

# **LEARNER TRAVEL (WALES) MEASURE 2008**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Learner Travel (Wales) Measure 2008 which was passed by the National Assembly for Wales on 30 September 2008 and approved by Her Majesty in Council on 10 December 2008. They have been prepared by the Department for the Economy and Transport in conjunction with the Department for Children, Education, Life-Long Learning and Skills of the Welsh Assembly Government to assist the reader of the proposed Measure. The Explanatory Notes should be read in conjunction with the Measure but are not part of it.
2. The Measure replaces provisions applying to Wales in sections 509, 509AA, 509AB, 509AC and 509A of the Education Act 1996 in relation to the provision of transport for children and others receiving education and training at schools and other institutions.

### **COMMENTARY ON SECTIONS**

#### ***Section 1 – main terms used in this measure***

3. **Section 1** defines the main terms used in the Measure.
4. ‘Travel arrangements’ may include providing transport, providing escorts to accompany children, the payment of all or part of travel expenses, and the payment of allowances.
5. ‘Learners’ within the scope of the Measure are persons who receive education or training.
6. ‘Relevant places’ are defined as maintained schools, further education institutions, independent schools named in statements of special educational needs, non-maintained special schools, pupil referral units, places where nursery education is provided by a local authority or funded by the authority, any place funded by Welsh Ministers to provide education or training to post-16 learners (such as further education in a higher education institution or work based learning) and any place where learners undertake work experience. The definition also covers arrangements made for pupils with exceptional needs whose education has been arranged by a local authority at a place other than a school and institutions where Welsh Ministers have secured education and training and boarding accommodation for post-16 learners with learning difficulties.

#### ***Section 2 - duty to assess learner travel needs***

7. **Section 2** places a duty on a local authority to assess the travel needs of learners who are persons under the age of 19 who receive education or training, or persons who have attained the age of 19 who started a course of education or training when under 19 and continue to attend that course, and who are ordinarily resident in the authority’s area. ‘Learner travel needs’ are the needs of learners for suitable travel arrangements each day between home and schools or other places where they receive education and training (known as ‘relevant places’). In practice, this means that pupils of compulsory school age, of sixth form age, and children of nursery education age in provision funded

by the authority, are in the scope of the assessment required by section 2. The Welsh Ministers can, under subsection (1)(c), make regulations specifying other learners if they wish so that the scope of the assessment could be changed. The assessment will include learners who travel to relevant places in other authority areas. An authority must make this assessment every academic year in preparation for the following academic year. The assessment will give a local authority an overview of the travel needs of learners and that information will help them make travel arrangements for learners in an efficient and effective manner.

8. The duty puts into effect the sorts of activities that a local authority would have undertaken to discharge effectively its duties under the Education Act 1996 (as amended). Although that Act did not place a specific duty on a local authority to assess the travel needs of children in statutory age education, an effective authority would have considered the travel needs of learners in order to make arrangements under section 509(1) of the Education Act 1996 for the transport of children of compulsory school age. For learners of sixth form age, an authority would have gathered and assessed information in order to prepare a transport policy statement under section 509AA.
9. The assessment is to cover the travel needs of a learner who attends different ‘relevant places’ on different days. This is to take account of the fact that some learners attend a different school or a further education institution for part of their education or training or they undertake work experience elsewhere, or are enrolled on work based learning. However, as section 5 makes clear, the assessment is only to be concerned with travel to and from the home to such places and is not concerned about travel within the day between places. The assessment is not to be concerned with travel needs for residential trips or day trips organised by schools or further education institutions, nor are authorities required (but they may choose to if they wish) to take account of extra-curricular activities, breakfast or after-school clubs.
10. When making an assessment, a local authority is required to have regard to matters listed in subsection (4)(a) to (e). These are the needs of disabled learners or learners with learning difficulties; any particular needs of learners who are children ‘looked after’ or formerly looked after by a local authority; the age of a learner; and the nature of the route that s/he is expected to take between home and the places where s/he receives education or training.

