



Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) 2011

2011 mccc 6

Nodiadau Esboniadol

Safety on Learner Transport (Wales) Measure 2011

2011 nawm 6

Explanatory Notes

£5.75

MESUR DIOGELWCH AR GLUDIANT I DDYSGWYR (CYMRU) 2011

NODIADAU ESBONIADOL

RHAGARWEINIAD

1. Mae'r Nodiadau Esboniadol hyn yn ymwneud â Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) a basiwyd gan Gynulliad Cenedlaethol Cymru ar 22 Mawrth 2011 a'i gymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor ar 10 Mai 2011. Cawsant eu paratoi gan Adran yr Economi a Thrafnidiaeth Llywodraeth Cynulliad Cymru i gynorthwyo'r sawl sy'n darllen y Mesur. Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Mesur ond nid ydynt yn rhan ohono.

SYLWADAU AR ADRANNAU

Adran 1 - Gofyniad am wregysau diogelwch ar fysiau a ddefnyddir yn gludiant i ddysgwyr

2. Mae'r adran hon yn gosod dyletswydd ar gyrrff perthnasol (awdurdod lleol neu gorff llywodraethu ysgol a gynhelir) a phersonau sy'n darparu cludiant i ddysgwyr a sicrhau gan gorff perthnasol (e.e. gweithredydd bysiau sy'n darparu gwasanaethau o dan gontract gydag awdurdod lleol), sicrhau bod pob bws a ddefnyddir ar gyfer cludo dysgwyr yn un y mae gwregys diogelwch wedi ei ffitio i bob sedd deithiwr.
3. Mae isadran 14A(3) yn darparu bod person sy'n methu â chydymffurfio â'r dyletswyddau hynny'n cyflawni tramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol. Bydd yn amddiffyniad i ddangos bod amgylchiadau eithriadol wedi atal cydymffurfio â'r dyletswyddau o fewn isadran 14A(1) neu (2).

Adran 2 - Rhagor o ddarpariaethau ar gyfer y disgrifiadau o gerbydau y caniateir eu defnyddio yn gludiant i ddysgwyr

4. Mae'r adran hon yn rhoi pwerau i Weinidogion Cymru i wneud rheoliadau sy'n ei gwneud yn ofynnol mai dim ond cerbydau o ddisgrifiadau penodol a ddefnyddir yn gludiant i ddysgwyr y mae awdurdod lleol neu gorff llywodraethu ysgol a gynhelir yn ei ddarparu neu yn ei sicrhau fel arall. Caniateir gosod y rhwymedigaethau sy'n codi o'r cyfryw ddarpariaeth ar y cyrrff hynny neu ar unrhyw berson sy'n darparu cludiant i ddysgwyr a sicrhau gan y cyrrff hynny (e.e. gweithredydd bysiau sy'n darparu gwasanaethau o dan gontract ag awdurdod lleol).
5. Caniateir disgrifio'r cerbyd drwy gyfeirio at ei oed, p'un a yw'n gerbyd unllawr neu'n gerbyd deulawr, neu ddisgrifiadau eraill o'r cerbyd drwy gyfeirio at ei wneuthuriad, cyfarpar neu nodweddion eraill.
6. Mae is-adran 14B(1)(c) yn galluogi Gweinidogion Cymru i ddarparu ar gyfer tramgwyddau troseddol a chosbau am dorri'r gofynion a osodir o dan yr adran hon. Mae pŵer Gweinidogion Cymru i greu tramgwyddau troseddol o dan yr adran hon yn ddarostyngedig i'r terfynau a osodir gan baragraff 2 o Ran 2 o Atodlen 5 i Ddeddf

SAFETY ON LEARNER TRANSPORT (WALES) MEASURE 2011

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Safety on Learner Transport (Wales) Measure which was passed by the National Assembly for Wales on 22 March 2011 and approved by Her Majesty in Council on 10 May 2011. They have been prepared by the Department for the Economy and Transport of the Welsh Assembly Government to assist the reader of the Measure. The Explanatory Notes should be read in conjunction with the Measure but are not part of it.

COMMENTARY ON SECTIONS

Section 1 – Requirement for seat belts on buses used for learner transport

2. This section places a duty on relevant bodies (a local authority or the governing body of a maintained school) and persons who provide learner transport secured by a relevant body (e.g. a bus operator providing services under contract with a local authority), to ensure that every bus used for learner transport has a seat belt fitted to every passenger seat.
3. Sub section 14A(3) provides that a person who fails to comply with those duties commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale. It will be a defence to show that exceptional circumstances prevented compliance with the duties within section 14A(1) or (2).

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

4. This section empowers the Welsh Ministers to make regulations requiring that only particular descriptions of vehicle are used for learner transport provided or otherwise secured by a local authority or the governing body of a maintained school. The obligations arising from such provision may be placed on those bodies or any person who provides learner transport secured by those bodies (e.g. a bus operator providing services under contract with a local authority).
5. The vehicle may be described by reference to its age, whether it is a single deck or double deck vehicle, or other descriptions of the vehicle by reference to its construction, equipment or other characteristics.
6. Subsection 14B(1)(c) enables the Welsh Ministers to provide for criminal offences and penalties for breaches of requirements imposed under this section. The power of the Welsh Ministers to create criminal offences under this section is subject to the limits imposed by paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006. They would not be able to use this power to create any criminal offence punishable -

Llywodraeth Cymru 2006. Ni fyddent yn cael defnyddio'r pŵer hwn i greu unrhyw dramgwydd troseddol y gellid ei gosbi -

- ar gollfarn ddiannod, â chyfnod o garchar sy'n hwy na'r cyfnod a ragnodir neu â dirwy sy'n uwch na lefel 5 ar y raddfa safonol (£5,000 ar hyn o bryd), neu
- ar gollfarn ar ddiad, â chyfnod o garchar sy'n hwy na dwy flynedd.

