

ACCOMPANYING DOCUMENTS

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# Proposed Learner Travel (Wales) Measure

[AS PASSED]

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# Proposed Learner Travel (Wales) Measure

## [AS PASSED]

A Measure of the National Assembly for Wales to make provision about the travel of persons receiving primary, secondary or further education or training to and from schools or other places where they receive it; and for connected purposes.

**This Measure, passed by the National Assembly for Wales on [ ] and approved by Her Majesty in Council on [ ], enacts the following provisions:-**

### *Main terms*

#### **1 Main terms used in this Measure**

- (1) This section applies for the purposes of this Measure.
- (2) “Travel arrangements” are travel arrangements of any description and include –
  - (a) the provision of transport;
  - (b) the provision of one or more persons to escort a child when travelling;
  - (c) the payment of the whole or any part of a person’s reasonable travelling expenses;
  - (d) the payment of allowances in respect of the use of particular modes of travel.
- (3) “Learners” means persons who receive education or training.
- (4) The following are “relevant places” –
  - (a) maintained schools;
  - (b) institutions in the further education sector;
  - (c) independent schools named in statements maintained under section 324 of the Education Act 1996 (c.56);
  - (d) non-maintained special schools;
  - (e) pupil referral units;
  - (f) places other than pupil referral units where education is arranged under section 19(1) of the Education Act 1996;
  - (g) places where education or training funded by the Welsh Ministers under section 34(1) of the Learning and Skills Act 2000 (c.21) is provided;
  - (h) institutions where education and training and boarding accommodation have been secured by the Welsh Ministers under section 41 of the Learning and Skills Act 2000;
  - (i) places where nursery education is provided –
    - (i) by a local authority, or

- (ii) by any other person who is in receipt of financial assistance given by a local authority under arrangements made by them in pursuance of the duty imposed by section 118 of the School Standards and Framework Act 1998 (c.31);
- (j) places where work experience is undertaken.

### *Learner travel arrangements*

## **2 Duty to assess learner travel needs**

- (1) This section applies in relation to—
  - (a) learners who have not attained the age of 19;
  - (b) learners who have attained the age of 19 who have begun a course of education or training before attaining that age and continue to attend that course;
  - (c) such other learners as may be prescribed.
- (2) In each academic year, a local authority must assess the learner travel needs of their area for the following academic year. But this duty is subject to the provisions of section 5.
- (3) For the purposes of subsection (2), the “learner travel needs” of a local authority’s area are the needs of learners who are ordinarily resident in the authority’s area for suitable travel arrangements each day to and from the relevant places where they receive education or training.
- (4) In making an assessment under subsection (2) a local authority must have regard in particular to—
  - (a) the needs of learners who are disabled persons,
  - (b) the needs of learners with learning difficulties,
  - (c) the needs of learners who are children looked after, or formerly looked after, by a local authority,
  - (d) the age of learners, and
  - (e) the nature of the routes which learners could reasonably be expected to take to the relevant places where they receive education or training.

## **3 Local authority duty to make transport arrangements**

- (1) This section applies in relation to a child of compulsory school age if—
  - (a) the child is ordinarily resident in a local authority’s area,
  - (b) the circumstances set out in an entry in column 1 of the following table apply to the child, and
  - (c) the condition, or all of the conditions, set out in the corresponding entry in column 2 of the table are met in relation to the child.

- (2) The local authority must make suitable transport arrangements to facilitate the attendance of the child each day at the relevant places where the child receives education or training. But this duty is subject to the provisions of section 5.

