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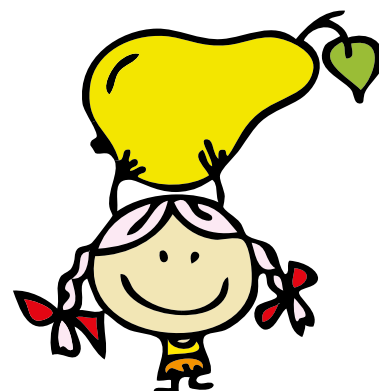
Welsh Government

## Consultation Document

### The draft Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations

Date of issue: 31 January 2013

Action required: Responses by 25 April 2013



# The draft Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations

<b>Overview</b>	<p>This consultation seeks views on draft Regulations made under section 4 of the Healthy Eating in Schools (Wales) Measure 2009. The Regulations set out nutritional standards and requirements for food and drink provided in schools (including nursery schools) maintained by local authorities (LAs) in Wales. The provisions in these draft Regulations are based on the food and nutrient standards recommended under the Welsh Government's Appetite for Life agenda.</p>
<b>How to respond</b>	<p>Responses to this consultation should be e-mailed/posted to the address below to arrive by <b>25 April 2013</b> at the latest.</p>
<b>Further information and related documents</b>	<p>Large print, Braille and alternate language versions of this document are available on request.</p> <p>The consultation documents can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/consultations">www.wales.gov.uk/consultations</a></p> <p>Useful links:</p> <p>Healthy Eating in Schools (Wales) Measure 2009 <a href="http://www.legislation.gov.uk/mwa/2009/3/contents">www.legislation.gov.uk/mwa/2009/3/contents</a></p> <p>Appetite for Life <a href="http://www.wales.gov.uk/topics/educationandskills/schoolshome/foodanddrink/appetiteforlife/?lang=en">www.wales.gov.uk/topics/educationandskills/schoolshome/foodanddrink/appetiteforlife/?lang=en</a></p>
<b>Contact details</b>	<p>For further information:</p> <p>Pupil Wellbeing Branch Support for Learners Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>e-mail: <a href="mailto:HealthyEatingInSchoolsConsultation@wales.gsi.gov.uk">HealthyEatingInSchoolsConsultation@wales.gsi.gov.uk</a></p>

## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## **What are the main issues?**

1. There have been long-standing concerns about the numbers of children who are overweight or obese, and the impact this has on health and well-being, especially in relation to reducing health inequalities. Poor diet is a major contributing factor. The food and drink provided in schools can make a positive contribution towards giving children and young people a healthy balanced diet and encouraging them to develop good eating habits.

## Where are we now?

### Statutory standards

2. The current statutory standards for food and drink provided in schools maintained by LAs in Wales ('maintained schools') are set out in the Education (Nutritional Standards for School Lunches) (Wales) Regulations 2001. These Regulations specify minimum compulsory standards in relation to **school lunches only**, and can be found at [www.legislation.gov.uk/wsi/2001/1784/contents/made](http://www.legislation.gov.uk/wsi/2001/1784/contents/made).

### Non-statutory standards

3. The Welsh Government's primary school free breakfast initiative, first introduced in September 2004, aims to provide for all children of primary school age, registered in maintained primary schools in Wales, to have a free, healthy breakfast on each school day. The Welsh Government's guidelines, setting out which foods are permitted under the breakfast initiative, can be viewed via [www.wales.gov.uk/topics/educationandskills/schoolshome/foodanddrink/breakfast/guidance/?lang=en](http://www.wales.gov.uk/topics/educationandskills/schoolshome/foodanddrink/breakfast/guidance/?lang=en).
4. The Welsh Government's *Appetite for Life Action Plan* published in 2008 recommended new stringent food and nutritional standards for food and drink provided during the school day. The Welsh Government has encouraged all LAs and maintained schools to work towards implementing these recommended standards since this date, supported by grant funding. The *Appetite for Life Action Plan* can be accessed at [www.wales.gov.uk/dcells/publications/info\\_for\\_learning\\_providers/schools/foodanddrink/appetiteforlife/appetiteforlifeactionplane.pdf?lang=en](http://www.wales.gov.uk/dcells/publications/info_for_learning_providers/schools/foodanddrink/appetiteforlife/appetiteforlifeactionplane.pdf?lang=en).
5. In September 2008, a two-year action research project embarked on the task of identifying the issues that schools and LAs would need to address in order to move towards the recommended standards. The project worked intensively with nine schools in four LAs to develop and test the guidelines for implementing the food and nutritional standards proposed within the *Appetite for Life Action Plan*, and to inform wider application across all maintained schools in Wales. The *Appetite For Life Action Research Project 2008-2010* was published in December 2010, and can be accessed at [www.wales.gov.uk/about/aboutresearch/social/latestresearch/appetiteforlife/?lang=en](http://www.wales.gov.uk/about/aboutresearch/social/latestresearch/appetiteforlife/?lang=en).
6. Draft guidelines providing stakeholders with practical advice on how to implement the changes to the provision of food and drink in schools have been updated over time, as lessons have been learned from the implementation of the Appetite for Life standards. The latest version of the guidelines can be accessed at [www.wales.gov.uk/docs/dcells/publications/120525draftguidelinesen.doc](http://www.wales.gov.uk/docs/dcells/publications/120525draftguidelinesen.doc).