7. Y cyfnod a ragnodir yw 51 o wythnosau yn achos tramgwydd diannod a 12 mis pan fo'r tramgwydd yn un neillffordd. Ond cyn i adrannau 154(1) a 281(5) o Ddeddf Cyfiawnder Troseddol 2003 ddod i rym nid oes unrhyw gyfnod o garchar hwy na chwe mis i'w osod ar gollfarnu person o dramgwydd diannod a grëir o dan y rheoliadau neu ar gollfarn ddiannod o dramgwydd o'r fath sy'n neillffordd.¹

Adran 3 - Recordio delweddau gweledol neu sain ar gludiant i ddysgwyr

8. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n ei gwneud yn ofynnol i drefniadau gael eu gwneud i recordio delweddau gweledol neu sain ar gludiant i ddysgwyr a nodi darpariaethau am ddefnyddio, storio a chadw delweddau gweledol neu sain. Caiff y rheoliadau bennu'r mathau o drefniadau sydd i'w gwneud. Gallent gynnwys dull y recordio neu faterion cysylltiedig fel rhoi gwybodaeth i rieni a phlant bod y cyfryw recordio yn digwydd.
9. Caiff rheoliadau o dan yr adran hon roi swyddogaethau i awdurdodau lleol, cyrff llywodraethu ysgolion a gynhelir a phersonau sy'n darparu cludiant i ddysgwyr a sicrhau gan gorff perthnasol.
10. Diben is-adran (3) o adran 14C yw ei gwneud yn glir nad yw'r adran hon yn awdurdodi recordio cudd ac na all wneud recordio cudd yn ofynnol.
11. Caiff rheoliadau ddarparu ar gyfer tramgwyddau a chosbau troseddol ac mae'r cyfryw ddarpariaeth yn ddarostyngedig i'r cyfyngiadau a grybwyllwyd ym mharagraffau 6 a 7 uchod.

Adran 4 - Asesiad risg diogelwch o gludiant i ddysgwyr

12. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n ei gwneud yn ofynnol i gorff perthnasol gynnal asesiadau risg diogelwch ar y cludiant i ddysgwyr y mae yn ei ddarparu. Caiff hyn gynnwys gosod natur yr asesiad, cyhoeddi adroddiadau, dull y cyhoeddi neu amllder yr asesiadau.

Adran 5 - Hyfforddi gyrwyr

13. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n ei gwneud yn ofynnol i awdurdod lleol neu gorff llywodraethu ysgol a gynhelir sy'n darparu cludiant i ddysgwyr i sicrhau bod gyrwyr y cerbydau hynny wedi cwblhau hyfforddiant priodol am ddiogelwch ar gludiant i ddysgwyr a gweithio gyda phlant. Caiff y rheoliadau ragnodi'r mathau o hyfforddiant y mae angen eu dilyn a phennu safonau y mae'n rhaid eu cyrraedd.

¹ Paragraff 52, Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

*These notes refer to the Safety on Learner Transport (Wales) Measure 2011 (nawm 6)
which received approval by Her Majesty in Council on 10 May 2011*

- on summary conviction, with imprisonment exceeding the prescribed term or with a fine exceeding level 5 on the standard scale (currently £5,000), or
- on conviction on indictment, with a period of imprisonment exceeding two years.

7. The prescribed term is 51 weeks in the case of a summary offence and 12 months where the offence is triable either way. But before the coming into force of sections 154(1) and 281(5) of the Criminal Justice Act 2003 no term of imprisonment of more than six months is to be imposed on conviction of a summary offence created under the regulations or on summary conviction of an such an offence triable either way¹.

Section 3 - Recording visual images or sound on learner transport

8. This section empowers the Welsh Ministers to make regulations requiring arrangements to be made for recording visual images or sound on learner transport and setting out provisions about the use, storage and retention of visual images or sound. The regulations may specify the kinds of arrangements that are to be made. This could include the method of recording or ancillary matters such as providing information to parents and children about the fact that such recording is taking place.

9. Regulations under this section may confer functions on local authorities, the governing bodies of maintained schools and persons who provide learner transport secured by a relevant body.

10. The purpose of subsection (3) of section 14C is to make plain that this section does not authorise and cannot require covert recording.

11. Regulations may provide for criminal offences and penalties and such provision is subject to the limitations mentioned in paragraphs 6 and 7 above.

Section 4 - Safety risk assessment of learner transport

12. This section empowers the Welsh Ministers to make regulations requiring a relevant body to carry out safety risk assessments on the learner transport it provides. This may include setting out the nature of the assessment, publication of reports, the manner of publication or the frequency of assessments.

Section 5 - Driver training

13. This section empowers the Welsh Ministers to make regulations requiring a local authority or a governing body of a maintained school that provides learner transport to ensure that the drivers of those vehicles have completed appropriate training about safety on learner transport and working with children. The regulations may prescribe the kinds of training that need to be undertaken and specify standards that must be met.

¹ Paragraph 52, Schedule 11 Government of Wales Act 2006.

14. Mae is-adran (2) o adran 14E yn caniatáu i'r hyfforddiant a safonau gael eu rhagnodi drwy gyfeirio at ddogfen a gyhoeddir gan Weinidogion Cymru.