### ***Section 3 – local authority duty to make transport arrangements***

11. **Section 3** places a duty on a local authority to make transport arrangements for children of compulsory school age in specified circumstances and subject to specified conditions. The circumstances and conditions are set out in the table after subsection (2). The section makes provision for a system of entitlement to free transport defined by reference to whether children are receiving primary or secondary education and whether they live at or further than set distances from the places at which they receive education or training. This approach to determining entitlement is similar in effect to the system created by the conjoined working of sections 444 and 509 of the Education Act 1996.
12. Subsection (1) provides that the section applies to children of compulsory school age who are ordinarily resident in a local authority’s area if the circumstances set out in column 1 of the table apply to the child and the conditions in column 2 are met.
13. Subsection (2) sets out the main duty of the local authority to make suitable transport arrangements to facilitate the attendance of a child to whom the section applies each day at the relevant places where the child receives education or training. A child’s attendance is facilitated if arrangements are made for the child to travel from home to the place where they receive education or training and back home again.
14. The table after subsection (2) sets out the circumstances and conditions which lead to an entitlement to free transport arrangements.

15. Children receiving primary education will be entitled to free transport if they live two miles or more from their maintained school, pupil referral unit, or non-maintained special school, unless the authority has arranged for the child to become a registered pupil at a suitable establishment closer to home or has arranged for the child to board at or near the school. Where a child has a statement of special educational needs which names an independent school, then if that school is two miles or more from the child's home, a local authority will have to provide free transport unless it has arranged for the child to become a registered pupil at a suitable establishment closer to home, or has arranged for the child to board at or near the school.
16. A similar entitlement is provided for children receiving secondary education, but in this case if they live three miles or more from their maintained school, pupil referral unit, non-maintained special school or independent school named in a statement of special educational needs. Where the local authority has arranged for the child to become a registered pupil at a suitable establishment closer to home, or has arranged for the child to board at or near the school, the duty to provide free transport does not apply. The entitlement includes transport for any child of compulsory school age who attends a further education institution as a full time student if it is three miles or more from home and the local authority has not arranged for the child to attend a suitable institution closer to home. The entitlement also includes travel between home and a relevant place other than the one at which a child is a registered pupil. This takes account of the fact that some children attend different places on different days, and would for example cover work experience placements or attendance at a different school or a further education institution for certain courses. However, travel arrangements are only to be concerned with travel between the home and relevant places at the start and finish of the school day and are not concerned about travel within the day. Any arrangements for travel within the day are outside the scope of the duty on a local authority (see section 5).
17. The same age and distance criteria apply to 'looked after' children, but there is no qualification that they attend the nearest suitable establishment to their home. It will be for the local authority looking after a child to determine where he or she should go and that might be a school other than the nearest suitable one because for instance of a priority to maintain continuity in their education or contact with siblings and friends.
18. Subsection (3) forbids an authority from charging for transport arrangements that it is required to make for children of compulsory school age under this section (save in relation to looked after children where it can recoup costs from another authority under section 18).
19. Subsection (4) specifies that the transport arrangements made under the section may include the provision of transport or the payment of the whole, but not part, of a child's transport expenses. This subsection means that an authority could discharge the duty in subsection (2) by arranging a bus service with a bus or taxi contractor, providing passes for public transport or reimbursing parental or learner travel expenses.
20. Subsections (5) to (8) define whether arrangements are 'suitable', whether a school or other education facility makes 'suitable' provision, and whether a route is 'available'.
21. Subsection (5) requires transport arrangements to be reasonably stress free, not to take an unreasonable amount of time, and to be safe.
22. Subsection (6) defines the suitability of education or training for the purpose of this section by reference to a child's age, ability and aptitude, and to any learning difficulties. Neither the child's or parent's language preference or mother tongue, nor religious faith or conviction of the child or his or her parent have any bearing on whether a school is suitable for the purpose of this section.
23. Subsection (7) specifies that the distances in the table are to be measured by the shortest available route. Availability of a route is dealt with in subsection (8) which sets out the circumstances when a child can be expected to walk to school. If these circumstances

do not apply, then a child cannot be expected to walk to school even though the distance from home to school is less than the distance limit that applies to his / her age set by the table. The circumstances are that the nature of the route is such that it is safe for a child to walk alone, or where the age of the child requires it, accompanied by an adult. If these circumstances do not apply, subsections (1) and (2) provide entitlement to free travel arrangements unless an authority has made arrangements to educate the child at an alternative suitable school closer to home.