7. The Welsh Government's *Food and Health Guidelines: For Early Years and Childcare Settings* was published in 2009. This guidance recommends which foods should be provided in nursery schools, and can be accessed at [www.wales.gov.uk/docs/phhs/publications/foodandhealth/090414guidelines.en.pdf](http://www.wales.gov.uk/docs/phhs/publications/foodandhealth/090414guidelines.en.pdf).
8. The Healthy Eating in Schools (Wales) Measure 2009 ("the Measure") requires (among other matters), LAs and governing bodies to promote healthy eating and drinking by pupils in maintained schools. Section 4 of the Measure gives the Welsh Ministers the power to make regulations about food and drink provided by LAs or governing bodies to persons in maintained schools. These draft Regulations are made under that power and are the focus of this consultation.
9. The Welsh Ministers propose to bring section 4 and the other provisions of the Measure into force during 2013. These 'other' provisions, **which are outside the scope of this consultation**, are as follows:

Section 1	Duty on LAs/governing bodies of maintained schools to take action to promote healthy eating and drinking among registered pupils in their area.
Section 2	Duty on the governing bodies of maintained schools to include in the governors' reports information on the action taken to promote healthy eating and drinking by pupils of the school.
Section 3	Duty on the Chief Inspector of Education and Training in Wales to keep the Welsh Ministers informed about actions taken at maintained schools to promote healthy eating and drinking.
Section 5	Duty on a LA to ensure that drinking water is available, free of charge, on the premises of any maintained school.
Section 6	Duty on a LA, or the governing body of a maintained school which provides school meals or milk, to encourage the take up of school meals or milk, and to take reasonable steps to ensure that every pupil who is entitled to receive free school lunches and free school milk receives them.
Section 7	Duty on a LA or governing body to take reasonable steps to ensure that a pupil cannot be identified as a pupil who receives a free school lunch or free school milk. Duty on a LA or governing body to take reasonable steps to ensure that teachers/employees/volunteers at the school do not make disclosures about the fact that a pupil receives free school lunches or free school milk.

## Why are we proposing change?

10. LAs and many schools have worked hard over the years to improve the quality of food and drink provided in schools, in line with the *Appetite for Life Action Plan* recommended standards. However, in the absence of legislation, there has been a resistance from some to making changes. As a consequence, not all schools are currently achieving the recommended standards. Regulations will require compliance and ensure that children and young people in schools are offered a healthy balance of food throughout the entire school day in line with the eatwell plate, which can be accessed at [www.wales.gov.uk/topics/health/improvement/index/eatwell/?lang=en](http://www.wales.gov.uk/topics/health/improvement/index/eatwell/?lang=en).

11. The intention is that the Regulations will come into force:

- spring/summer 2013 in relation to LAs and governing bodies of nursery schools and schools that provide primary education (other than special schools and pupil referral units)
- September 2013 in relation to LAs and governing bodies of schools that provide secondary education, special schools and pupil referral units.

The Education (Nutritional Standards for School Lunches) (Wales) Regulations 2001 will continue to apply until these Regulations come into force in relation to the relevant schools.



## Key provisions

12. These Regulations will apply to LAs and governing bodies that provide food and drink to pupils of maintained schools (whether the pupils are on school premises or not) and to other persons on school premises. Extending provision to other persons on school premises sends out a consistent message about healthy eating within schools.
13. The Regulations will also apply where food and drink is provided to nursery pupils and to other persons who are on the premises of a maintained nursery school. Our aim is to ensure that pre-school children receive a healthy diet and develop good eating habits.
14. The Regulations will not apply to food provided:
  - by a person, for that person's own consumption on school premises (e.g. brought in snacks, packed lunch)
  - as part of a medically prescribed diet
  - at any school social event or school recreational event to mark any religious or cultural occasion
  - at fund-raising events
  - as rewards for achievement, good behaviour or effort
  - for use in teaching food preparation and cookery skills provided that any food so prepared is not provided to pupils as part of a school breakfast or school lunch.

## Breakfast requirements (Regulation 4 and Schedule 1)

15. This provision will require LAs or governing bodies to ensure that breakfast provided to pupils of maintained schools, or to other persons on the premises of a maintained school, contains the following foods only:
  - milk-based drinks or yoghurts
  - cereals – not sugar/chocolate/cocoa powder coated or flavoured
  - fruit
  - breads.

This will ensure that children and young people are provided with a healthy, nutritious breakfast, giving them a good start to the school day. This will also support children and young people in developing good eating habits.

## **Lunch requirements in nursery schools (Regulation 5 and Schedule 2)**

16. This provision will require LAs or governing bodies to ensure that school lunches provided to pupils in nursery schools, or to other persons on nursery school premises, contain each of the following foods:

- fruit and vegetables
- meat, fish and other non-dairy sources of protein
- starchy foods
- dairy foods and milk.

This will ensure that the lunches contribute towards a healthy balanced diet and support and promote the development of good eating habits.