Adran 6 - Goruchwylwyr ar gludiant i ddysgwyr

15. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n ymwneud â darparu goruchwylwyr ar gludiant i ddysgwyr gan gorff perthnasol a darparu hyfforddiant perthnasol ar gyfer y goruchwylwyr hyn.

Adran 7 - Cosbau sifil

16. Mae'r adran hon yn cyflwyno'r Atodlen sy'n mewnosod Atodlen A1 ym Mesur Teithio gan Ddysgwyr (Cymru) 2008.

Adran 8 - Awdurdod gorfodi

17. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i benodi person neu gorff yn awdurdod gorfodi. Caiff rheoliadau roi pwerau neu ddyletswyddau i awdurdod gorfodi at ddibenion gorfodi darpariaeth a wneir gan adran 14A a chan reoliadau o dan adran 14B, 14C ac Atodlen A1. Byddai hyn yn cynnwys (ymhlith pethau eraill) y pŵer i awdurdodi personau i benodi "arolygwyr" i arfer y pwerau mynediad ac arolygu a nodir yn adrannau 9 a 10 (gan fewnosod adran 14I a 14J yn y drefn honno).

Adran 9- Pwerau mynediad

18. Mae'r adran hon yn gosod pŵer mynediad sy'n arferadwy gan berson a awdurdoddir i'w arfer gan awdurdod gorfodi o dan reoliadau a wneir o dan adran 14H(3)(a). Cyfeirir at berson a awdurdoddir yn y ffordd hon yn y Mesur fel "arolygydd". Caiff arolygydd, ar adeg resymol, fynd i gerbyd neu fangre -
- sydd dan berchenogaeth neu reolaeth awdurdod lleol neu gorff llywodraethu ysgol a gynhelir; neu
 - a ddefnyddir neu y bwriedir eu defnyddio gan unrhyw berson mewn cysylltiad â darparu cludiant i ddysgwyr.

Hefyd, caiff arolygydd gadw cerbyd yn gaeth. Nid yw pŵer mynediad yn cynnwys y pŵer i fynd i fangre a ddefnyddir yn gyfan gwbl neu'n bennaf yn annedd breifat.

Adran 10 - Pŵer arolygu

19. Mae'r adran hon yn darparu y caiff arolygydd sy'n cadw cerbyd yn gaeth neu'n mynd i gerbyd neu fangre arolygu'r cerbyd neu'r fangre; arolygu, cymryd copïau o unrhyw ddogfennau neu gofnodion sy'n ymwneud â darparu cludiant i ddysgwyr o'r cerbyd neu'r fangre a mynd â hwy oddi yno; ac arolygu unrhyw eitem arall a mynd ag ef o'r cerbyd neu'r fangre.
20. Bydd person sy'n rhwystro arolygydd heb esgus rhesymol yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol (£2,500 ar hyn o bryd).

Adran 11 - Y pŵer i fynnu gwybodaeth

21. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n rhoi pŵer i awdurdod gorfodi i'w gwneud yn ofynnol i awdurdod lleol neu gorff llywodraethu ysgol neu berson sy'n darparu cludiant i ddysgwyr ddarparu gwybodaeth, dogfennau, cofnodion ac eitemau eraill sy'n ymwneud â chludiant i

14. Subsection (2) of section 14E allows the training and standards to be prescribed by reference to a document published by the Welsh Ministers.

Section 6 - Supervisors on learner transport

15. This section empowers the Welsh Ministers to make regulations concerning the provision of supervisors on learner transport by a relevant body and the provision of relevant training for such supervisors.

Section 7 - Civil sanctions

16. This section introduces the Schedule which inserts Schedule A1 into the Learner Travel (Wales) Measure 2008.

Section 8 - Enforcement authority

17. This section empowers the Welsh Ministers to appoint a person or body as an enforcement authority. Regulations may confer powers or duties on an enforcement authority for the purpose of enforcing provision made by section 14A and by regulations under section 14B, 14C and Schedule A1. This would include (among other things) the power to authorise persons to appoint "inspectors" to exercise the powers of entry and inspection set out in sections 9 and 10 (inserting section 14I and 14J respectively).

Section 9 - Powers of entry

18. This section sets out a power of entry which is exercisable by a person authorised to exercise it by an enforcement authority under regulations made under section 14H(3)(a). A person authorised in this way is referred to in the Measure as an "inspector". An inspector may, at a reasonable time, enter a vehicle or premises -
- owned or controlled by a local authority or the governing body of a maintained school; or
 - used or proposed to be used by any person in connection with the provision of learner transport.

An inspector may also detain a vehicle. The power of entry does not include the power to enter premises used wholly or mainly as a private dwelling.

Section 10 - Powers of inspection

19. This section provides that an inspector who detains a vehicle or enters a vehicle or premises may inspect the vehicle or premises; inspect, take copies of and remove from the vehicle or premises any documents or records relating to the provision of learner transport; and inspect any other item and remove it from the vehicle or premises.
20. A person who obstructs an inspector without reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).

Section 11 - Power to require provision of information

21. This section empowers the Welsh Ministers to make regulations, empowering an enforcement authority to require a local authority or governing body of a school or a person who provides learner transport to provide information, documents, records

ddysgwyr ac a ystyrir gan yr awdurdod gorfodi i fod yn angenrheidiol neu'n hwylus at ddibenion ei swyddogaethau.

22. Bydd unrhyw berson sy'n methu â darparu gwybodaeth, dogfennau, cofnodion nac eitemau eraill heb esgus rhesymol yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol (£2,500 ar hyn o bryd).

