school premises where food is provided.

(2) Cakes, biscuits or puddings must not contain any confectionery.

5. Subject to paragraphs 6 to 8, only the following drinks may be provided:—

- (a) milk;
- (b) milk drinks;
- (c) drinking yoghurts;
- (d) soya, oat and rice based drinks enriched with calcium;
- (e) fruit juice;
- (f) vegetable juice;
- (g) drinks comprising combinations of fruit juice or vegetable juice with water;
- (h) drinks comprising blends of fruit, vegetables, fruit juice or vegetable juice in any combination;
- (i) tea and coffee; and
- (j) bottled water.

6.—(1) Milk must contain a total fat content which does not exceed 1.8 grams per 100 millilitres.

(2) Milk drinks and drinking yoghurts must contain—

- (a) a total fat content which does not exceed 1.8 grams per 100 millilitres; and
- (b) a total sugars content which does not exceed 10 grams per 100 millilitres provided that the total sugars content does not exceed 20 grams per portion.

7. Soya, oat and rice based drinks enriched with calcium must contain—

- (a) a total fat content which does not exceed 1.8 grams per 100 millilitres; and
- (b) a total sugars content which does not exceed 5 grams per 100 millilitres provided that the total sugars content does not exceed 10 grams per portion.

8.—(1) Fruit juice and vegetable juice must—

- (a) have no added salt;
- (b) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre; and
- (c) be made available only in individual portions not exceeding 200 millilitres.

(2) Drinks comprising combinations of fruit juice or vegetable juice with water must—

- (a) contain a minimum of 50% fruit juice or vegetable juice;
- (b) be made available only in individual portions not exceeding 400 millilitres;
- (c) have no added salt;
- (d) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre; and
- (e) contain a total sugars content which does not exceed 20 grams per portion.

(3) Drinks comprising blends of fruit, vegetables, fruit juice or vegetable juice in any combination must—

- (a) be made available only in individual portions not exceeding 200 millilitres;
- (b) have no added salt; and
- (c) have no added sugars except sugar which has been added for the purpose of regulating acidic taste in an amount (expressed as dry matter) not exceeding 15 grams per litre.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe nutritional requirements for food and drink in schools. They apply to public schools and grant aided schools as well as hostels which are provided and maintained by education authorities under the Education (Scotland) Act 1980.

These Regulations were notified in draft to the European Commission in accordance with Directive [98/34/EC](#) (O.J. L 24, 21.7.98, p.37) as amended by Directive [98/48/EC](#) (O.J. L 217, 5.8.98, p.18).

Subject to the exemptions specified in regulation 2(2), the two areas regulated by this instrument 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 and to evening meals which are provided in hostels maintained by education authorities.

School meals must comply with three layers of nutritional requirements as provided in Schedules 1 to 3 (regulation 3). Schedule 1 prescribes those foods which must be provided on the menu as well as specifying those foods which cannot be provided. In addition it specifies how often certain types of food may or should be provided as part of the school meal.

Schedule 2 sets nutritional requirements for individual types of food and drink which are provided as part of the school meal.

Schedule 3 prescribes the overall nutrient standards which apply to all school meals. These set the required daily energy and nutrient content of the average school meal calculated during the school week. The formula for calculating the “average school meal” is set out in paragraph 2.

Paragraph 3 sets the energy and nutrient standards. There are different nutrient levels for school meals to be provided to primary school pupils and those to be provided to secondary school pupils and these are specified in Table A in paragraph 3. In addition, paragraph 4 makes provision for lower sodium levels to apply after 31st December 2010.

For all other food and drink provided in school premises, which are not part of a school meal, the requirements in Schedule 4 will apply.

Regulation 5 places a duty on education authorities and the managers of grant aided schools to provide free drinking water on school premises at all times.