TABLE

Column 1 Circumstances	Column 2 Condition(s)
<p>The child is receiving primary education at—</p> <ul style="list-style-type: none"> <li>(a) a maintained school,</li> <li>(b) a pupil referral unit,</li> <li>(c) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</li> <li>(d) a non-maintained special school, at which the child is a registered pupil.</li> </ul>	<ul style="list-style-type: none"> <li>(a) The child is ordinarily resident at a place 2 miles (3.218688 kilometres) or more from the school or unit.</li> <li>(b) No arrangements have been made by the local authority for enabling the child to become a registered pupil at— <ul style="list-style-type: none"> <li>(i) a suitable maintained school,</li> <li>(ii) a suitable pupil referral unit,</li> <li>(iii) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</li> <li>(iv) a suitable non-maintained special school, nearer to the place where the child is ordinarily resident.</li> </ul> </li> <li>(c) No arrangements have been made by the local authority for suitable boarding accommodation for the child at or near the school or unit.</li> </ul>
<p>The child is receiving secondary education at—</p> <ul style="list-style-type: none"> <li>(a) a maintained school,</li> <li>(b) a pupil referral unit,</li> <li>(c) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</li> <li>(d) a non-maintained special school, at which the child is a registered pupil.</li> </ul>	<ul style="list-style-type: none"> <li>(a) The child is ordinarily resident at a place 3 miles (4.828032 kilometres) or more from the school or unit.</li> <li>(b) No arrangements have been made by the local authority for enabling the child to become a registered pupil at— <ul style="list-style-type: none"> <li>(i) a suitable maintained school,</li> <li>(ii) a suitable pupil referral unit,</li> <li>(iii) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</li> </ul> </li> </ul>

	<p>(iv) a suitable non-maintained special school, nearer to the place where the child is ordinarily resident.</p> <p>(c) No arrangements have been made by the local authority for suitable boarding accommodation for the child at or near the school or unit.</p>
The child is receiving education or training at an institution in the further education sector at which the child is enrolled as a full-time student.	<p>(a) The child is ordinarily resident at a place 3 miles (4.828032 kilometres) or more from the institution.</p> <p>(b) No arrangements have been made by the local authority for enabling the child to become enrolled at a suitable institution nearer to the place where the child is ordinarily resident.</p>
<p>The child –</p> <p>(a) is a registered pupil at a maintained school, and</p> <p>(b) receives secondary education at a relevant place other than that school.</p> <p>The secondary education referred to in paragraph (b) is education arranged –</p> <p>(i) by the local authority, or</p> <p>(ii) by, or on behalf of, the governing body of the school at which the child is a registered pupil.</p>	The child is ordinarily resident at a place 3 miles (4.828032 kilometres) or more from the relevant place
<p>The child is looked after by a local authority and is receiving primary education at –</p> <p>(a) a maintained school,</p> <p>(b) a pupil referral unit,</p> <p>(c) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</p> <p>(d) a non-maintained special school, at which the child is a registered pupil.</p>	The child is ordinarily resident at a place 2 miles (3.218688 kilometres) or more from the school or unit.
<p>The child is looked after by a local authority and is receiving secondary education at –</p> <p>(a) a maintained school,</p> <p>(b) a pupil referral unit,</p>	The child is ordinarily resident at a place 3 miles (4.828032 kilometres) or more from the school or unit.

<p>(c) an independent school named in a statement maintained for the child under section 324 of the Education Act 1996, or</p> <p>(d) a non-maintained special school, at which the child is a registered pupil.</p>	
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- (3) The local authority must not charge a child or a parent who is an individual for any transport arrangements made in accordance with this section.
- (4) Transport arrangements made in accordance with this section may include –
- (a) the provision of transport;
  - (b) the payment of the whole, but not part, of a child’s transport expenses.
- (5) For the purposes of subsection (2), transport arrangements are not suitable if –
- (a) they cause unreasonable levels of stress for the child,
  - (b) they take an unreasonable amount of time, or
  - (c) they are unsafe.
- (6) For the purposes of each paragraph (b) in the second column of the table in this section, the school, unit or institution is suitable for the child if the education or training provided there is suitable, having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have.
- (7) The distances mentioned in column 2 of the table in this section are to be measured by the shortest available route.
- (8) A route is “available” for the purposes of subsection (7) if –
- (a) it is safe for a child without a disability or learning difficulty to walk the route alone, or
  - (b) it is safe for such a child to walk the route with an escort, if the age of the child would call for the provision of an escort.
- (9) Regulations may prescribe circumstances and conditions for the purposes of paragraphs (b) and (c) of subsection (1); such regulations may amend the table or subsections (6), (7) and (8) (including repealing an entry in the table or those subsections).