Adran 12 - Tramgwyddau: atebolrwydd swyddogion a phartneriaid

23. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau a'u heffaith fydd y caniateir i swyddogion corff corfforaethol neu bartner mewn partneriaeth fod yn bersonol atebol am dramgwyddau a gyflawnir o dan adrannau 14A, 14B neu 14C gan y corff corfforaethol neu'r bartneriaeth, yn ogystal â'r corff corfforaethol neu'r bartneriaeth ei hun.
24. Mae atebolrwydd yn codi pan brofir bod y tramgwydd wedi ei wneud drwy gydsyniad neu ymoddefiad, neu wedi ei briodoli i unrhyw esgeulustod ar ran swyddog o'r corff corfforaethol neu bartner mewn partneriaeth.

Adran 13 - Rheoliadau: Ymgynghori

25. Mae adran 13 yn darparu bod rhaid i Weinidogion Cymru ymgynghori â phob awdurdod lleol ac unrhyw bersonau eraill y mae'n briodol yn eu barn hwy ymgynghori â hwy cyn gwneud unrhyw reoliadau o dan adrannau 14A i 14F, adran 14H neu 14L o Fesur Teithio gan Ddysgwyr (Cymru) 2008 neu Atodlen A1 iddo (fel y'i diwygir gan y Mesur).

Adran 14 Dehongli

26. Un o elfennau allweddol yr adran hon yw'r ddarpariaeth yn 14N(6) sy'n galluogi Gweinidogion Cymru i ddiwygio, drwy orchymyn, y diffiniad o "cludiant i ddysgwyr" yn is-adran (3) drwy ddileu'r geiriau hynny sydd ar hyn o bryd yn ei gyfyngu i gludiant rhwng cartref ac ysgol.

Adran 15 - Darpariaethau cyffredinol am orchmynion a rheoliadau

27. Mae'r adran hon yn diwygio adran 27 o Fesur Teithio gan Ddysgwyr (Cymru) 2008 sy'n gwneud darpariaeth i orchmynion a rheoliadau gael eu gwneud drwy offeryn statudol, pwerau ategol i wneud darpariaeth drwy orchmynion neu reoliadau a gweithdrefnau craffu gan y Cynulliad.
28. Mae adran 15(2) yn diwygio adran 27(2) o Fesur 2008 i estyn cwmpas y pwerau i wneud gorchmynion a rheoliadau o dan Fesur 2008 i gynnwys:
 - gwneud darpariaeth wahanol ar gyfer dosbarthau gwahanol ar achos neu at ddibenion gwahanol,
 - gwneud darpariaeth sy'n ddarostyngedig i esemptiad neu eithriadau penodedig, ac
 - gwneud darpariaeth mewn perthynas â dosbarth penodol o achos.
29. Diben adran 15(3) yw darparu bod y cyfan o'r pwerau i wneud rheoliadau o dan y Mesur yn cynnwys y pŵer i wneud diwygiadau canlyniadol. A diben is-adran (4) yw darparu bod y pŵer i wneud darpariaeth gysylltiedig, darpariaeth drosiannol, darpariaeth arbed neu ddarpariaeth ganlyniadol o dan y pwerau'n cynnwys pŵer i

and other items which relate to learner transport and are considered by the enforcement authority to be necessary or expedient for the purpose of its functions.

22. A person who without reasonable excuse fails to provide information, documents, records and other items is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).

Section 12 - Offences: liability of officers and partners

23. This section empowers the Welsh Ministers to make regulations whereby an officer of a body corporate or a partner of a partnership may be personally liable for offences committed under sections 14A, 14B or 14C by the body corporate or partnership, as well as the body corporate or partnership itself.
24. Personal liability arises where the offence is proved to have been committed with the consent or connivance, or is attributable to any neglect on the part of an officer of the body corporate or partner of a partnership.

Section 13 - Regulations: Consultation

25. Section 13 provides that before making any regulations under sections 14B to 14F, section 14H or 14L or Schedule A1 of the Learner Travel (Wales) Measure 2008 (as amended by the Measure), the Welsh Ministers must consult each local authority and such other persons as they consider appropriate.

Section 14 - Interpretation

26. One of the key elements of this section is the provision at 14N(6) enabling Welsh Ministers to amend, by order, the definition of "learner transport" in subsection (3) by removing those words that currently restrict it to home to school transport.

Section 15 - General provisions about orders and regulations

27. This section amends section 27 of the Learner Travel (Wales) Measure 2008 which makes provision for orders and regulations to be made by statutory instrument, ancillary powers to make provision by order or regulations and Assembly scrutiny procedures.
28. Section 15(2) amends section 27(2) of the 2008 Measure to expand the scope of the powers to make orders and regulations under the 2008 Measure to include:
- making different provision for different classes of case or different purposes,
 - making provision subject to specified exemption or exceptions, and
 - making provision in relation to specific classes of case.
29. The purpose of section 15(3) is to provide that all of the powers to make regulations under the Measure include the power to make consequential amendments. And the purpose of subsection (4) is to provide that the power to make incidental, supplementary, transitional, saving or consequential provision under the powers includes power to amend or repeal provisions of Assembly Measures, UK Acts and subordinate legislation passed or made before the passing of the Measure. Subsection (5) is the provision which applies an affirmative resolution procedure to all regulations made under the Measure and to any order made under section 14N(6).

ddiwygio neu ddiddymu darpariaethau mewn Mesurau Cynulliad, Deddfau Senedd y DU ac is-ddeddfwriaeth a basiwyd neu a wnaed cyn pasio'r Mesur. Is-adran (5) yw'r ddarpariaeth sy'n cymhwyso gweithdrefn penderfyniad cadarnhaol i bob rheoliad a wneir o dan y Mesur ac i unrhyw orchymyn a wneir o dan adran 14N(6).

