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Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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Welsh Assembly Government

Consultation Document

Proposed Safety on Learner Transport (Wales) Measure

Proposed amendment relating to seatbelts

Date of issue: **10 December 2010**

Action required: Responses by **4 February 2011**

Overview

The proposed Safety on Learner Transport (Wales) Measure has been developed to ensure consistently high safety standards of vehicles for learner transport. The proposed Measure contains a broad set of Regulation making powers which will enable the Welsh Ministers to place a wide range of duties on local authorities or a governing body of a maintained school in relation to the safety standards of learner transport.

The proposed Measure was introduced on 20 September 2010 and is currently undergoing scrutiny by the National Assembly for Wales.

During this scrutiny, there has been a call to place more specific requirements on the face of the proposed Measure.

The Welsh Assembly Government's policy is that every child should have a seatbelt on dedicated school transport.

How to respond

Please respond to the consultation by using the questionnaire at the back of the document.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

The consultation web address is
<http://wales.gov.uk/consultations/transport/?lang=en>

For more information on the proposed Safety on Learner Transport (Wales) Measure, and its passage and scrutiny in the National Assembly for Wales, visit the National Assembly for Wales website (external link).

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

Contact Details

For further information:

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Data Protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Assembly Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Assembly Government staff to help them plan future consultations.

The Welsh Assembly Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Assembly Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Amending the proposed Safety on Learner Transport (Wales) Measure

The proposed Safety on Learner Transport (Wales) Measure was introduced into the National Assembly for Wales on 20 September 2010 by the Minister for the Economy and Transport.

The proposed Measure has two key aims:

- To continue to improve the safety image and quality of contracted school transport.
- To ensure that safety standards are sufficiently high for parents and pupils to have confidence in school transport.

The proposed Measure, as laid on 20 September, contains a broad set of Regulation making powers which will enable the Welsh Ministers to place a wide range of duties on local authorities or on a governing body of a maintained school in relation to the safety standards of contracted learner transport.

The proposed legislation would apply to home to school transport that is provided directly by local authorities or governing bodies of maintained schools and to transport providers (e.g. bus operators) whose services are procured by such bodies. It does not apply to transport used by children where the only arrangement made by the authority or governing body is the payment of travelling expenses or allowances. Nor does it apply to transport of pupils during the school day.

The importance of safety on learner transport

The Welsh Assembly Government considers the safety of learners to be of paramount importance. During scrutiny by the National Assembly for Wales, there has been a call to place more specific requirements with regard to the fitting of seatbelts on the face of the proposed Measure rather than in subordinate legislation.

In a survey undertaken by Department for Transport in 2001 91% of Primary school parents and 81% of Secondary school parents felt that seatbelts were “essential” for school transport¹. The installation of seatbelts would be an effective measure to reassure the public and parents of the safety of dedicated school transport.

The requirement for all school transport to be equipped with seatbelts would reduce the risk of injury if:

- The driver were to brake suddenly - sudden braking is the most frequent reason for passenger injuries in “non-crash events” when the bus is moving².
- The bus was involved in a collision with another vehicle or other obstacle -

¹ *Attitudes to and Potential Take up of additional home to school transport*, Department for Transport, 2001

² *Occupant Casualties in Bus and Coach Traffic – injury and crash mechanisms*, Pontus Albertson, Umea University medical dissertations

seatbelts act as an effective restraint mechanism, and therefore reduces the risk of injuries³.

- The bus was involved in a “roll over” crash - the rarest, and most severe, bus incidents are “roll overs”, where the bus physically turns over often as a result of high winds, turning too quickly and/or slippery road surfaces. This is the kind of accident most likely to cause fatalities and serious injuries. The single most important measure in safeguarding passengers in these incidents is wearing a seatbelt⁴.

In addition, the fitting of seatbelts on learner transport has also been shown to encourage responsible behaviour and to improve the travel experiences of children and young people.

What is the position now?

The National Assembly for Wales (Legislative Competence) (Transport) Order 2010 was approved by Her Majesty in Council in April 2010. This transferred competence to the National Assembly for Wales to legislate in relation to the description of motor vehicle used for dedicated learner transport. The competence conferred applies to dedicated school transport which can include buses, coaches, taxis and private hire vehicles such as minibuses, but does not include public service buses, trains, privately arranged transport, or walking and cycling.

It does not allow the National Assembly for Wales to set technical standards for the construction of vehicles or their equipment which differ from the standards that apply to particular vehicles.

The current UK seatbelt legislation is in regulations 46-48A of the Road Vehicles (Construction and Use) Regulations 1986. The National Assembly for Wales does not have competence to legislate in this area and so could not legislate, for example, in relation to the type of seatbelt that should be fitted to a particular vehicle.

Guidance issued to accompany the Learner Travel (Wales) Measure 2008 recommended that school transport should be fitted with appropriate seatbelts. Many local authorities have made the fitting of seatbelts and other safety features conditions of contract on their school transport services.

However, in order to ensure that every learner has a seatbelt the Welsh Assembly Government is exploring legislation which will describe the vehicles that may be used for dedicated learner transport by reference to the description of vehicles that must already, by law, be fitted with seatbelts.