#### **4 Local authority duty to make other travel arrangements**

- (1) This section applies in relation to a child of compulsory school age if –
- (a) the child is receiving education or training at a relevant place,
  - (b) the child is ordinarily resident in a local authority’s area, and
  - (c) the local authority consider that travel arrangements are necessary to facilitate the attendance of the child each day at the relevant place where the child receives education or training.

- (2) The local authority must make suitable travel arrangements to facilitate the attendance of the child each day at the relevant places where the child receives education or training. But this duty is subject to the provisions of section 5.
- (3) A local authority must not charge a child or a parent who is an individual for any travel arrangements made in accordance with subsection (2).
- (4) Travel arrangements made in accordance with subsection (2) may include the payment of the whole, but not part, of a child's travel expenses.
- (5) In considering whether travel arrangements are suitable for the purposes of this section, a local authority must have regard in particular to –
  - (a) the assessment they carry out in accordance with section 2(2);
  - (b) the transport arrangements they are under a duty to make for the child under section 3;
  - (c) the age of the child;
  - (d) any disability or learning difficulty of the child;
  - (e) the nature of the routes which the child could reasonably be expected to take.
- (6) For the purposes of this section, travel arrangements are not suitable if –
  - (a) they cause unreasonable levels of stress for the child,
  - (b) they take an unreasonable amount of time, or
  - (c) they are unsafe.
- (7) In considering whether travel arrangements are necessary for the purposes of this section a local authority –
  - (a) must have regard in particular to the matters specified in subsection (5);
  - (b) may have regard in particular to whether or not the child is attending the nearest suitable relevant place to the child's place of ordinary residence.
- (8) Subsection (7)(b) applies if –
  - (a) the child is not looked after by a local authority, and
  - (b) arrangements have been made by the local authority for enabling the child to attend a suitable relevant place nearer to the child's place of ordinary residence.
- (9) For the purposes of this section, a relevant place is suitable for a child if the education or training provided there is suitable, having regard to the age, ability and aptitudes of the child and any learning difficulties he or she may have.

## **5 Limits of learner travel duties**

Section 2 does not require the assessment of learner travel needs and sections 3 and 4 do not require the making of travel arrangements –

- (a) for learners to travel during the day between relevant places or between different sites of the same institution, or
- (b) for any purpose other than attendance at a relevant place to receive education or training.

## **6 Power of local authorities to make learner travel arrangements**

- (1) This section applies in relation to a learner if –
  - (a) the learner is ordinarily resident in the local authority's area, or
  - (b) the learner receives education or training in the local authority's area.
- (2) The local authority may make travel arrangements to facilitate the attendance of the learner at a place where that person receives education or training.
- (3) A local authority may charge for travel arrangements made under this section for registered pupils of compulsory school age in accordance with the provisions of sections 455 and 456 of the Education Act 1996.
- (4) A local authority may charge for travel arrangements made under this section for other learners.

## **7 Travel arrangements for learners in post-16 education or training**

- (1) This section applies in relation to learners ordinarily resident in Wales –
  - (a) who –
    - (i) are over compulsory school age but have not attained the age of 19, or
    - (ii) have attained the age of 19 and have begun a particular course of education or training before attaining that age and continue to attend that course; and
  - (b) who receive education or training –
    - (i) at a place in Wales, or
    - (ii) which is funded by the Welsh Ministers at a place outside Wales.
- (2) Regulations may make provision about travel arrangements for learners to and from the places where they receive education or training.
- (3) The regulations may in particular –
  - (a) confer powers or impose duties on the following –
    - (i) the Welsh Ministers;
    - (ii) local authorities;
    - (iii) institutions in the further education sector;
  - (b) specify the kinds of place to and from which travel arrangements may or must be made;
  - (c) specify the travel arrangements that may or must be made;
  - (d) specify the matters that must be taken into account in making decisions about travel arrangements;
  - (e) make provision about charges;
  - (f) require any person to give any information or other assistance that is reasonably required by any other person in connection with the performance of the other person's functions under the regulations;

- (g) make provision about the standards of behaviour required of learners while travelling to and from the places where they receive education or training.