Adran 16 - Cychwyn

30. Daw adran 1 i rym ar 1 Hydref 2004.
31. Mae gweddill y darpariaethau yn y Mesur yn dod i rym ar ddiwedd cyfnod o ddau fis sy'n dechrau ar y diwrnod y cymeradwyir y Mesur hwn gan Ei Mawrhydi yn y Cyfrin Gyngor. Ond ni wneir unrhyw newid gweithredol i ddarpariaeth cludiant i ddysgwyr nes gwneir rheoliadau o dan y Mesur a nes eu bod yn dod i rym.

Adran 17 - Enw byr

32. Mae'r adran hon yn cadarnhau mai enw'r Mesur yw Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) 2011.

Atodlen - Cosbau sifil

33. Cyflwynir Atodlen A1 gan adran 7 o'r Mesur.
34. Mae darpariaethau'r Atodlen yn galluogi Gweinidogion Cymru i wneud darpariaeth drwy reoliadau ar gyfer cosbau sifil am dorri rheoliadau o dan adrannau 14A neu 14B (y cyfeirir atynt yn Atodlen A1 fel "rheoliadau diogelwch"). Mae torri rheoliadau diogelwch at ddibenion yr Atodlen yn cynnwys methiant i gydymffurfio â gofyniad yn y rheoliadau a rhwystro neu fethu â chynorthwyo awdurdod gorfodi (gweler adran 7 ar gyfer darpariaeth ynghylch awdurdodau gorfodi). Rhaid i'r holl bwerau i osod cosbau sifil gael eu rhoi i'r awdurdod gorfodi.
35. Caiff rheoliadau ddarparu ar gyfer pedwar math gwahanol o gosb sifil:
 - cosbau ariannol penodedig,
 - gofynion yn ôl disgresiwn,
 - hysbysiadau stop, a
 - ymgymeriad gorfodi.

Cosbau ariannol penodedig (paragraffau 2 a 3 o Atodlen A1)

36. Gofyniad yw "cosb ariannol benodedig" i dalu cosb am swm a bennir yn y rheoliadau i awdurdod gorfodi. Uchafswm y gosb y caniateir ei gosod yw £5,000. Dim ond pan fo awdurdod gorfodi wedi ei fodloni yn ôl pwysau tebygolrwydd bod toriad i reoliadau wedi digwydd y caiff rheoliadau roi pŵer i osod cosb ariannol benodedig.
37. Mae paragraff 3 o Atodlen A1 yn nodi'r weithdrefn ar gyfer gosod cosbau ariannol penodedig gan gynnwys dyroddi hysbysiad o fwriad, cyfle i berson ryddhau ei hun o atebolrwydd, y broses o gyflwyno sylwadau a gwrthwynebiadau, hysbysiad terfynol, y broses apelio i'r person y gosodwyd y gosb ariannol benodedig arno, a seiliau apêl.

Section 16 - Commencement

30. Section 1 comes into force on 1 October 2014.
31. The remaining provisions of the Measure come into force at the end of a period of 2 months beginning on the day on which the Measure is approved by Her Majesty in Council. But no operative change is made to the provision of learner transport until regulations are made under the Measure and come into force.

Section 17 - Short title

32. This section establishes the Measure's title as the Safety on Learner Transport (Wales) Measure 2011.

Schedule - Civil Sanctions

33. Schedule A1 is introduced by section 7 of the Measure.
34. The provisions of the Schedule enable the Welsh Ministers to make provision by regulations for civil sanctions for breaches of regulations under sections 14A or 14B (referred to in Schedule A1 as "safety regulations"). Breaches of safety regulations for the purposes of the Schedule include failure to comply with a requirement of the regulations and obstruction or failure to assist an enforcement authority (see section 7 for provision about enforcement authorities). All powers to impose civil sanctions must be conferred on the enforcement authority.
35. Regulations may provide for 4 different kinds of civil sanction:
- fixed monetary penalties,
 - discretionary requirements,
 - stop notices, and
 - enforcement undertakings.

Fixed monetary penalties (paragraphs 2 and 3 of Schedule A1)

36. A "fixed monetary penalty" is a requirement to pay to an enforcement authority a penalty of an amount specified in the regulations. The maximum penalty that may be imposed is £5,000. Regulations may only confer a power to impose a fixed monetary penalty where the enforcement authority is satisfied on the balance of probabilities that the breach has occurred.
37. Paragraph 3 of Schedule A1 sets out the procedure for imposing fixed monetary penalties including the issue of a notice of intent, an opportunity to discharge the liability, the process of making representations and objections, a final notice, the appeals process for the person on whom the fixed monetary penalty has been imposed and the grounds of appeal.

38. Dylai'r rheoliadau hefyd bennu'r amgylchiadau pan na chaiff awdurdod gorfodi benderfynu gosod cosb ariannol benodedig er enghraifft am resymau gweithredol eithriadol megis tywydd garw, cerbyd ddim yn gweithio, neu argyfwng pan na fyddai disgyblion fel arall yn gallu mynd adref.