24. The Welsh Ministers may make regulations under subsection (9) prescribing the circumstances and conditions in which children of compulsory school age would be entitled to free transport. Regulations may amend the table or subsections (6), (7) and (8) or entries in the table. For example, the Welsh Ministers could change the distance and age criteria that determine eligibility, provide local authorities with more or less discretion to operate their own transport policies. Any regulations made under this provision would be made using the affirmative resolution procedure and would be subject to a regulatory impact assessment and scrutiny by the National Assembly.

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

25. **Section 4** places a duty on a local authority to make travel arrangements for children of compulsory school age if the authority judges that that is necessary in order to facilitate a child's attendance at the relevant place where the child receives education or training.
26. Subsection (3) requires arrangements under this section to be free of charge (save in relation to looked after children where it can recoup costs from another authority under section 18). The payment of part of a learner's travel expenses is not permitted by subsection (4) (only payment of the total cost).
27. In considering whether travel arrangements under this section are suitable, subsection (5) requires the authority to have regard to the needs assessment undertaken under section 2(2), the transport arrangements it is duty bound to make by section 3, the age of the child, any disability or learning difficulty and the nature of the route. Arrangements must, by virtue of subsection (6), be safe, not take an unreasonable amount of time, and must not cause unreasonable levels of stress.
28. An authority must also be satisfied that the arrangements are necessary. In considering this, subsection (7) requires them to consider the same factors as are set out in subsection (5) but also allows them to have regard to whether a child is attending the nearest suitable educational establishment to his or her home. This makes the relationship between sections 3 and 4 clear. Under subsections (7) and (8) a local authority need not consider that travel arrangements are necessary if a child is not attending the nearest suitable school (and arrangements have been made for the child to attend a nearer suitable school). Subsection (8) (a) makes it clear however that this does not apply in relation to looked after children. Whether a looked after child attends the nearest suitable school cannot be a factor that the local authority consider in deciding whether travel arrangements are necessary.
29. An authority may consider it necessary to make arrangements under this section for a child who is not entitled to free transport under section 3 because of that child's individual circumstances. Or an authority may consider it necessary to make arrangements under this section in addition to the provision of transport required under section 3, for example, to arrange for an escort or for equipment for a disabled child. An authority does not have to provide transport. It could, for example, provide a learner with a bus pass or arrange for children to be escorted while walking to the relevant place. This section will also provide the basis for local authorities to support travel for children if they have any particular needs, whether arising from a learning difficulty, a disability or any other factor which makes particular travel arrangements necessary to facilitate the child's attendance.

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

30. This section places limits on the duties imposed on local authorities by sections 2, 3 and 4 so that they do not extend to travel during the day or to travel for purposes other than for attendance at a relevant place for education and training.
31. A local authority is not required to take account of travel needs that might arise during the day. The duties imposed by the Measure to make travel arrangements relate to travel from home to school (or other relevant place) and back home again.
32. The duties to assess and make arrangements for travel apply to travel to/from the places listed in section 1(4) where learners receive education and training. School trips and residential visits are outside the scope of the duties.

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

33. This section gives a local authority a discretionary power to make any arrangement they think fit to facilitate the travel of learners to and from a place where they receive education or training. The power applies in relation to a learner living or studying in the authority's area. This could include transport to schools other than the nearest suitable school – for instance it could include transport to schools with or without a religious character or to Welsh or English medium schools in cases where the nearest suitable school has not met parental preferences in these respects. An arrangement could include a local authority paying all or part of a learner's travel expenses.
34. A charge can be made for these arrangements by virtue of subsections (3) and (4). In relation to learners who are not of compulsory school age, there is no restriction on charging. In relation to children of compulsory school age, charging must be in accordance with sections 455 and 456 of the Education Act 1996 (as amended by section 22).
35. The means to charge or pay all or part of a learner's travel expenses provides flexibility for local authorities to put in place travel arrangements that exceed the statutory requirements set by section 3 and 4.

