

## POLICY NOTE

### THE NUTRITIONAL REQUIREMENTS FOR FOOD AND DRINK IN SCHOOLS (SCOTLAND) AMENDMENT REGULATIONS 2021

#### SSI 2021/481

The above instrument was made in exercise of the powers conferred by sections 56A, 56B and 56D of the Education (Scotland) Act 1980(a) and all other powers enabling them to do so. The instrument is subject to negative procedure.

**Purpose of the instrument. The aim is to set out the circumstances, relating to supply chain disruption in the provision of food and drink, in which an education authority or grant aided school can provide food and drink which does not comply with the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020.**

#### Policy Objectives

This instrument amends the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 (“2020 Regulations”) which have been in force since April 2021 and which place duties on education authorities and the managers of grant aided schools in Scotland.

The 2020 Regulations set out requirements in relation to certain types or items of food and drink that can, cannot or must be provided in schools. The requirements in the 2020 Regulations are based on scientific evidence and dietary advice and designed to ensure that children and young people are provided with an appropriate amount of energy and nutrients as part of their school day to support healthy growth and development.

The SSI amends the 2020 Regulations to set out the limited circumstances in which an education authority or grant aided school can provide food and drink which does not comply with the 2020 Regulations. Those circumstances are where they cannot procure a product that complies with a requirement in the 2020 Regulations as a direct result of local or national disruptions to the supply of food which are outwith their control, despite their best efforts.

The overarching aim of school food and drink policy continues to be the provision of balanced and nutritious food, drink and meals to children and young people to support their healthy growth and development.

Where education authorities or managers of grant aided schools cannot, despite best endeavours, procure food and drink which complies with a standard set out in the 2020 Regulations, the amendment made by this SSI can be relied on. However, food or drink which is not compliant with the 2020 Regulations should only be provided where all other action has failed and the expectation, as set out in the statutory guidance that accompanies this SSI, is that such provision should be for as short a time as necessary with the aim of returning to full compliance as quickly as possible.

The statutory guidance which accompanies the SSI is designed to provide clarity of expectation for education authorities and grant aided schools in these circumstances. It sets out the steps they are expected to take and the considerations that should be thought about as

they take action to address the effects on their ability to provide food, drink and meals under the circumstances set out in the SSI.

The 2020 Regulations are designed to keep salt, sugar, fat and saturated fats in food and drink that is provided to pupils to an appropriate level. As such, the overarching expectation when dealing with unavailability of usual items or equivalent alternatives is to find a substitute which is as close as possible to the standards set out in the 2020 Regulations.

When using a substitute product that does not comply with the requirements of the 2020 Regulations, it is expected that consideration will be given to whether menu redesign could compensate for the loss of a particular nutrient, for example by using beans to add more fibre to a meal which uses bread with a lower fibre content.

In the circumstances where no close alternatives are available, the expectation is that education authorities and managers of grant aided schools will choose the best possible provision to maintain as balanced and nutritious overall provision as possible.

This amendment will apply to food and drink provided under schedule 1, which applies to primary schools and schedule 2, which applies to secondary schools.

It will also apply to schedule 3, which sets the nutrient standards for meals provided in primary and secondary schools and in school hostels.

This amendment is intended to be a temporary response to specific circumstances and Ministers intend to revoke it as soon as circumstances allow.

### **Consultation**

Consultation with ASSIST (local authority catering representatives), Convention of Scottish Local Authorities (CoSLA) and Association of Directors of Education in Scotland (ADES) has taken place.

### **Impact Assessments**

All relevant impact assessments were considered and deemed unnecessary for this SSI as it does not significantly impact on the legislative duties in the 2020 Regs due to the very limited circumstances in which the provision would apply. All relevant impact assessments were undertaken when the 2020 Regs were being developed and this SSI is designed to preserve the intention of those Regulations.

### **Financial Effects**

A Business and Regulatory Impact Assessment (BRIA) is deemed not to be necessary for this SSI as it does not significantly impact on the legislative duties in the 2020 Regs due to the very limited circumstances in which the provision would apply. A BRIA was carried out when the 2020 Regs were being developed and this SSI is designed to preserve the intention of those Regulations.

Scottish Government  
Learning Directorate

20 December 2021