Gofynion yn ôl disgrisiwn (paragraffau 4, 5 a 6 o Atodlen A1)

39. Caiff rheoliadau ddarparu bod awdurdod gorfodi yn gosod gofyniad neu ofynion yn ôl disgrisiwn ar berson sy'n torri rheoliadau diogelwch. Unwaith eto rhaid bod yr awdurdod gorfodi wedi ei fodloni yn ôl pwysau tebygolrwydd bod toriad i reoliadau wedi digwydd.
40. Caiff gofyniad yn ôl disgrisiwn gynnwys gofyniad i dalu cosb o swm a ddyfernir gan awdurdod gorfodi; neu ofyniad i gymryd y camau hynny a bennir gan yr awdurdod gorfodi i sicrhau nad yw'r toriad yn y rheoliadau yn parhau neu'n digwydd eto.
41. Ni ellir gosod gofyniad yn ôl disgrisiwn ar yr un person am yr un weithred neu anwaith ar fwy nag un achlysur.
42. Mae paragraff 5 o Atodlen A1 yn gosod y weithdrefn ar gyfer gofynion yn ôl disgrisiwn gan gynnwys hysbysiad o fwriad, y broses o gyflwyno sylwadau a gwrthwynebiadau, talu cosbau yn achos cosb ariannol amrywiadwy a'r broses apelio, seiliau apêl a chanlyniadau peidio â chydymffurfio.
43. Caniateir gwneud darpariaeth hefyd mewn rheoliadau i ganiatáu i awdurdod gorfodi osod cosb ariannol ('cosb am beidio â chydymffurfio') ar berson sy'n methu â chydymffurfio â gofyniad yn ôl disgrisiwn i gymryd camau i sicrhau nad yw toriad yn y rheoliadau yn parhau neu'n digwydd eto (paragraff 6 o Atodlen A1).

Hysbysiadau stop

44. Caiff y rheoliadau roi'r pŵer i awdurdod gorfodi gyflwyno hysbysiad stop. Mae hysbysiad stop yn gwahardd person rhag parhau â gweithgaredd a bennir yn yr hysbysiad nes bod y person wedi cymryd y camau a bennir yn yr hysbysiad. Cyn dyroddi hysbysiad stop rhaid bod arolygydd wedi ei fodloni bod y gweithgaredd yn golygu bod risg arwyddocaol o achosi niwed difrifol i iechyd dynol, ac yn golygu toriad yn y rheoliadau sy'n ymwneud â'r disgrifiad o gerbydau a ddefnyddir ar gyfer cludiant i ddysgwyr
45. Rhaid i'r rheoliadau wneud darpariaeth am iawndal ar gyfer colled a ddiweddefir o ganlyniad i gyflwyno'r hysbysiad. Ond dim ond mewn achosion a bennir yn y rheoliadau neu mewn perthynas â disgrifiadau o golled a bennir yn y rheoliadau y caniateir iddynt ddarparu iawndal. Rhaid i'r rheoliadau hefyd ddarparu ar gyfer apelau yn erbyn penderfyniadau i beidio â dyfarnu iawndal neu mewn perthynas â'r swm.
46. Os na fydd person y cyflwynwyd hysbysiad iddo yn cydymffurfio â hysbysiad stop mae'r person yn euog o dramgwydd ac yn agored-
- (a) ar gollfarn ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol (£5,000 ar hyn o bryd), neu garchar am gyfnod nad yw'n hwy na chwe mis, neu'r ddau, neu

38. The regulations should also specify the circumstances in which an enforcement authority may not decide to impose a fixed monetary penalty for example for exceptional operational reasons such as inclement weather, vehicle failure, or an emergency where pupils may not otherwise be able to get home.

Discretionary requirements (paragraphs 4, 5 and 6 of Schedule A1)

39. Regulations may provide for an enforcement authority to impose one or more discretionary requirements on a person who breaches safety regulations. Again the enforcement authority must be satisfied on the balance of probabilities that the breach has occurred.
40. A discretionary requirement may include a requirement to pay a penalty of an amount determined by an enforcement authority; or a requirement to take such steps specified by the enforcement authority to secure that the breach does not continue or recur.
41. A discretionary requirement cannot be imposed on a person for the same act or omission on more than one occasion.
42. Paragraph 5 of Schedule A1 sets out the procedure for discretionary requirements including a notice of intent, the process of making representations and objections, the payment of penalties in the case of a variable monetary penalty and the appeals process, grounds of appeal and the consequences of non-compliance.
43. Provision may also be made in regulations to allow an enforcement authority to impose a monetary penalty ('a non-compliance penalty') on a person who fails to comply with a discretionary requirement to take step to secure that a breach does not continue or recur (paragraph 6 of Schedule A1).

Stop notices

44. The regulations may confer on an enforcement authority the power to serve a stop notice. A stop notice prohibits a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice. Before issuing a stop notice an inspector must be satisfied that the activity presents a significant risk of causing serious harm to human health and involves a breach of the regulations concerning the description of vehicles used for learner transport.
45. Regulations must make provision about compensation for loss suffered as the result of the service of a notice. But they may provide for compensation only in cases specified in the regulations or only in relation to descriptions of loss specified in the regulations. The regulations must also provide for appeals against decisions not to award compensation or in relation to the amount.
46. Where a person on whom a notice is served does not comply with a stop notice the person is guilty of an offence and liable -
- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale (currently £5,000), or imprisonment for a term not exceeding six months, or both, or

(b) ar gollfarn ar ddiad, i garchariad am gyfnod nad yw'n hwy na dwy flynedd, neu i ddirwy neu i'r ddau.

