



Safety on Learner Transport (Wales) Measure 2011

2011 nawm 6

1 Requirement for seat belts on buses used for learner transport

After section 14 of the Learner Travel (Wales) Measure 2008 insert—

“Safety on learner transport

14A Requirement for seat belts on buses used for learner transport

- (1) A relevant body must ensure that every bus used for the learner transport it provides or otherwise secures is one that has a seat belt fitted to every passenger seat.
- (2) A person who provides learner transport secured by a relevant body must ensure that every bus used for such transport is one that has a seat belt fitted to every passenger seat.
- (3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It is a defence to show that the failure to comply with subsection (1) or (2) was justified by exceptional circumstances.
- (5) Nothing in this section is to be interpreted as setting technical standards for a vehicle’s construction or equipment which differ from the standards that would or might otherwise apply to that vehicle by virtue of any enactment or directly applicable requirement of European Union law.
- (6) In this section—

“bus” means a motor vehicle constructed or adapted to carry more than eight seated passengers in addition to the driver;

“enactment” means any of the following, whenever passed or made—

- (a) an Act of Parliament;
- (b) subordinate legislation made under an Act of Parliament;
- (c) a provision of any such Act or subordinate legislation;

“seat belt” means a belt intended to be worn by a person in a vehicle and designed to prevent or lessen injury to its wearer in the event of an accident to the vehicle.”.

2 Further provision as to descriptions of vehicle that may be used for learner transport

After section 14A of the Learner Travel (Wales) Measure 2008 insert—

“Safety on learner transport

14B Further provision as to descriptions of vehicle that may be used for learner transport

- (1) Regulations may make further provision to—
 - (a) require a relevant body to ensure that only prescribed descriptions of vehicle are used for the learner transport it provides or otherwise secures;
 - (b) require a person who provides learner transport secured by a relevant body to use only prescribed descriptions of vehicle;
 - (c) provide for criminal offences and penalties for breaches of requirements imposed under this section.
- (2) Regulations under paragraphs (a) and (b) of subsection (1) may describe vehicles by reference to a vehicle’s construction, equipment or other characteristics.”.

3 Recording visual images or sound on learner transport

After section 14B of the Learner Travel (Wales) Measure 2008 insert—

“14C Recording visual images or sound on learner transport

- (1) Regulations may—
 - (a) require prescribed arrangements to be made for recording visual images or sound of events occurring on the learner transport provided or otherwise secured by a relevant body;
 - (b) make provision about the use, storage and retention of visual images or sound recorded on learner transport provided or secured by a relevant body;
 - (c) provide for criminal offences and penalties for breaches of requirements imposed under this section.
- (2) Regulations under subsection (1) may (among other things) confer powers or duties on any of the following—

- (a) a relevant body;
 - (b) a person who provides learner transport secured by a relevant body.
- (3) Regulations under subsection (1) may not authorise or require recording to be carried out in a manner that is calculated to ensure that persons who are subject to it are unaware that it is or may be taking place.”.

4 Safety risk assessment of learner transport

After section 14C of the Learner Travel (Wales) Measure 2008 insert—

“14D Safety risk assessment of learner transport

- (1) Regulations may require a relevant body to carry out safety risk assessments of the learner transport it provides or otherwise secures.
- (2) Regulations under subsection (1) may—
 - (a) impose requirements as to the nature of the assessment to be carried out;
 - (b) require the production and publication of reports;
 - (c) prescribe the form and manner of publication;
 - (d) prescribe the frequency of assessments.”.

5 Driver training

After section 14D of the Learner Travel (Wales) Measure 2008 insert—

“14E Driver training

- (1) Regulations may require a relevant body that provides or otherwise secures the provision of learner transport to ensure that drivers of vehicles used for such transport have completed prescribed training to a prescribed standard.
- (2) Training and standards may be prescribed by reference to a document published, as specified in the regulations, by the Welsh Ministers.
- (3) In this section “training” means training about safety on learner transport and working with children.”.

