

School Transport Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Education and Skills, are published separately as HL Bill 14 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Lord Filkin has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the School Transport Bill are compatible with the Convention rights.

School Transport Bill

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TO

Make provision for school travel schemes; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 School travel schemes

- (1) In the Education Act 1996 (c. 56), after section 509 there is inserted—
- “509ZA School travel schemes**
- (1) Schedule 35B has effect in relation to school travel schemes.
- (2) Where a school travel scheme is in force, the local education authority by which the scheme is made—
- (a) shall give effect to the scheme, and
- (b) shall not have any function under section 509(1) or (3) in relation to a child in the area for which the scheme is made.”
- (2) In that Act, after Schedule 35A there is inserted—

“SCHEDULE 35B

SCHOOL TRAVEL SCHEMES

Power to make scheme

- 1 A local education authority may make a school travel scheme for the whole or any part of their area. 15

Arrangements to be included in scheme

- 2 (1) A school travel scheme shall set out (in general terms) what arrangements in connection with the attendance of children receiving education—
- (a) at schools, 20
- (b) at any institution within the further education sector, or

- (c) at any other place by virtue of arrangements made in pursuance of section 19(1) (exceptional provision of education in pupil referral units or elsewhere),
the scheme authority consider it appropriate to make in relation to travel to and from such places. 5
- (2) A school travel scheme may include travel arrangements of any description and may, in particular, include—
- (a) arrangements for the provision of transport,
 - (b) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses, and 10
 - (c) arrangements to facilitate or promote the use of different ways of travelling.
- 3 (1) The arrangements to be set out in a school travel scheme shall include arrangements such as to secure that, in relation to any child of compulsory school age who is a registered pupil at a school, suitable arrangements are made for his transport to and from school if— 15
- (a) the school at which he is a registered pupil is not within walking distance of his home,
 - (b) no suitable arrangements have been made by the scheme authority for boarding accommodation for him at or near the school, and 20
 - (c) no suitable arrangements have been made by the scheme authority for enabling him to become a registered pupil at a school nearer to his home. 25
- (2) Where a child is registered at both a pupil referral unit and a school other than a unit, the references in sub-paragraph (1) to the school at which he is a registered pupil shall be read as references to the unit.
- (3) In this paragraph, "walking distance" has the meaning given by section 444(5). 30

Charges

- 4 (1) A school travel scheme shall set out the policy applicable to charging in relation to anything provided in pursuance of the scheme.
- (2) The policy to be set out under sub-paragraph (1) shall include provision to the effect that anything provided in pursuance of the scheme for a protected child is provided free of charge. 35
- 5 Any sum payable in respect of a charge for anything provided in pursuance of a school travel scheme shall be recoverable summarily as a civil debt.
- 6 If a school travel scheme will give rise to a need to incur expenditure in order for a child to take advantage of anything provided for him in pursuance of the scheme, the scheme shall include provision for any expenditure that needs to be incurred for that purpose in the case of a protected child to be met by the scheme authority. 40
- 7 (1) In paragraphs 4 and 6, references to a protected child are to a child— 45
- (a) who is a registered pupil at a school, and

- (b) in relation to whom—
- (i) no suitable arrangements have been made by the scheme authority for enabling him to become a registered pupil at a school nearer to his home, and
 - (ii) the appropriate condition is met. 5
- (2) In the case of a school travel scheme for an area in England, the appropriate condition for the purposes of sub-paragraph (1)(b)(ii) is that the child is within section 512ZB(4).
- (3) In the case of a school travel scheme for an area in Wales, the appropriate condition for the purposes of sub-paragraph (1)(b)(ii) is that there are met in relation to the child such criteria as the National Assembly for Wales may prescribe by regulations. 10

Commencement of scheme

- 8 (1) A school travel scheme shall not come into force unless approved by the appropriate national authority. 15
- (2) A school travel scheme which has been approved by the appropriate national authority shall come into force in accordance with directions given by that authority.

Amendment or revocation of scheme

- 9 (1) The scheme authority may amend or revoke a school travel scheme. 20
- (2) The power of amendment under sub-paragraph (1) is exercisable only with the consent of the appropriate national authority.
- (3) The appropriate national authority may consent to the exercise of the power of amendment under sub-paragraph (1) on an application by the scheme authority specifying the proposed exercise of the power. 25
- (4) If on an application under sub-paragraph (3) the appropriate national authority consents to the exercise of the power of amendment under sub-paragraph (1), the scheme authority shall exercise the power accordingly.
- (5) Amendment under this paragraph shall come into force in accordance with directions given by the appropriate national authority. 30

Provision of information

- 10 The scheme authority shall—
- (a) make such reports and returns to the appropriate national authority, and
 - (b) compile and give to that authority such information, as that authority may require for the purpose of monitoring the operation or effect of a school travel scheme. 35

Guidance 40

- 11 (1) The appropriate national authority shall issue, and may from time to time revise—

- (a) guidance as to the matters which the authority will take into account in exercising its power under paragraph 8(1) or 9(2), and
 - (b) guidance with respect to the discharge by a local education authority of functions under this Schedule. 5
- (2) It shall be the duty of a local education authority when exercising functions under this Schedule to have regard to any relevant guidance under sub-paragraph (1)(b).
- (3) The appropriate national authority shall publish the guidance for the time being in force under sub-paragraph (1). 10

Interpretation

- 12 In this Schedule –
- “appropriate national authority” means –
- (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the National Assembly for Wales; 15
- “scheme authority”, in relation to a school travel scheme, means the local education authority by which the scheme is made.”

2 Piloting of new provisions

- (1) The school travel scheme provisions shall be piloted –
- (a) in England, in accordance with regulations made by the Secretary of State, and 20
 - (b) in Wales, in accordance with regulations made by the National Assembly for Wales.
- (2) Regulations under subsection (1)(a) or (b) may, in particular, provide for there to be a limit on the number of school travel schemes which may be in force while the school travel scheme provisions are being piloted. 25
- (3) Power to make regulations under subsection (1) is exercisable by statutory instrument.
- (4) Regulations under subsection (1)(a) shall be subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (5) In this section, “the school travel scheme provisions” means section 509ZAA of, and Schedule 35B to, the Education Act 1996 (c. 56).

3 Power to repeal new provisions

- (1) The Secretary of State may by order provide for the school travel scheme provisions to cease to have effect in relation to local education authorities in England with effect from such date as may be specified in the order. 35
- (2) The National Assembly for Wales may by order provide for the school travel scheme provisions to cease to have effect in relation to local education authorities in Wales with effect from such date as may be specified in the order.
- (3) The earliest date which may be specified under subsection (1) or (2) is 1st August 2011. 40

- (4) The latest date which may be specified under subsection (1) or (2) is 1st August 2013.
- (5) Power to make an order under this section includes power –
 - (a) to make consequential amendments and repeals in the Education Act 1996 (c. 56), and
 - (b) to make transitional provision or savings.
- (6) Power to make an order under this section is exercisable by statutory instrument.
- (7) An order under subsection (1) may not be made unless a draft of the statutory instrument containing the order has been laid before and approved by a resolution of each House of Parliament.
- (8) In this section, “the school travel scheme provisions” means section 509ZAA of, and Schedule 35B to, the Education Act 1996.

4 Power to exclude scheme services from registration requirements

- (1) The Secretary of State may by order made by statutory instrument amend section 6 of the Transport Act 1985 (c. 67) (registration of local services) for the purpose of excluding from the application of that section services provided in pursuance of schemes under Schedule 35B to the Education Act 1996.
- (2) The exclusion of such services may be general or limited to particular circumstances.
- (3) A statutory instrument containing an order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

5 Financial provisions

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

6 Consequential amendments and repeals

- (1) In section 569 of the Education Act 1996 (regulations) –
 - (a) in subsection (1), after “Secretary of State” there is inserted “or the National Assembly for Wales”,
 - (b) in subsection (2), after “other than regulations under section 492” there is inserted “or regulations made by the National Assembly for Wales”, and
 - (c) in subsection (4), for “Secretary of State” there is substituted “person exercising the power”.
- (2) If both an order under section 3(1) and an order under section 3(2) are made, the Secretary of State may by order made by statutory instrument make such consequential amendment or repeal of any enactment as he thinks fit.
- (3) A statutory instrument containing an order under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

7 Short title, commencement and extent

- (1) This Act may be cited as the School Transport Act 2005.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) This Act extends to England and Wales only.

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*Brought from the Commons on 20th December
2004*

*Ordered to be Printed, 20th December
2004*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx

HL Bill 14

(xxxxxx) 53/4

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