**8 Travel arrangements to and from nursery education**

- (1) Regulations may make provision about travel arrangements for children under compulsory school age to and from the places where they receive nursery education.
- (2) The regulations may in particular –
  - (a) require a local authority to make travel arrangements;
  - (b) permit a local authority to make travel arrangements;
  - (c) specify the kinds of place to and from which travel arrangements may or must be made;
  - (d) specify the travel arrangements that may or must be made;
  - (e) specify the matters that must be taken into account in making decisions about travel arrangements;
  - (f) make provision about charges;
  - (g) require any person to give any information or other assistance that is reasonably required by the local authority in connection with the performance of the authority's functions under the regulations.

**9 Learner travel arrangements not to favour certain types of education or training**

- (1) This section applies if arrangements under section 3, 4, or 6 are made in respect of learners of a description set out in an entry in column 1 of the following table.
- (2) Arrangements must also be made in accordance with those sections in respect of the learners of the description set out in the corresponding entry in column 2 of the table.
- (3) The arrangements referred to in subsection (2) must be no less favourable than the arrangements referred to in subsection (1).

TABLE

Column 1	Column 2
Children of compulsory school age receiving education or training at maintained schools.	Children of the same age receiving education or training at other relevant places.
Learners over compulsory school age receiving full-time education or training at maintained schools.	Learners of the same age receiving full-time education or training at other relevant places.
Learners with learning difficulties receiving education or training at maintained schools.	Learners of the same age with learning difficulties receiving education or training at other relevant places.
Learners who have a disability receiving education or training at maintained schools.	Learners of the same age who have a disability receiving education or training at other relevant places.
Children looked after by a local authority receiving education or training at maintained schools.	Children of the same age who are looked after by a local authority receiving education or training at other relevant places.

*Promoting access to Welsh medium education*

**10 Promoting access to education and training through the medium of the Welsh language**

Each local authority and the Welsh Ministers must promote access to education and training through the medium of the Welsh language when exercising functions under this Measure.

*Sustainable modes of travel*

**11 Sustainable modes of travel**

- (1) Each local authority and the Welsh Ministers must promote the use of sustainable modes of travel when exercising functions under this Measure.
- (2) "Sustainable modes of travel" are modes of travel which the authority or the Welsh Ministers (as the case may be) consider may improve either or both of the following—
  - (a) the physical well-being of those who use them;
  - (b) the environmental well-being of—
    - (i) the whole or part of the local authority's area, in the case of an authority, or
    - (ii) the whole or part of Wales, in the case of the Welsh Ministers.

*Travel behaviour code***12 Travel behaviour code**

- (1) The Welsh Ministers must make a travel behaviour code.
- (2) A travel behaviour code is a code setting out the standards of behaviour required of learners to whom subsection (3) applies while they are travelling to and from the relevant places where they receive education or training (whether or not they take advantage of travel arrangements made by a local authority).
- (3) This subsection applies to—
  - (a) learners who have not attained the age of 19;
  - (b) learners who have attained the age of 19 who have begun a course of education or training before attaining that age and continue to attend that course;
  - (c) such other learners as may be prescribed.
- (4) The Welsh Ministers must review the travel behaviour code from time to time.
- (5) The Welsh Ministers must publish the code.
- (6) Before making or revising a code the Welsh Ministers must consult such persons as they consider appropriate.

**13 Enforcement of travel behaviour code: pupils at relevant schools**

- (1) Section 89 of the Education and Inspections Act 2006 is amended as follows.
- (2) In subsection (2), after “The head teacher” insert “of a relevant school in England”.
- (3) After subsection (2) insert—
  - “(2A) The head teacher of a relevant school in Wales must in determining such measures—
    - (a) act in accordance with the current statement made by the governing body under section 88(2)(a),
    - (b) have regard to any notification or guidance given to him under section 88(2)(b), and
    - (c) require pupils at the school to comply with the travel behaviour code made by the Welsh Ministers under section 12 of the Learner Travel (Wales) Measure 2008.”
- (4) In subsection (3) for “The” substitute “In relation to a relevant school in England, the”.