6 Supervisors on learner transport

After section 14E of the Learner Travel (Wales) Measure 2008 insert—

“14F Supervisors on learner transport

- (1) Regulations may make provision for the supervision of learners using learner transport provided or otherwise secured by a relevant body.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) confer powers or impose duties on a relevant body;
 - (b) make provision about training for persons supervising learners.”.

7 Civil sanctions

(1) After section 14F of the Learner Travel (Wales) Measure 2008 insert—

“14G Civil sanctions

Schedule A1 has effect.”.

(2) The Schedule to this Measure has effect.

8 Enforcement authority

After section 14G of the Learner Travel (Wales) Measure 2008 insert—

“14H Enforcement authority

- (1) Regulations may appoint a person or body (including the Welsh Ministers) to be an enforcement authority.
- (2) More than one person or body may be appointed as an enforcement authority.
- (3) Regulations may confer powers or impose duties on an enforcement authority to enforce provision made by section 14A and by regulations under sections 14B and 14C and Schedule A1 and may (among other things)—
 - (a) confer power on an enforcement authority to authorise a person (referred to in this Measure as an “inspector”) to exercise the powers in sections 14I and 14J,
 - (b) make modifications to any enactment applying to the enforcement authority, or
 - (c) provide for any such enactment to apply, with or without modifications, for the purposes of section 14A and regulations under sections 14B and 14C, this section and Schedule A1.
- (4) References in this Measure to an enforcement authority are references to a person or body appointed under this section and include a person appointed by an enforcement authority.
- (5) In this section “enactment” includes—
 - (a) an enactment whenever passed or made,
 - (b) an enactment comprised in a Measure or Act of the National Assembly for Wales, and
 - (c) provision contained in subordinate legislation within the meaning of the Interpretation Act 1978 (including subordinate legislation made under a Measure or Act of the National Assembly for Wales).”.

9 Power of entry

After section 14H of the Learner Travel (Wales) Measure 2008 insert—

“14I Power of entry

- (1) This section applies to—
 - (a) a vehicle or any premises owned or controlled by a relevant body;

- (b) a vehicle or premises falling within subsection (2).
- (2) A vehicle or premises falling within this subsection are those—
 - (a) which are used, or proposed to be used, by any person in connection with the provision of learner transport provided or otherwise secured by a relevant body, or
 - (b) which an inspector reasonably believes to be so used, or proposed to be so used.
- (3) An inspector may at any reasonable time—
 - (a) detain a vehicle;
 - (b) enter a vehicle or premises.
- (4) But the power in subsection (3) does not include the power to enter premises used wholly or mainly as a private dwelling.
- (5) An inspector exercising any power conferred under subsection (3) or section 14J must, if so required, produce some duly authenticated document showing the inspector's authority to do so.”

10 Power of inspection

After section 14I of the Learner Travel (Wales) Measure 2008 insert—

“14J Power of inspection

- (1) An inspector who detains a vehicle or enters a vehicle or premises under section 14I may—
 - (a) inspect the vehicle or premises;
 - (b) inspect, take copies of and remove from the vehicle or premises any documents or records relating to the provision of learner transport;
 - (c) inspect any other item and remove it from the vehicle or premises.
- (2) The power in subsection (1)(b) includes—
 - (a) power to require any person holding or accountable for documents or records kept on the vehicle or premises to produce them, and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a legible form which can be taken away.
- (3) The power in subsection (1)(b) does not include power—
 - (a) to require a person to produce any document or record in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
 - (b) to take copies of such a document or record or to remove it.
- (4) In connection with inspecting any such documents, an inspector—
 - (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and
 - (b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.

