



# Learner Travel (Wales) Measure 2008

**2008 nawm 2**

*Supplementary*

## **15 Guidance and directions**

- (1) In exercising their functions under this Measure, the following bodies must have regard to guidance given from time to time by the Welsh Ministers —
  - (a) local authorities;
  - (b) governing bodies of maintained schools;
  - (c) governing bodies of institutions in the further education sector.
- (2) A local authority must make such learner travel arrangements under section 3, 4 or 6 as the Welsh Ministers direct.
- (3) In making arrangements under section 3, 4 or 6 a local authority must comply with any directions given by the Welsh Ministers.
- (4) Directions under this section may be given to one or more local authorities or local authorities generally.

## **16 Information about travel arrangements**

Regulations may require a local authority to publish, at such times and in such manner as may be prescribed, information—

- (a) received while carrying out assessments under section 2(2);
- (b) about assessments made under that section;
- (c) about the travel arrangements made under this Measure;
- (d) about the travel behaviour code made under section 12.

## **17 Co-operation: information or other assistance**

- (1) The governing body of a maintained school or an institution in the further education sector in Wales must give a local authority any information or other assistance that is reasonably required by them for the performance of their functions under this Measure.

- (2) A local authority must give another local authority any information or other assistance that is reasonably required by the other authority for the performance of their functions under sections 2, 3, 4 and 6.
- (3) A local authority must give the head teacher of a relevant school any information or other assistance that is reasonably required by the head teacher about the behaviour of a registered pupil of his or her school while the pupil was taking advantage of travel arrangements made by the local authority under this Measure.
- (4) A head teacher of a relevant school must give a local authority any information or other assistance that is reasonably required by the local authority for the performance of their functions under section 14.

## **18 Payment of travel costs by a local authority which looks after a child**

- (1) This section applies where a local authority (“authority A”) makes travel arrangements under sections 3 or 4 for a child who is looked after by a local authority responsible for a different area (“authority B”).
- (2) Authority A may demand reimbursement from authority B for the full cost or part of the cost of making the travel arrangements.
- (3) Authority B must comply with the demand.

## **19 Determination of ordinary residence in particular circumstances**

- (1) If a person has no ordinary residence, that person is to be treated for the purposes of this Measure as being ordinarily resident at the place at which he or she is for the time being resident.
- (2) Subsections (3) to (6) apply to a child or young person who is either—
  - (a) a registered pupil at a school, or
  - (b) enrolled as a full-time student at an institution in the further education sector.
- (3) This subsection applies to a child or young person—
  - (a) whose parents are not living together, and
  - (b) who usually lives with more than one parent in the periods during which the child or young person receives education or training.
- (4) This subsection applies to a child or young person who usually lives with a parent and also at a children’s home in the periods during which the child or young person receives education or training.
- (5) For the purposes of this Measure—
  - (a) a child or young person to whom subsection (3) applies is ordinarily resident at the places where each of his or her parents is ordinarily resident;
  - (b) a child or young person to whom subsection (4) applies is ordinarily resident at the children’s home and the place where his or her parent is ordinarily resident.
- (6) But if there are more than two such places, the child or young person is ordinarily resident at the two places nearest—
  - (a) the school at which the child or young person is a registered pupil, or

- (b) the institution in the further education sector at which the child or young person is enrolled as a full-time student.

(7) In this section—

- (a) “children’s home” has the same meaning as in section 1 of the Care Standards Act 2000 (c. 14);
- (b) “parent” means a parent within the meaning of section 576(1) of the Education Act 1996 who is an individual.

## **20 Amendments to section 444 of the Education Act 1996**

(1) Section 444 of the Education Act 1996 (school attendance) is amended as follows.

(2) For subsection (4) substitute —

“(4) The child is not to be taken to have failed to attend regularly at the school if the parent proves that the local authority have failed to discharge—

- (a) a duty to make transport arrangements in relation to the child under section 3 of the Learner Travel (Wales) Measure 2008, or
- (b) a duty to make travel arrangements in relation to the child under section 4 of that Measure.”

(3) In subsection (5) for “subsections (3D) and (4)” substitute “subsection (3D)”.

## **21 Amendments to the Education Act 2002**

(1) The Education Act 2002 is amended as follows.

(2) Section 32 (fixing dates of terms and holidays and times of school sessions) is amended as follows—

- (a) in subsection (1)(b) before “the governing body” insert “subject to subsections (5) to (9),”;
- (b) in subsection (2)(b) before “the times” insert “subject to subsections (5) to (9)”;
- (c) after subsection (4) insert—

“(5) Subsections (1)(b) and (2)(b) do not apply in relation to a school in Wales in the circumstances specified in subsection (6).