- (5) After subsection (3) insert –
- “(3A) In relation to a relevant school in Wales, the standard of behaviour which is to be regarded as acceptable must be determined by the head teacher, so far as it is not determined by –
- (a) the governing body, or
  - (b) the Welsh Ministers.”
- (6) In subsection (5), after “head teacher” insert “of a relevant school in England”.
- (7) After subsection (5) insert –
- “(5A) The measures which the head teacher of a relevant school in Wales determines under subsection (1) may, to such extent as is reasonable and not required by subsection (2A)(c), include measures to be taken with a view to regulating the conduct of pupils at a time when they are not on the premises of the school and are not under the lawful control or charge of a member of the staff of the school.”

#### **14 Enforcement of travel behaviour code: withdrawal of travel arrangements**

- (1) This section applies to learners for whom travel arrangements are made under section 3 or 4.
- (2) The local authority may withdraw travel arrangements made for a learner if –
- (a) the authority is satisfied that the learner has failed to comply with the travel behaviour code made under section 12, and
  - (b) the following conditions applicable to the learner are satisfied.
- (3) All six of the following conditions apply to any learner who is a registered pupil at a relevant school.
- (4) The first, third and fourth of the following conditions apply to any learner who is not a registered pupil at a relevant school.
- (5) The first condition is that before any decision is taken to withdraw travel arrangements –
- (a) the learner and the parent of the learner are given the opportunity to make representations, and
  - (b) those representations are considered by the local authority.
- (6) The second condition is that the head teacher of the relevant school at which the learner is a registered pupil –
- (a) is consulted about the decision to withdraw travel arrangements; and
  - (b) is given notice of the decision at least 24 hours before the withdrawal takes effect.
- (7) The third condition is that the decision to withdraw travel arrangements is reasonable in the circumstances.

- (8) The fourth condition is that the local authority gives notice of the withdrawal of travel arrangements to the learner's parent at least 24 hours before the withdrawal takes effect.
- (9) The fifth condition is that the period of withdrawal does not exceed 10 consecutive school days.
- (10) The sixth condition is that the period of withdrawal would not result in the learner having travel arrangements withdrawn for more than 30 school days in the school year in which the withdrawal takes effect.
- (11) In determining whether a decision to withdraw travel arrangements is reasonable for the purposes of subsection (7), the following matters in particular must be taken into account—
  - (a) whether the period of withdrawal is proportionate in the circumstances of the case,
  - (b) any special circumstances relevant to the withdrawal of travel arrangements which are known to the local authority (or of which the authority ought to be aware) including in particular—
    - (i) the learner's age,
    - (ii) any special educational needs the learner may have,
    - (iii) any disability the learner may have,
    - (iv) whether the learner would lose an opportunity to take a public examination, and
    - (v) whether suitable alternative travel arrangements can reasonably be made by the learner's parent.
- (12) A notice under subsection (6) or (8) must be in writing and specify—
  - (a) the period for which travel arrangements are to be withdrawn, and
  - (b) the authority's reasons for withdrawal of the travel arrangements.
- (13) For the purposes of this section and section 17, a "relevant school" means—
  - (a) a maintained school,
  - (b) a pupil referral unit, or
  - (c) a non-maintained special school.
- (14) Regulations may—
  - (a) amend or repeal either or both of subsections (9) and (10);
  - (b) make provision for reviews of decisions under subsection (2);
  - (c) make provision for appeals from decisions under subsection (2).
- (15) Regulations under subsection (14)(c) may in particular—
  - (a) specify the categories of person who may appeal;
  - (b) specify the circumstances in which appeals may be made;

- (c) provide for the constitution of appeals panels;
- (d) provide for appeal procedures;
- (e) make provision about the effect of appeal decisions;
- (f) provide for the payment of allowances to members of appeals panels;
- (g) require the provision of information about appeals.

### *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.”

*General*

**24 General interpretation**

- (1) In this Measure—

“academic year” (*“blwyddyn academaidd”*) means any period from 1 August to 31 July;

“disability” (*“anabledd”*) and “disabled person” (*“person anabl”*) have the same meaning as in section 1 of the Disability Discrimination Act 1995 (c.50);

“education” (*“addysg”*) does not include higher education;

“learning difficulty” (*“anhawster dysgu”*) in respect of a person means—

- (a) a significantly greater difficulty in learning than the majority of persons of the same age, or
- (b) a disability which either prevents or hinders that person from using facilities of a kind provided at relevant places,

but a person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which the person is taught or will be taught is different from a language (or form of a language) which has at any time been spoken in the person’s home;

