

Explanatory Memorandum to the Learner Travel Information (Wales) Regulations 2009

This Explanatory Memorandum has been prepared by the Department for Economy and Transport and is laid before the National Assembly for Wales in accordance with standing order 24.1

Description

The Learner Travel Information (Wales) Regulations 2009 (“the Regulations”) set out the information to be published by local authorities about travel arrangements they make under the Learner Travel (Wales) Measure 2008 (“the Measure”) and sets out how and when the information is to be published.

Matters of special interest to the Subordinate Legislation Committee

None

Legislative Background

The Regulations are made under Sections 16 and 27 of the Measure and in accordance with Section 27(5) of the Measure, are subject to the negative resolution procedure.

Purpose and intended effect of the Legislation

The Regulations require local authorities to publish and make available information on home to school travel arrangements made under the Measure. They set out not only what information local authorities will be required to publish but also, when and how they should be published and made available to parents, learners, governing bodies, head teachers and/or other persons.

The Schedule to the Regulations specifies the information to be published and made available.

Implementation

If the Regulations are annulled, on the commencement of the provisions in the Measure to repeal / amend the Education Act 1996 there will be no statutory requirements for the publication or making available information about travel arrangements in Wales. It would be left to the discretion of local authorities as to what information they publish or make available, when and how. This could lead to inconsistencies.

If the amendment/repeal provisions in the Measure were not commenced then the status quo would remain. Requirements would continue to be in different legislation and limited to that specified. It would remain at the discretion of local authorities as to what other information they consider should be made available or published. There would be no scope to specify additional requirements.

Regulatory Impact Assessment

Options

At present, local authorities are required by section 8 of Schedule 1 to the Education (School Information) (Wales) Regulations 1999 to publish general information about their school and college transport arrangements and policies. Regulation 6 of those Regulations sets out the manner and timing for doing so. Paragraphs 19 and 20 of Schedule 1 to the 1999 Regulations cover transport arrangements and policies for SEN pupils. The statutory basis for the 1999 Regulations is section 509 of the Education Act 1996. In addition, section 509 AA of the 1996 Act requires local authorities to publish transport policy statements for persons of sixth form age.

The aim of the Measure is to consolidate, simplify and improve the legislative framework governing Learner Travel arrangements in Wales. The Regulations will bring publication of information requirements for learners of sixth form age in line with what is currently required for school children by the 1999 Regulations. The Measure repeals section 509 of the 1996 Act in relation to transport (thus revoking the 1999 Regulations in so far as they relate to information on transport arrangements) and amend or repeal certain provisions in section 509A, AA, AB, and AC so that those sections will not apply in relation to Wales. The Regulations are intended to re-enact or replace the above and to extend the requirements to publish and make available information.

Option 1 – Do Nothing

The current fragmented approach to providing information on Learner Travel will remain.

Option 2 - Provide Guidance

The Welsh Assembly Government could issue statutory guidance on the information to be made available to learners, parents, head teachers and governors about travel arrangements made in their areas using the powers in section 15 of the Measure. This would replace the non-statutory guidance on this matter and could set out the Assembly Government's views on what information should be published. Local authorities would be required to have regard to this guidance and should generally follow it. However, due to the importance of ensuring that parents and children have the information required in a timely manner to make decisions, it is felt that regulations are more appropriate in this instance.

Option 3 – Introduce Regulations

This is the most effective option, which fully addresses the policy objectives set out above. The Regulations will provide a consolidated statutory

framework that ensures uniformity of approach by local authorities across Wales. In particular they provide:

- An integrated document covering requirements to publish and make available information about the travel arrangements for children of school age and of sixth form age;
- A consistent approach by local authorities across Wales;
- An opportunity to require the publication or the making available of additional information as set out in Parts 1 and 2 of the Schedule of the Regulations. This additional information relates to the complaints and appeal procedures and, when asked, information on assessments and decisions arrived at under the Measure.

Costs and Benefits

Option 1 – Do Nothing

Option 1 would not incur any additional costs for either the Welsh Assembly Government or local authorities, but neither will it provide any additional benefits for local authorities or for parents and learners. It would be left to the discretion of local authorities as to what information they publish over and above the current requirements of the Education Act 1996, when they publish it or make it available. This could lead to an inconsistency of approach and would be of little benefit to parents and learners across Wales.

Option 2 – Publish Guidance

Issuing statutory guidance periodically would entail minor administrative costs for the Assembly Government of under £5k. Local authorities would be required to have regard to guidance and they should in general follow it unless they have sound reasons not to do so. However, as detailed in Option 2 above, it could be open to interpretation and could be implemented inconsistently across Wales.

Option 3 – Introduce Regulations

There are no new financial burdens local authorities as they already provide travel information under the Education Act 1996. The benefits to local authorities are that the Regulations will reduce the number and types of documents to be published, streamlining the requirements for information. The benefits to parents and learners are that information on school transport will be more readily available and far more comprehensive.

Competition Assessment

The Regulations will not have a negative effect on competition.

Consultation

The draft Regulations went out to consultation from the 3 December 2008 to the 30 January 2009. Twenty one responses were received, of which five had no comments, seven were generally supportive of the draft regulations, and nine raised various issues that will be addressed through amendments to the regulations and additional guidance where appropriate. A detailed analysis of the comments made by consultees and the action taken is available.

Post Implementation Review

We will review the arrangements for providing information on Learner Travel by March 2012, and will also liaise with local authorities and others following implementation of the regulations.

Summary

The Regulations are necessary in order to implement provisions made in the Learner Travel (Wales Measure) 2008 as they set out the information to be published by local authorities about travel arrangements they make under the Measure and how and when the information is to be published. There will be no costs to business or will there be any significant costs to local authorities, as they already have to provide much of the information. The potential benefits of the Regulations in improving the services provided to learners and parents could be significant.