- (5) A person is within this subsection if he or she is—
 - (a) the person by whom or on whose behalf the computer is or has been used, or
 - (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) An inspector detaining a vehicle or entering a vehicle or premises may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 14I or this section.
- (7) Any person who without reasonable excuse—
 - (a) obstructs an inspector exercising any power under section 14I or this section, or
 - (b) fails to comply with any requirement imposed under this section,
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

11 Power to require provision of information

After section 14J of the Learner Travel (Wales) Measure 2008 insert—

“14K Power to require provision of information

- (1) An enforcement authority may at any time require any person specified in subsection (2) to provide it with any information, documents, records or other items—
 - (a) which relate to the provision of learner transport, and
 - (b) which the enforcement authority consider necessary or expedient to have for the purpose of its functions as the enforcement authority.
- (2) The persons referred to in subsection (1) are—
 - (a) a relevant body;
 - (b) any person who provides learner transport secured by a relevant body.
- (3) The power in subsection (1) includes, in relation to information, documents or records kept by means of a computer, power to require provision of them in a legible form which can be taken away.
- (4) The power in subsection (1) does not include power to require the provision of information, documents or records in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (5) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

12 Offences: liability of officers and partners

After section 14K of the Learner Travel (Wales) Measure 2008 insert—

“14L Offences: liability of officers and partners

- (1) Where an offence under section 14A, 14B or 14C committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, regulations may provide for the officer to be liable as well as the body corporate itself.
- (2) Where an offence under section 14A, 14B or 14C committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner of the partnership, regulations may provide for the partner to be liable as well as the partnership itself.”.

13 Regulations: consultation

After 14L of the Learner Travel (Wales) Measure 2008 insert—

“14M Regulations: consultation

The Welsh Ministers must consult each local authority and such other persons as they consider appropriate before making any regulations under sections 14B to 14F, section 14H or 14L or Schedule A1.”.

14 Interpretation

After section 14M of the Learner Travel (Wales) Measure 2008 insert—

“14N Interpretation of sections 14A to 14K

- (1) This section applies for the purposes of sections 14A to 14K.
- (2) Each of the following is a “relevant body”—
 - (a) a local authority;
 - (b) a governing body of a maintained school.
- (3) “Learner transport” means transport to facilitate the attendance of a child at any relevant place where he or she receives education or training; but it does not include transport provided for the purpose of travel during the day between relevant places or between different sites of the same institution.
- (4) The act of making any of the following arrangements is not to be considered, by itself, as providing or otherwise securing the provision of learner transport.
- (5) The arrangements mentioned in subsection (4) are—
 - (a) arrangements to pay the whole or any part of a person’s reasonable travelling expenses;
 - (b) arrangements to pay allowances in respect of the use of transport.
- (6) The Welsh Ministers may by order amend subsection (3) so as to omit the words from “but it does not include” to the end of the subsection.”.

15 General provisions about orders and regulations

- (1) Section 27 of the Learner Travel (Wales) Measure 2008 (orders and regulations) is amended as follows.
- (2) In subsection (2)—
 - (a) in paragraph (a), after “or” insert “classes of case or different purposes or”;
 - (b) after paragraph (a) insert—
 - “(aa) make provision subject to specified exemptions or exceptions;”;
 - (c) in paragraph (b), after “cases” insert “or classes of case”.
- (3) In subsection (3), omit “or 8” and insert “, 8, 14B, 14C, 14D, 14E, 14F, 14H or 14L or Schedule A1”.
- (4) After subsection (4) insert—
 - “(4A) In the application of subsection (4) to regulations made under sections 14B to 14F, section 14H or 14L or Schedule A1 the reference to “this Measure” in subsection (4) is to be interpreted as a reference to the Safety on Learner Transport (Wales) Measure 2011.”.
- (5) In subsection (7)—
 - (a) in paragraph (d) omit “or”;
 - (b) after paragraph (d) insert—
 - “(da) regulations under section 14B, 14C, 14D, 14E, 14F, 14H or 14L or Schedule A1, or
 - (db) an order under section 14N(6).”.

16 Commencement

- (1) Section 1 comes into force on 1 October 2014.
- (2) The remaining provisions of this Measure come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.

17 Short title

This Measure may be cited as the Safety on Learner Transport (Wales) Measure 2011.