“local authority” (*“awrdudod lleol”*) means a local education authority in Wales; but in any reference to a child looked after by a local authority it means a council of a county or county borough in Wales exercising social services functions within the meaning of the Local Authority Social Services Act 1970 (c.42);

“maintained school” (*“ysgol a gynhelir”*) means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“non-maintained special school” (*“ysgol arbennig nas cynhelir”*) means a school approved under section 342 of the Education Act 1996;

“nursery education” (*“addysg feithrin”*) means education suitable for children who have not attained compulsory school age;

“prescribed” (*“rhagnodi”*) means prescribed in regulations;

“regulations” (*“rheoliadau”*) means regulations made by the Welsh Ministers;

“work experience” (*“profiad gwaith”*) means work experience arranged for –

(a) a registered pupil of a maintained school or a pupil referral unit, or

(b) a student enrolled at an institution within the further education sector,

by, or on behalf of, the governing body of the relevant educational institution.

- (2) References in this Measure to a child who is looked after by a local authority have the same meaning as they have in section 22(1) of the Children Act 1989 (c.41).
- (3) Subject to subsection (4), the Education Act 1996 and the provisions of this Measure are to be read as if those provisions were contained in the Education Act 1996.
- (4) Where an expression is given for the purposes of any provision of this Measure a meaning different from that given to it for the purposes of the Education Act 1996, the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.

## **25 Minor and consequential amendments**

Schedule 1 contains minor and consequential amendments relating to the provisions made by this Measure.

## **26 Repeals**

The enactments specified in Schedule 2 are repealed to the extent specified.

## **27 Orders and regulations**

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power –
  - (a) to make different provision for different cases or areas;
  - (b) to make provision generally or in relation to specific cases;

- (c) to make such incidental, supplementary, transitional or saving provision as the Welsh Ministers think fit.
- (3) The power of the Welsh Ministers to make regulations under section 3(9), 7 or 8 also includes power to make such consequential provision as the Welsh Ministers think fit.
- (4) The incidental, supplementary, transitional, saving or consequential provision to be made in regulations may include such provision that amends or repeals any provision of—
  - (a) this Measure or any other Measure of the National Assembly for Wales passed before or in the same Assembly year as this Measure;
  - (b) an Act passed before the passing of this Measure;
  - (c) subordinate legislation made before the passing of this Measure.
- (5) Any statutory instrument containing regulations made under this Measure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) Subsection (5) does not apply to regulations to which subsection (7) applies.
- (7) A statutory instrument which contains (alone or with other provisions)—
  - (a) regulations under section 3(9),
  - (b) regulations under section 7,
  - (c) regulations under section 8,
  - (d) regulations under section 14(14)(a), or
  - (e) regulations under subsection (4) which amend or repeal any provision of an Act or Assembly Measure,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

## **28 Commencement**

- (1) The following provisions 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—
  - this section;
  - section 27;
  - section 29.
- (2) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

## **29 Short title and inclusion of Measure within the Education Acts**

- (1) This Measure may be cited as the Learner Travel (Wales) Measure 2008.
- (2) This Measure is to be included in the list of Education Acts set out in section 578 of the Education Act 1996.

SCHEDULE 1  
(introduced by section 25)

MINOR AND CONSEQUENTIAL AMENDMENTS

*Public Passenger Vehicles Act 1981 (c.14)*

- 1 In section 46 of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), in subsection (3), in the definition of “free school transport” –
- (a) in paragraph (a) omit “section 509(1) or (1A)”;
  - (b) omit “or” at the end of paragraph (aa);
  - (c) after paragraph (aa) insert –  
    “(ab) in pursuance of arrangements under sections 3 or 4 of the Learner Travel (Wales) Measure 2008, or”.

*Transport Act 1985 (c.67)*

- 2 (1) Section 6 of the Transport Act 1985 (registration of local services) is amended as follows.
- (2) In subsection (1B) –
- (a) omit “section 509(1) or (1A),” in paragraph (a);
  - (b) omit “or” at the end of paragraph (b);
  - (c) after paragraph (c) insert –  
    “(d) the obligation placed on a local authority by sections 3 or 4 of the Learner Travel (Wales) Measure 2008; or  
    (e) the exercise of the power of a local authority under section 6 of that Measure.”
- (3) In subsection (1C)(a), for “or (c)” substitute “, (c), (d) or (e)”.

