

Restricting promotions of food and drink high in fat, sugar or salt – proposed regulations consultation

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland. For information only to England, Northern Ireland and Wales

1 Executive summary

Scottish Government has released a consultation on proposed regulations to restrict the promotion of foods which are high in fat, sugar or salt in-store and online. This includes multi-buys, temporary price reductions, meal deals, positioning restrictions and other considerations. They believe that by restricting the promotion of less healthy food and drink that they can encourage healthier options and make it easier for people to eat well.

The consultation closes on 21 May 2024. [Click here](#) to complete the consultation.

2 Background

Scotland's dietary goals have not been consistently met since they were set in 1996 with diets remaining too high in calories, fat, sugar and salt with approximately two out of three adults in Scotland either overweight or obese. This is also more prevalent in the deprived areas of Scotland with 72% of adults either overweight or obese compared to 61% in the least deprived areas.

Scottish Government is taking a wide range of actions to improve diets and healthy weights including free school meals, improving nutritional standards in schools, providing support through Parent Club and Best Start Foods, and using the Healthy Living Programme to improve the availability of healthier food in local communities. This would also reduce the risk of people developing type 2 diabetes, different types of cancer and cardiovascular disease. The government intend to make regulations under powers in the Food Safety Act 1990 and the Food (Scotland) Act 2015.

The food categories under consideration for promotions restrictions are:

- Soft drinks with added sugar
- Savoury snacks
- Breakfast cereals
- Confectionery
- Ice cream, ice lollies, frozen yogurt, water ices
- Cakes and cupcakes
- Sweet biscuits and bars
- Morning goods (e.g. pancakes, pastries, waffles)
- Desserts and puddings
- Sweetened yoghurt and fromage frais
- Roast potatoes, chips and other similar potato products
- Pizza

The consultation is seeking views on the targeted foods, price promotions and the types of businesses within the scope of the restrictions, placement restrictions in store and online, and the proposed approach to enforcement and implementation.

3 Consultation questions

1. Do you agree with the proposal to be consistent with the category descriptors set out in Schedule 1 of the UK Government regulations for England?

2. Do the food category descriptors set out in Schedule 1 (and included in Annex D of the consultation paper) sufficiently describe the food categories within scope of regulations?

3. Please provide any additional comments on the proposed approach to foods in scope of the policy.

4. Is the proposed description of the following sufficiently clear for the purpose of implementation and enforcement: a) Multibuy? b) Extra free?

5. Is the proposed timescale of 12 months at paragraph 53 of the consultation sufficient to allow price promotions on packaging to be phased out?

6. What, if any, implications do you expect there would be for businesses if meal deals are included within scope of this policy? (please include evidence where available)

7. If meal deals are included within scope of the policy, which would be your preferred option for targeting them?

Option 1 - Meal deals cannot contain high in fat, sugar or salt targeted foods.

Option 2 - Meal deals can contain up to one high in fat, sugar or salt targeted food.

Option 3 - Meals deals cannot contain targeted high in fat, sugar or salt discretionary foods.

Please explain your answer, including any alternative suggestions for how promotion regulations could help improve meal deals to better support a healthy diet.

8. If temporary price reductions (TPRs) are included within scope of the policy, is the proposed broad definition sufficient for implementation and enforcement?

9. What, if any, implications do you expect there would be for businesses if temporary price reductions (TPRs) are included within scope of this policy? (please include evidence where available)

10. Are the proposed descriptions of the following prominent in-store locations sufficiently clear for implementation and enforcement? a) Checkout? b) End of aisle? c) Store entrances? d) Covered external area? e) Free-standing displays?

11. Do you agree with the proposed approach to applying store entrance criteria to dedicated food areas within stores, as described at paragraphs 97-99 of our consultation?

12. Do you agree with the proposed description for relevant floor area?

13. Please provide any additional comments on the proposals for in-store locations within scope of the policy.

14. Are the proposed descriptions of the following online equivalent in-store locations sufficiently clear for implementation and enforcement? a) Home page b) Favourites page c) Pages not opened intentionally by the consumer d) Checkout pages

15. Are there any other equivalent online locations that should be within scope of the policy?

16. Please provide any additional comments on the proposals for online locations within scope of the policy.

17. Are the types of business within the scope of the policy sufficiently described for the purpose of implementation and enforcement?

18. Is the proposed extension of restrictions to online sales, including through online aggregator sites and apps, (see paragraph 116 of the consultation paper) sufficiently described for the purpose of implementation and enforcement?

19. Are the arrangements for franchises and symbol groups sufficiently described for the purpose of

implementation and enforcement?

20. Do you foresee any impacts on the ability of businesses to trade either within the UK market or internationally from any of the proposed measures?

21. Please provide any additional comments on the businesses proposed to be within scope of the policy.

22. Are the proposed exemptions from location restrictions based on business type clear and sufficiently defined to enable implementation and enforcement?

23. Are the exemptions from location restrictions based on individual store relevant floor area clear and sufficiently defined to enable implementation and enforcement?

24. Please provide any additional comments on proposed exemptions from locations restrictions.

25. Do you agree with the proposed use of administrative sanctions for enforcement of the policy?

26. Do you agree with the maximum penalties proposed for the offences in relation to enforcement of the policy?

27. Is the proposed 12 month period following the introduction of regulations sufficient to prepare for? a) Implementation? b) Enforcement?

28. Please outline any other comments you wish to make on this consultation.

4 APSE Comment

APSE encourages our membership in Scotland to respond to the consultation, and to share their views on restricting promotion of foods which are high in fat, sugar or salt. APSE has continued to recognise Local Authority Caterers commitment and willingness to continue to promote school meals as an exemplar of tasty, healthy and nutritious food and understands that positive dietary changes should be promoted in all settings. However, APSE has also continued to highlight some of the unintended consequences in terms of food choices for children and young people in schools, due to other legislation. APSE's briefings [19-37](#) and [20-59](#) discussed the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020, in that they presented several challenges for local authorities. The APSE comment noted "the highly prescriptive nature of the regulations in comparison to previous arrangements will have an effect on the freedom of local authorities to

deliver services as they see fit. APSE also has concerns about how marketable a new, even healthier school meal service will be to children, especially if it is seen as imposing further restrictions on choice. This could lead to more young people making the choice to go outside the school gates and visit bakeries, shops and takeaways that are not bound to these restrictions or to bring in a packed lunch”.

APSE therefore welcomes this consultation to seek views on the targeted foods, price promotions and the types of businesses within the scope of the restrictions, placement restrictions in store and online, and the proposed approach to enforcement and implementation. It is hoped that these restrictions would help to rebalance the playing field for local authorities when providing their school meal options to children and young people against those beyond the school gates.

This topic has also been discussed at length at APSE’s [Scottish Soft Facilities Management advisory group](#), which is a useful learning resource for local authority catering staff. This group is free to attend for APSE members.

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