47. Pan fydd adran 154(1) o Ddeddf Cyfiawnder Troseddol 2003 yn cael ei chychwyn bydd uchafswm cyfnod o garchar ar gollfarn ddiannod yn cael ei ymestyn i ddeuddeng mis (gweler paragraff 10 o Atodlen A1).

Ymgymeriadau gorfodi (paragraff 11 o Atodlen A1)

48. Caiff y rheoliadau roi i awdurdod gorfodi'r pŵer i dderbyn ymgymeriad gorfodi gan berson pan fo gan yr awdurdod gorfodi sail resymol i amau fod y person wedi torri'r rheoliadau diogelwch. Ymgymeriad gorfodi yw ymgymeriad i gymryd y camau hynny a bennir yn yr ymgymeriad o fewn cyfnod o amser penodedig. Effaith yr ymgymeriad yw cyhyd ag y bo cydymffurfio â'r ymgymeriad ni ellir cymryd mathau eraill o gamau gorfodi mewn perthynas â'r weithred neu'r anwaith y mae'r ymgymeriad yn ymwneud ag ef neu â hi. Y camau na ellir eu cymryd yn ystod gweithrediad yr ymgymeriad gorfodi yw: achos o dramgwydd troseddol, cosb ariannol benodedig neu ofyniad yn ôl disgrisiwn. Mae paragraff 11 o Atodlen A1 hefyd yn nodi'r pŵer sydd gan reoliadau i wneud darpariaeth ar gyfer y weithdrefn ar gyfer ymrwymadau gorfodi, eu telerau, cyhoeddi ac amrywio a darpariaeth ynghylch cydymffurfio, monitro, ac apelau

Cyfuno cosbau (paragraff 12 o Atodlen A1)

49. Mae paragraff 12 yn gwneud darpariaeth i sicrhau na ellir defnyddio cyfuniad o gosb ariannol benodedig, gofyniad yn ôl disgrisiwn, a hysbysiad stop mewn perthynas â'r un toriad yn y rheoliadau diogelwch.

Materion atodol

50. Yn achos cosbau ariannol caiff y rheoliadau gynnwys darpariaeth ar gyfer disgownt am dalu'n gynnar, talu llog neu gosbau ariannol eraill am dalu'n hwyr, ac adennill arian am gosbau am logau a dalwyd yn hwyr fel dyledion sifil (paragraff 3 o Atodlen A1).

51. Caiff darpariaeth yn y rheoliadau hefyd ddarparu ar gyfer talu costau y mae'r awdurdod gorfodi yn mynd iddynt; yn benodol, costau ymchwilio, costau gweinyddu a'r gost o gael cyngor arbenigol (paragraff 14 o Atodlen A1).

52. Rhaid darparu bod apelau yn y rheoliadau o dan Atodlen A1 yn darparu bod apelau yn cael eu gwneud i'r Tribiwnlys Haen Gyntaf neu i dribiwnlys arall a grëir o dan ddeddfiad (paragraff 15 o Atodlen A1).

53. Caiff y rheoliadau wneud darpariaeth i alluogi'r awdurdod gorfodi i'w gwneud yn ofynnol bod y person y gosodwyd y gosb arno i roi cyhoeddusrwydd i'r ffaith (paragraff 16 o Atodlen A1).

54. Caiff y rheoliadau ddarparu bod swyddogion corff corfforaethol neu bartneriaeth yn atebol yn bersonol i gosbau sifil yn ogystal â'r corff corfforaethol neu'r bartneriaeth ei hun (paragraff 17 o Atodlen A1).

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

47. When section 154(1) of the Criminal Justice Act 2003 is commenced the maximum term of imprisonment on summary conviction will be extended to twelve months (see paragraph 10 of Schedule A1).

Enforcement undertakings (paragraph 11 of Schedule A1)

48. The regulations may confer on an enforcement authority the power to accept an enforcement undertaking from a person where the enforcement authority has reasonable grounds to suspect that the person has breached the safety regulations. An enforcement undertaking is an undertaking to take such action as may be specified in the undertaking within a specified time period. The effect of the undertaking is that as long as there is compliance with the undertaking other kinds of enforcement action cannot be taken in respect of the act or omission to which the undertaking relates. The actions that cannot be taken during the operation of an enforcement undertaking are: proceedings for a criminal offence, a fixed monetary penalty or a discretionary requirement. Paragraph 11 of Schedule A1 also sets out the power by regulations to make provision for the procedure for enforcement undertakings, their terms, publication and variation and provision about compliance, monitoring and appeals.

Combination of sanctions (paragraph 12 of Schedule A1)

49. Paragraph 12 makes provision to ensure that a combination of a fixed monetary penalty, a discretionary requirement and a stop notice cannot be used in relation to the same breach of safety regulations.

Ancillary matters

50. In the case of monetary penalties the regulations may include provision for early payment discounts, the payment of interest or other financial penalties for late payment, and the recovery of penalties, interest and penalties for late payment as civil debts (paragraph 13 of Schedule A1).
51. Provision in the regulations may also provide for the payment of costs incurred by an enforcement authority; in particular, investigation costs, administration costs and the cost of obtaining expert advice (paragraph 14 of Schedule A1).
52. Provision for appeals in the regulations under Schedule A1 must provide for appeals to be made to the First-tier Tribunal or to another tribunal created under an enactment (paragraph 15 of Schedule A1).
53. The regulations may make provision to enable the enforcement authority to require the person on whom the sanction has been imposed to publicise the fact (paragraph 16 of Schedule A1).
54. The regulations may provide for officers of a body corporate or a partnership to be personally liable to civil sanctions as well as the body corporate or partnership itself (paragraph 17 of Schedule A1).