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

36. Welsh Ministers will be able to make regulations under this section about travel arrangements for post-16 learners who live in Wales and are attending courses in Wales or elsewhere where the education or training is funded by the Welsh Ministers.
37. The regulations could make provision similar to that made in the Measure in relation to children of compulsory school age. Provision could be made requiring or allowing the Welsh Ministers, local authorities or FE institutions to make travel arrangements and specifying the kind of matters to consider when making them. The regulations could also make provision about charging, could require cooperation between the persons involved in the arrangements, and could make provision about enforcing the travel behaviour code made under section 12 and which sets out standards of behaviour while travelling.

### ***Section 8 – Travel arrangements to and from nursery education***

38. **Section 8** is a regulation making power allowing the Welsh Ministers to make provision about the travel arrangements for nursery age children. Under this power a local authority could be required by Welsh Ministers to make travel arrangements for children under compulsory school age who are in nursery education. Subsection (2) describes the scope of the regulation making powers. The regulations could make provision similar to that made in the Measure in relation to children of compulsory school age and could require any person to provide information and assistance that a local authority might reasonably require.



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

39. **Section 9** prohibits the travel arrangements made under sections 3, 4 and 6 from discriminating between various categories of learners. The categories are shown in the table. Children of compulsory school age at establishments which are not maintained schools must not be treated less favourably than children of the same age at maintained schools. Other learners receiving full-time education or training at establishments which are not maintained schools must not be treated less favourably than learners of the same age at maintained schools. Likewise there should be no discrimination between those of the same age with learning difficulties, with a disability or who are ‘looked after’ by a local authority attending establishments other than maintained schools and those attending maintained schools. It provides a safeguard to ensure that learners who benefit from travel arrangements are treated equitably.

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

40. This section places a duty on local authorities and Welsh Ministers, when exercising their functions under the Measure, to promote access to education and training through the medium of the Welsh language.

### ***Section 11 – Sustainable modes of travel***

41. **Section 11** places a duty on a local authority and Welsh Ministers to promote sustainable modes of travel when exercising their functions under the Measure. This means that a local authority should consider sustainability when assessing learner travel needs under section 2(2). Sustainability must also be considered and promoted when travel arrangements are made by a local authority or Welsh Ministers. For example, this could mean encouraging learners to travel by bus rather than by car.
42. Subsection (2) defines ‘sustainable modes of travel’ as ones that the authority or the Welsh Ministers consider may improve the physical well-being of those who use them and/or the environmental well being of the whole or part of the authority’s area, or the whole or part of Wales (in the case of the Welsh Ministers).

### ***Section 12 – Travel behaviour code***

43. **Section 12** requires Welsh Ministers to make and periodically review a travel behaviour code which sets out the standards of behaviour required of learners while travelling to and from their place of learning.
44. The Code will apply to all learners under the age of 19 and those who have attained the age of 19 and started a course of education or training when under 19 and continue to attend that course (subsection (3)). The Welsh Ministers can, under subsection (3)(c), make regulations specifying other learners.
45. Subsection (4) requires Welsh Ministers to publish the code and subsection (5) requires them to consult before making or revising the code.

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

46. **Section 13** amends section 89 of the Education and Inspections Act 2006. Section 89 of the 2006 Act requires a head teacher to determine a school’s behaviour policy. Subsection (2) of that section requires a head teacher when determining the measures for children’s behaviour to follow a governing body’s statement or guidance on school discipline. The new subsection (2A) of section 89 inserted by this section places a duty on head teachers to determine disciplinary measures which require pupils at relevant schools in Wales to comply with the travel behaviour code made by Welsh Ministers under section 12 of the Measure.