Our proposals are to require local authorities only to use:

³ *Enhanced Coach and bus occupant safety*, Erich Mayrhofer, Graz University of Technology, Vehicle Safety Institute.

⁴ *Occupant Casualties in Bus and Coach Traffic – injury and crash mechanisms*, Pontus Albertson, Umea University medical dissertations

- a. coaches and minibuses that were first used on or after 1 October 2001 or, if first used before that date, that are used wholly or mainly for transporting a group of 3 or more children;
- b. buses (but not urban buses⁵) which were first used on or after the 1 October 2001 (and must therefore have seatbelts fitted).

A coach is defined as a large bus with a maximum gross weight of more than 7.5 tonnes and with a maximum speed exceeding 60mph. A bus is a motor vehicle which is constructed or adapted to carry more than 8 seated passengers in addition to the driver. A minibus is a motor vehicle which is constructed or adapted to carry more than 8 but not more than 16 seated passengers in addition to the driver.⁶

There is an existing legal requirement for all coaches and minibuses used wholly or mainly for the purposes of transporting a group of 3 or more children on an organised trip (to include home to school transport) to be fitted with enough seatbelts on every forward facing seat (if first used prior to 1st October 2001) and on every forward and rearward facing seat (if first used after 1st October 2001) to accommodate every child travelling⁷. There is no similar requirement for buses.

All buses first used on or after 1 October 2001 must be fitted with seatbelts, and so we intend to legislate to prevent any bus that does not meet this condition from providing learner transport in Wales. This will exclude buses first used before this date even if they are fitted with seatbelts, given that the National Assembly for Wales cannot legislate to impose a technical standard that differs from the standard that would apply to buses used before 1st October 2001.

Existing legislation allows 3 seated children under the age of 14 to occupy two seats, where those seats are not fitted with seatbelts.⁸ This is commonly known as the “3 for 2 exemption”. Because our proposed amendment will only allow learner transport to be provided by vehicles fitted with seatbelts, the “3 for 2 exemption” will no longer apply to learner transport in Wales.

This consultation seeks views on the proposed amendment.

Implementation

To ensure that unnecessary financial burdens are not placed on bus companies or local authorities, the following options are being considered.

Option 1

⁵ As defined in Regulation 46(7)(e) of the Road Vehicles (Construction and Use) Regulations 1986 (as amended) - a bus designed for urban use with standing passengers.

⁶ Regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986 (as amended) (S.I. 1986/1078)

⁷ Regulation 48A of the Road Vehicles (Construction and Use) Regulations 1986 (as amended)

⁸ Regulation 5(2) of the Public Service Vehicles (Carrying Capacity) Regulations 1984 (as amended) (S.I. 1984/1406)

Introduce the new requirements only when local authority school transport contracts are first renewed after the legislation enters into force. This may mean that seatbelts are not introduced on some routes for a number of years. This will result in an incremental implementation for local authorities, but would limit the financial burden.

Option 2

Introduce requirements on bus operators to renew their school transport fleet within specific timescales, which will reflect existing renewal patterns, but may take a long period of time to ensure 100% compliance.

Option 3

Increase local authority revenue funding to cover any increase in contract costs as a result of operators renewing their fleet. This option is reasonably straightforward to administer, but will not assist operators in obtaining the upfront funding required to invest in their fleets.

Option 4

Introduce a grant scheme for bus operators to help them to invest in vehicles that comply with the seatbelt standards. This option will allow the Welsh Assembly Government to introduce the legislation more quickly without having a detrimental effect on operators. However, it will be difficult to identify which operators should receive financial support and not penalise those companies that have already invested in their vehicles.

Sanctions

If an operator fails to use the vehicles prescribed by the legislation, he will commit an offence and be liable to criminal sanctions. It is proposed that the offence would be a summary only offence, the punishment of which will result in a fine no greater than Level 4 on the Standard Scale (currently £2,500).

Defence

It is proposed that it will be a defence for an operator or a local authority/governing body to prove that there were “exceptional circumstances” why a compliant vehicle was not used on a school journey. The term “exceptional circumstances” is deliberately wide to allow each case to be considered on its own merits.

Enforcement

The proposed Measure allows for Regulations to be made appointing an enforcement authority to enforce provisions made by certain Regulations made under it. We propose that the amendment would extend the power of the enforcing authority to enforce the provisions relating to seatbelts. We may decide to create a new enforcement authority or to contract with an existing organisation to perform this function.

Consultation Questions

Consultation Response Form

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

Question 1: Do you support the introduction of seatbelts on contracted school transport?

Yes / No

Please explain the reason for your answer

Question 2: What impact would this have on you or your organisation?

Question 3: What would be a reasonable timescale for bus operators to renew their bus stock to comply with the proposed Measure?

Question 4: Do you think that the proposed sanctions described are appropriate?

Question 5: Which of the four implementation options do you think is the most appropriate? Why is this option preferable to the others identified?

Question 6: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here:
