

SAFETY ON LEARNER TRANSPORT (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

4. This section empowers the Welsh Ministers to make regulations requiring that only particular descriptions of vehicle are used for learner transport provided or otherwise secured by a local authority or the governing body of a maintained school. The obligations arising from such provision may be placed on those bodies or any person who provides learner transport secured by those bodies (e.g. a bus operator providing services under contract with a local authority).
5. The vehicle may be described by reference to its age, whether it is a single deck or double deck vehicle, or other descriptions of the vehicle by reference to its construction, equipment or other characteristics.
6. Subsection 14B(1)(c) enables the Welsh Ministers to provide for criminal offences and penalties for breaches of requirements imposed under this section. The power of the Welsh Ministers to create criminal offences under this section is subject to the limits imposed by paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006. They would not be able to use this power to create any criminal offence punishable -
 - on summary conviction, with imprisonment exceeding the prescribed term or with a fine exceeding level 5 on the standard scale (currently £5,000), or
 - on conviction on indictment, with a period of imprisonment exceeding two years.
7. The prescribed term is 51 weeks in the case of a summary offence and 12 months where the offence is triable either way. But before the coming into force of sections 154(1) and 281(5) of the Criminal Justice Act 2003 no term of imprisonment of more than six months is to be imposed on conviction of a summary offence created under the regulations or on summary conviction of an such an offence triable either way¹.

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