47. The new subsection (3A) of section 89 of the 2006 Act requires the head teacher to determine what standard of behaviour is acceptable in a school so far as that is not determined by the governing body or the Welsh Ministers (in relation to travel for the purpose of education and training). Section 89(5) of the 2006 Act allows a head teacher to determine measures to regulate the behaviour of pupils when they are not on school premises or under the control or charge of a member of the school staff. Subsection (6) provides that section 89(5) is not to apply in relation to Wales, but the same provision is made in the new subsection (5A) of section 89 but with a reference to the new subsection (2A) of section 89 inserted by this section.

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

48. This section permits a local authority to withdraw transport arrangements for a learner who does not comply with the behaviour code made by Welsh Ministers under section 12. The section applies to all learners for whom the authority makes travel arrangements under section 3 or 4. Conditions apply differently depending on whether or not the child is a registered pupil at a relevant school.
49. Subsections (14) and (15) provide Welsh Ministers with the power to make regulations which may amend or repeal the maximum periods of withdrawal of travel arrangements set out in subsections (9) and (10), make provision for the review of decisions to withdraw transport made under subsection (2) and make provision for appeals from such decisions.

#### ***Section 15 – Guidance and directions***

50. When exercising any of their functions under the Measure, subsection (1) requires local authorities and governing bodies of maintained schools and further education institutions to have regard to guidance given from time to time by the Welsh Ministers.
51. Furthermore, Welsh Ministers may require authorities to make learner travel arrangements, or when making them, to comply with a direction (subsections (2) and (3)). Such directions can be given to one or more authorities or generally under subsection (4). This direction power is similar to that provided by sections 509(1) and 509AA(9) of the Education Act 1996. It permits Welsh Ministers to direct on individual cases or about more general policy matters. The power may be exercised irrespective of whether a local authority is in default of its duties. It does not take the place, or affect, the more general powers of direction that Welsh Ministers have under sections 496-497A of the Education Act 1996.

#### ***Section 16 – Information about travel arrangements***

52. The Welsh Ministers may make regulations requiring a local authority to publish information about the assessment under section 2, about the arrangements made by the authority or the Welsh Ministers for learner travel and about the travel behaviour code. At present, a local authority is required to publish information about its school transport policy under the Education (School Information) (Wales) Regulations 1999. Regulation 6 of those regulations sets requirements about the timing and manner of publication of information. A local authority is also currently required by section 509AA of the Education Act 1996 to publish a transport policy statement each year for persons of 'sixth form age'.
53. **Schedules 1 and 2** of the Measure amend and repeal provisions in section 509AA so that a local authority in Wales will no longer have to publish a transport policy statement for learners of sixth form age. Regulations made under section 16 will replace the repealed requirement and bring publication of information requirements for learners of sixth form age together with what is currently required for school children by the Education (School Information) (Wales) Regulations 1999. This will create a unified set of requirements.

### ***Section 17 – Co-operation: information and other assistance***

54. Under subsection (1) the governing body of a maintained school or a further education institution is under a duty to co-operate with a local authority. They must provide them with information or other assistance necessary for the local authority to carry out their duties under the Measure. Local authorities are required by subsection (2) to provide each other with information or assistance that might be reasonably required for them to make assessments and travel arrangements. This will ensure that functions can be carried out effectively when learners travel between authorities or when a child lives in two different authorities.
55. Under subsection (3) and (4) local authorities and head teachers must also assist each other in relation to the enforcement of the travel behaviour code.

### ***Section 18 - Payment of travel costs by a local authority which looks after a child***

56. This section concerns circumstances where one local authority makes travel arrangements for a child who is looked after by a different authority in Wales (the responsible authority who has corporate responsibility for the child). It provides the power for the local authority who makes the travel arrangements to demand reimbursement of costs from the responsible authority that looks after that child and for that demand to be complied with.

### ***Section 19 – Determination of ordinary residence in particular circumstances***

57. This section sets out provisions for determining a person's ordinary residence in particular circumstances. If a person has no ordinary residence, subsection (1) states that the person should be treated for the purposes of the Measure as being ordinarily resident at the place at which s/he is for the time being resident.
58. Subsections (2) to (6) make provision for a child or young person who has more than one home. Where a child's parents are not living together but the child lives with both parents, or with a parent and also at a children's home, then both places of residence should be regarded as their place of ordinary residence for the purposes of the Measure. If there are more than two such places then subsection (6) states that only those two places nearest to their school or further education institution will count.
59. Subsection (7) (b) makes it clear that "parent" means a parent within the meaning of section 576(1) of the Education Act 1996 who is an individual. That section defines a parent as including any person who is not a parent but who has parental responsibility or who cares for the child or young person. This definition can therefore include grandparents, other relatives and foster carers.