(6) The circumstances are—

- (a) that the local education authority in whose area the school is situated have given notice in writing to the governing body of the school that the times of the school sessions are to be determined in accordance with subsection (8), and
- (b) that the notice has not been withdrawn by the local education authority.

(7) A local education authority must not issue a notice of the kind mentioned in subsection (6)(a) unless they consider a change in the times of the sessions of that school to be necessary or expedient in order to—

- (a) promote the use of sustainable modes of travel within the meaning of section 11 of the Learner Travel (Wales) Measure 2008, or
  - (b) improve the effectiveness or efficiency of travel arrangements made, or to be made, by the authority under that Measure.
- (8) In relation to a school subject to a notice of the kind mentioned in subsection (6)(a)—
- (a) where there are two school sessions on the relevant school day—
    - (i) the local education authority must determine the time each day at which the first school session starts and the second school session ends, and
    - (ii) the governing body must determine the time each day at which the first school session ends and the second school session starts;
  - (b) where there is one school session on the relevant school day the local education authority must determine the time each day at which the school session starts and ends.
- (9) The Welsh Ministers may make provision by regulations—
- (a) as to the procedure to be followed where the local education authority propose to issue a notice of the kind mentioned in subsection (6)(a);
  - (b) as to the matters to be included in such a notice;
  - (c) as to the implementation of any determination under subsection (8);
  - (d) for enabling the local education authority to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school.
- (10) In giving notice as described in subsection (6) and in discharging any function conferred by subsections (7) or (8) or by regulations under subsection (9), a local education authority must have regard to guidance given by the Welsh Ministers.”
- (3) In section 210 (orders and regulations)—
- (a) in subsection (1) for “the National Assembly for Wales” substitute “the Welsh Ministers”;
  - (b) after subsection (6) insert—
    - “(6A) Any statutory instrument containing regulations made under section 32(9) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
    - (6B) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.”;

- (c) in subsection (7)—
  - (i) for “the National Assembly for Wales” substitute “the Welsh Ministers”,
  - (ii) for “the Assembly thinks” in paragraph (c) substitute “the Welsh Ministers think”.

## **22 Amendments to sections 455 and 456 of the Education Act 1996**

- (1) The Education Act 1996 is amended as follows.
- (2) In section 455 (permitted charges)—
  - (a) after subsection (1)(b) insert—
    - “(ba) travel arrangements provided under section 6 of the Learner Travel (Wales) Measure 2008 (“the Measure”) for a registered pupil at a maintained school in Wales, other than arrangements in respect of which, by virtue of section 454(3) of this Act or sections 3 or 4 of the Measure, no charge may be made.”;
  - (b) in subsection (1)(c) after “maintained school” insert “in England” and omit “or 509(2)”;
  - (c) at the end of subsection (2)(b) omit “or”;
  - (d) after subsection (2)(b) insert—
    - “(ba) by virtue of subsection (1)(ba) in respect of the provision for a pupil of travel arrangements, or”;
  - (e) in subsection (3) after “entry” insert “travel arrangements,”.
- (3) In section 456 (regulation of permitted charges), in subsection (3) after “A regulated charge” insert “, except any charge permitted by virtue of section 455(1)(ba),”.

## **23 Amendments to the Education and Inspections Act 2006**

- (1) The Education and Inspections Act 2006 is amended as follows.
- (2) In section 162 (power to repeal references to “local education authority”), after subsection (5) insert—
  - “(5A) The Welsh Ministers may by order make such provision as appears to them to be appropriate for the purpose of—
    - (a) repealing any reference in a Measure of the National Assembly for Wales to a local education authority (however expressed), and
    - (b) replacing it, where it appears to them to be appropriate, with a reference (however expressed) to a Welsh local authority.”
- (3) In section 181—
  - (a) for subsection (1) substitute—
    - “(1) Any power of the Secretary of State or the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.”;
  - (b) in subsection (2)—
    - (i) for “the Assembly”, the first time that expression appears, substitute “the Welsh Ministers”,

(ii) for “the Assembly thinks” in paragraph (c) substitute “the Welsh Ministers think”.

(4) After section 182 insert—

**“182A Assembly control of orders and regulations**

- (1) Any statutory instrument containing an order made under section 162(5A) by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly.
- (2) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the Assembly procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the Assembly by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.”