17. Where a nursery school forms part of a primary school, the school meal provider may choose to give nursery pupils the same lunch as the primary pupils. However, in these circumstances the lunch provided will have to comply with the requirements for school lunches in primary schools instead of the requirements outlined in paragraph 16 above.

## **Lunch requirements in primary and secondary schools (Regulation 6 and Schedules 3 and 4)**

18. These provisions set out the types of food that can or cannot be provided as part of a school lunch to pupils in maintained schools, or to other persons on the premises of a maintained school.

19. The provisions also set out the frequency with which certain foods can or can not be provided and the specific nutrient standards that must be met. The food standards will enable school meal providers to meet the nutrient standards by providing foods that contribute towards a healthy diet and restricting or removing foods with limited nutritional value.

20. The following foods will need to be provided:

- vegetables
- fruit
- fish and oily fish
- meat.

21. The following foods will be restricted:

- potatoes and potato products cooked in fats and oils
- deep-fried and flash-fried products
- meat products
- condiments.

22. The Regulations will not permit confectionery, or savoury snacks, or the addition of salt to add to food after it has been cooked. Cakes and biscuits will only be permitted if they do not contain confectionery.

23. The nutrient standards will be based on providing:

- 30 per cent of an individual's daily nutrient requirement for macronutrients including energy
- 35 per cent of an individual's daily nutrient requirement for micronutrients. This is based on the needs of those with the highest requirement in the relevant (primary or secondary) school-aged population – 'the greatest need' principle
- 30 per cent of an individual's daily nutrient requirement for the micronutrients iron, zinc and calcium, in secondary schools, based on the greatest need of the population.

### **Requirements for drinks provided in nursery, primary and secondary schools (Regulation 7 and Schedule 5)**

24. Drinks provided to pupils (including nursery pupils) in maintained schools, or other persons on the premises of a maintained school will be required to meet specific standards. This will ensure that drinks contribute positively towards a balanced diet for children, and specifically encourage children to drink water, or drinks that provide other nutrients. Drinks that have no clear nutritional value and which cause tooth decay will not be permitted. Schedule 5 of the draft Regulations will impose requirements on drinks provided in schools. The effect of the requirements will mean that drinks such as squash and lemonade must not be provided.

25. Drinks provided in maintained nursery schools and primary schools will be restricted to:

- water
- milk
- plain soya, plain rice or plain oat drinks
- fruit juice, vegetable juice and blended drinks (made with a blend or puree of fruit, vegetables, fruit juice or vegetable juice) to be provided at meal times only
- fruit juice or vegetable juice combined with water, to be provided at meal times only.

26. The benefits of these drinks are as follows.

- Water does not damage teeth and quenches thirst, it promotes hydration and has no calories.
- Milk contains a number of useful nutrients including protein, vitamins and minerals that contribute positively to the diets of children and young people. High levels of calcium and phosphate in milk help to

re-mineralise tooth enamel after it has been exposed to sugary or acidic substances.

- Soya, rice or oat drinks with added calcium are alternative milk drinks for pupils who are allergic to cow's milk.
- Fruit juice and vegetable juice contain vitamins and minerals that contribute positively to the diets of children and young people. However, when fruit is juiced or blended/pureed, sugar is released from the fruit that can damage teeth. The acidity of these drinks can also be harmful to teeth if drunk frequently, which is why, in nursery and primary schools, fruit juice and vegetable juice will be limited to meal times.

27. Drinks provided in secondary schools will be restricted to water or other drinks which have a clear nutritional benefit. A wider range of drinks will be on offer than in primary schools, such as milk, yoghurt or dairy-equivalent drinks (which address calcium requirements) and fruit or vegetable juices (which provide vitamin C and other important nutrients such as carotenoids).

### **Provision of food otherwise than part of breakfast or lunch (Regulation 8 and Schedule 6)**

28. This provision will apply to food and drink provided other than as part of school breakfast or school lunch, to pupils at a maintained nursery school, a maintained primary school or a maintained secondary school, or to other persons on the premises of a maintained school. The requirement will be that food must have a clear nutritional benefit, so that it provides essential nutrients rather than empty calories.

29. Schedule 6 of the draft Regulations lists food which must be provided, food which must not be provided and food which is restricted. Foods not included in Schedule 6 are unrestricted:

- fruit and vegetables must be available in any place on the school premises where food is provided
- confectionery, savoury snacks, and salt will not be permitted
- cakes and biscuits will not be permitted in nursery schools or primary schools. They will be permitted in secondary schools, but will then have to be included in the nutritional analysis of the school lunch.

30. The following foods are not permitted in nursery schools:

- potatoes and potato products cooked in fats and oils
- deep-fried and flash-fried products
- meat products
- condiments.

They may however be provided in primary and secondary schools outside the lunchtime period, for example in secondary schools which provide

lunch items at mid-morning break. However, if these foods are provided in such circumstances they must be treated as restricted food items in accordance with the food standards set out in Schedule 3 of the Regulations.

31. The aim of this Regulation is to ensure a consistent and coherent approach to promoting healthy eating across the entire school day.