### ***Section 20 – Amendments to the Education Act 1996***

60. Section 444 of the Education Act 1996 creates the offence on the part of a parent of failing to secure the regular attendance at school of a registered pupil. Section 20 amends section 444 of the Education Act 1996 by substituting a new subsection (4) so as to refer to a local authority's duties under this Measure and making a consequential amendment to subsection (5). A parent will have a defence to a prosecution if a local authority has failed to discharge a duty under this Measure to make travel arrangements.

### ***Section 21 – Amendments to the Education Act 2002***

61. **Section 21** makes amendments for Wales to sections 32 and 210 of the Education Act 2002. Section 32 requires a school governing body to determine the times of school sessions. Subsection (3) of section 32 of the Education Act 2002 is a regulation making power governing the procedure for changing the times of school sessions and in Wales (at the time this Measure was passed) such changes are made in line with the Changing of School Session Times (Wales) Regulations 2000.



62. Subsection (2) inserts new subsections (5) to (10) into section 32 of the 2002 Act. Where a local authority is satisfied that changing a school's session time would promote sustainable modes of travel or would improve the efficiency and effectiveness of travel arrangements, it can change the session times. It will do so by giving notice to the governing body. Where a school has two sessions in a day, the local authority will decide the time at which the morning school session will start and the time the afternoon session will end. The governing body will retain the power to set the time of the end of the morning session and the start of the afternoon session. But if the school only has one session in a day, the authority will decide the time of its start and end. There is a courtesy translation of this insertion in the Appendix to the Welsh language version of the explanatory notes.
63. The power of a governing body of a foundation, voluntary aided or foundation special school to fix the dates of terms and holidays is unchanged by section 21.
64. The Welsh Ministers may make regulations under the new subsection (9) of section 32 of the 2002 Act about how a local authority should issue a notice and related matters about a notice's content. Under the new subsection (10) of section 32 the local authority will have to have regard to guidance given by the Welsh Ministers when using this new power.
65. Section 210 of the 2002 Act prescribes how orders and regulations under the 2002 Act are to be made. The amendment made by section 18(3) will have the effect of making the order making power inserted into section 32(9) exercisable by statutory instrument.
66. Section 210(6A) prescribes that any order made under section 32(9) is subject to the negative procedure. Section 210(6B) is a signpost to the effect of Schedule 11 to the Government of Wales Act 2006.

### ***Section 22 – Amendments to sections 455 and 456 of the Education Act 1996***

67. **Section 22** makes amendments to sections 455 and 456 of the Education Act 1996. Section 455 permits charging and section 456 concerns the regulation of permitted charges. The amendments made by section 22 take account of the power granted by section 6 of the Measure for a local authority to charge for travel arrangements. Charging for those travel arrangements in respect of children of compulsory school age is subject to the rules in the 1996 Act. These include provision for a child's parent to pay permitted charges and for authorities to determine a charging and remissions policy. The amendment made by subsection (3) allows the charge for travel arrangements provided in accordance with section 6 to exceed the cost of its provision.

### ***Section 23 – Amendments to the Education and Inspections Act 2006***

68. **Section 23** makes amendments to sections 162 and 181 of the Education and Inspections Act 2006 and inserts a new section 182A into that Act. Section 162 prescribes the power to repeal references to local education authority in Acts and in statutory instruments. The amendment made by section 23 will enable Welsh Ministers to amend references in Measures to local education authority.
69. Section 181 of the 2006 Act prescribes how orders and regulations under the 2006 Act are to be made. The amendment made by section 23 of the Measure will have the effect of making the order making power inserted into section 162 of the 2006 Act exercisable by statutory instrument.
70. The new section 182A(1) of the 2006 Act prescribes that any order made under section 162(5A) of the 2006 Act must be laid before and approved by resolution of the National Assembly (the affirmative procedure). The new section 182A(2) of the 2006 Act is a signpost to the effect of Schedule 11 to the Government of Wales Act 2006.