*Further and Higher Education Act 1992 (c.13)*

- 3 (1) Section 57 of the Further and Higher Education Act 1992 is amended as follows.
- (2) In subsection (2)(b) after “any Act” insert “or any Measure of the National Assembly for Wales”.
- (3) In subsection (2)(c) after “any Act” insert “or any Measure of the National Assembly for Wales”.

*Education Act 1996 (c.56)*

- 4 (1) The Education Act 1996 is amended as follows.
- (2) In section 509AA (provision of transport for persons of sixth form age) –
- (a) in subsection (1) after “authority” insert “in England”;
  - (b) in subsection (2)(d) omit “or the National Assembly for Wales”;

- (c) in subsection (9) for “appropriate authority may, if it” substitute “Secretary of State may, if he”;
  - (d) omit subsection (9A);
  - (e) in subsection (10) omit the words “(in relation to local education authorities in England) or the National Assembly for Wales (in relation to local education authorities in Wales)”.
- (3) In section 509AB (further provision about transport policy statements) –
- (a) omit subsection (4);
  - (b) in subsection (5), for the words from “under this section” to the end substitute “under this section by the Learning and Skills Council for England.”;
  - (c) in subsection (6) –
    - (i) in paragraph (c) omit “(in the case of a local education authority in England)”;
    - (ii) in paragraph (d) omit the words after “England” the first time that word appears to the end of that paragraph.
- (4) In section 509AC (interpretation of sections 509AA and 509AB) –
- (a) omit subsection (3);
  - (b) in subsection (6) omit the words after “subsection (5)” to the end of that subsection;
  - (c) omit subsection (7).
- (5) In section 509A (travel arrangements for children receiving early years education otherwise than at school) –
- (a) in subsection (1), after “authority” insert “in England”;
  - (b) in subsection (4A), after “Regulations” insert “made by the Secretary of State”;
  - (c) in subsection (5) (as substituted by paragraph 23 of Schedule 2 to the Childcare Act 2006 (c.21)), omit “in relation to England,” and paragraph (b).

*Childcare Act 2006 (c.21)*

- 5 In section 110(5)(a) of the Childcare Act 2006, for “20 to 24” substitute “20 to 22, 24”.

SCHEDULE 2  
(introduced by section 26)

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Public Passenger Vehicles Act 1981 (c.14)	In section 46(3)(a) the words “section 509(1) or (1A)”.
Transport Act 1985 (c.67)	In section 6(1B) the words “section 509(1) or (1A)” in paragraph (a) and the word “or” in paragraph (b).
Education Act 1996 (c.56)	<p>In section 444(5) the words “and (4)”.</p> <p>In section 455, in subsection (1)(c) the words “or 509(2)” and in subsection (2)(b) “or” at the end of the subsection.</p> <p>Section 509.</p> <p>In section 509AA, in subsection (2)(d) the words “or the National Assembly for Wales”, subsection (9A), and in subsection (10) the words “(in relation to local education authorities in England) or the National Assembly for Wales (in relation to local education authorities in Wales)”.</p> <p>In section 509AB, subsection (4), in subsection (6)(c) the words “(in the case of a local education authority in England)”, in subsection (6)(d) the words after “England” the first time that word appears to the end of that subsection.</p> <p>In section 509AC, subsection (3), in subsection (6) the words after “subsection (5)” to the end of the subsection, subsection (7).</p>

	In section 509A, in subsection (5), the words “in relation to England,” and paragraph (b).
School Standards and Framework Act 1998 (c.31)	Schedule 30, paragraph 133.
Learning and Skills Act 2000 (c.21)	Schedule 9, paragraph 59.
Education Act 2002 (c.32)	Schedule 19, paragraph 2.  Schedule 21, paragraph 51.
Education and Inspections Act 2006 (c.40)	Section 83, subsection (1), in subsection (2) the words after “England” the first time that word appears to the end of that subsection, and subsection (3).  Schedule 10, paragraphs 4 and 5(b).