55. Pan fo pŵer yn cael ei roi i awdurdod gorfodi, rhaid i'r awdurdod gorfodi hwnnw gyhoeddi canllawiau am ddefnydd yr awdurdod gorfodi o gosbau sifil gan gynnwys o dan ba amgylchiadau y mae'r gosb yn debygol o gael ei gosod, yr amgylchiadau pan na chaniateir ei gosod, swm y gosb, y gellir cael rhyddhad rhag atebolrwydd am y gosb ac effaith y rhyddhad, a'r hawl i gyflwyno sylwadau a gwrthwynebiadau a hawliau i apelio (paragraff 18 o Atodlen A1).
56. Rhaid i reoliadau sy'n rhoi pwerau i awdurdod gorfodi osod cosbau sifil sicrhau bod awdurdod gorfodi o bryd i'w gilydd yn cyhoeddi adroddiadau sy'n pennu'r achosion lle y cafodd cosbau sifil eu gosod (paragraff 18 o Atodlen A1).
57. Rhaid i awdurdod gorfodi weithredu yn unol â'r egwyddor y dylai pob gweithgaredd rheoleiddiol gael ei gyflawni mewn modd tryloyw, atebol, cymesur a chyson a dim ond at achosion pryd y mae angen camau gweithredu y dylid targedu gweithgareddau rheoleiddiol (paragraff 20 o Atodlen A1).
58. Rhaid i Weinidogion Cymru adolygu gweithrediad unrhyw ddarpariaethau a wnaed ganddynt sy'n rhoi pŵer i awdurdod gorfodi osod cosbau sifil. Rhaid i'r adolygiad ddigwydd cyn gynted ag y bo'n ymarferol ar ôl diwedd y cyfnod o dair blynedd sy'n dechrau ar y diwrnod pryd y daw'r ddarpariaeth i rym (paragraff 21 o Atodlen A1).
59. Caniateir i Weinidogion Cymru gael eu penodi'n awdurdod gorfodi mewn rheoliadau, ac os digwydd hynny telir unrhyw dderbyniadau o gosbau sifil i Gronfa Gyfunol Cymru drwy effaith adran 120 o Ddeddf Llywodraeth Cymru 2006. Mae paragraff 22 o Atodlen A1 yn gwneud darpariaeth ynghylch talu derbyniadau o gosbau sifil i Gronfa Gyfunol Cymru os person neu gorff heblaw Gweinidogion Cymru yw'r awdurdod gorfodi.

COFNOD O'R TRAFODION YNG NGHYNULLIAD CENEDLAETHOL CYMRU

Mae'r tabl canlynol yn nodi'r dyddiadau ar gyfer pob cyfnod o daith Mesur drwy Gynulliad Cenedlaethol Cymru. Gellir cael Cofnod o'r Trafodion a gwybodaeth bellach ar daith y Mesur hwn ar wefan Cynulliad Cenedlaethol Cymru yn:

http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/bus_legislation_measure_learnertransport.htm

Cyfnod	Dyddiad
Cyflwyno	20 Medi 2010
Cyfnod 1 - Dadl	11 Ionawr 2011
Cyfnod 2 Pwyllgor Craffu yn ystyried y gwelliannau	3 Chwefror 2011
Cyfnod 3 Y Cyfarfod Llawn yn ystyried y gwelliannau	22 Mawrth 2011
Cyfnod 4 Cymeradwyaeth gan y Cynulliad	22 Mawrth 2011
Cymeradwyaeth Frenhinol yn y Cyfrin Gyngor	10 Mai 2011

55. Where a power is conferred on an enforcement authority, that enforcement authority must publish guidance about the enforcement authority's use of civil sanctions including the circumstances in which the penalty is likely to be imposed, the circumstances in which it may not be imposed, the amount of the penalty, how liability for the penalty may be discharged and the effect of discharge, and rights to make representations and objections and rights of appeal (paragraph 18 of Schedule A1).
56. Regulations conferring powers on an enforcement authority to impose civil sanctions must secure that an enforcement authority from time to time publishes reports specifying the cases where civil sanctions have been imposed (paragraph 18 of Schedule A1).
57. An enforcement authority must act in accordance with the principle that all regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent and that regulatory activities should only be targeted at cases where action is needed (paragraph 20 of Schedule A1).
58. The Welsh Ministers must review the operation of any provisions they make which confer power on an enforcement authority to impose civil sanctions. The review must happen as soon as practicable after the end of three years from the date that the provision comes into force (paragraph 21 of Schedule A1).
59. The Welsh Ministers may be appointed as the enforcement authority in regulations, in which case any receipts from civil sanctions will be paid into the Welsh Consolidated Fund by effect of section 120 of the Government of Wales Act 2006. Paragraph 22 of Schedule A1 makes provision about the payment of receipts from civil sanctions into the Welsh Consolidated Fund where the enforcement authority is a person or body other than the Welsh Ministers.

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES

The following table sets out the dates for each stage of the Measure's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Measure can be found on the National Assembly for Wales' website at:

http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/bus_legislation_measure_learnertransport.htm

Stage	Date
Introduced	20 September 2010
Stage 1 - Debate	11 January 2011
Stage 2 Scrutiny Committee - consideration of amendments	3 February 2011
Stage 3 Plenary - consideration of amendments	22 March 2011
Stage 4 Approved by the Assembly	22 March 2011
Royal Approval in Privy Council	10 May 2011