### ***Section 24– General interpretation***

71. Subsection (1) defines terminology used in the Measure.
72. Subsection (2) defines a ‘looked after’ child, for the purposes of the Measure, as having the same meaning as in section 22(1) of the Children Act 1989. That is a child who is in the care of a local authority (the responsible authority) or who is provided with accommodation by a local authority whilst exercising any functions under that Act.
73. Subsection (3) provides that the Measure is to be read as one with the Education Act 1996. This means that the definitions in that Act are to be read across into this Measure, and the general provisions in that Act apply to the Measure. For example the Welsh Ministers’ powers to direct under sections 496, 497 and 497A of the 1996 Act will apply in relation to functions conferred on local authorities and governing bodies by the Measure. The definitions set out in subsection (1) take precedence over any used in the Education Act 1996 if there is a difference in meaning (subsection (4)).

### ***Section 25 – Minor and consequential amendments***

74. [Section 25](#) gives effect to Schedule 1 which contains minor and consequential amendments.

### ***Section 26 – Repeals***

75. [Section 26](#) gives effect to Schedule 2 which contains repeals to other enactments as specified.

### ***Section 27 – Orders and regulations***

76. This section makes provision in relation to any orders or regulations made by Welsh Ministers. They will be able to make different provisions for different situations, to make provisions for specific cases or to make them more generally and to make incidental, supplementary, transitional or saving provisions.
77. [Section 27](#) also provides Welsh Ministers with the power to make, through regulations, consequential provision and to amend or repeal provisions of Assembly Measures, Acts or subordinate legislation made before the Measure. The purpose of subsection (3) is to permit Welsh Ministers to make changes they consider necessary, expedient or consequential to give effect to regulations made under sections 3(9), 7 or 8 of the Measure which concern the requirements on local authorities to arrange transport for school children, transport for learners in post-16 education or training and the provision for transport for children in nursery education.
78. Subsections (5) to (7) set out the procedures that will apply to any statutory instrument made under different sections of the Measure. Regulations that contain provisions listed in subsection (7) will have to be laid before and approved by resolution of the National Assembly (the affirmative resolution procedure). These are regulations that amend the circumstances of learners entitled to transport under section 3, regulations about transport for learners in post-16 education or training under section 7, regulations about the travel arrangements for children in nursery education under section 8, regulations under section 14(14)(a) amending or repealing the periods of withdrawal of transport for breach of the travel behaviour code and any regulations which amend an Act of Parliament or an Assembly Measure (a Henry VIII power). Subsection (5) provides for the negative resolution procedure to apply to any other regulations made under the Measure.

### ***Section 28 – Commencement***

79. Provisions of the Measure will come into force in accordance with a commencement order made by Welsh Ministers. Subsection (1) makes exceptions for sections 27 and

*These notes refer to the Learner Travel (Wales) Measure 2008 (c.2)*

29 which will automatically come into force two months after the Measure is approved by Her Majesty in Council.

***Section 29 – Short title***

80. This section establishes the Measure’s title as the ‘Learner Travel (Wales) Measure 2008’.

***Schedule 1***

81. **Schedule 1** is introduced by section 25. The Schedule makes minor and consequential amendments to various Acts of Parliament.

***Schedule 2***

82. **Schedule 2** is introduced by section 26. The Schedule lists repeals to various provisions of Acts of Parliament.

**RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES**

Introduced	15 April 2008
Stage 1 - Debate	<b>29</b> April 2008
Stage 2 Scrutiny Committee – consideration of amendments	19 June 2008
Stage 2 Scrutiny Committee – consideration of amendments	3 July 2008
Stage 3 Debate	30 September 2008
Stage 4 Debate to Pass the Learner Travel (Wales) Measure 2008	30 September 2008
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