

# Seat Belts on School Transport (Scotland) Bill

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## Delegated Powers Memorandum

### Introduction

1. This memorandum has been prepared by officials of the Scottish Government to support Gillian Martin MSP, the member in charge of the Bill, in accordance with Rule 9.4A of the Parliament's Standing Orders. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

2. It does not form part of the Bill and its contents have not been endorsed by the Parliament.

### Outline of Bill provisions

3. The purpose of the Bill is to ensure that seat belts are fitted on all dedicated school transport services. The Scotland Act 1998 (Modification of Schedule 5) Order 2015 (S.I. 2015/1379) devolved to the Scottish Parliament the legislative competence to regulate the description of motor vehicles which are used to transport pupils to and from school.

4. The Bill contains six sections:

- **Section 1** imposes a duty on school authorities (i.e. education authorities, grant-aided schools and independent schools) to ensure that seat belts are fitted in every vehicle which is used in a dedicated school transport service;
- **Section 2** provides the meaning of “dedicated school transport service”;
- **Section 3** provides the meaning of other key terms that appear in the Bill;

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- **Section 4** imposes a duty on school authorities to publish an annual statement of their compliance with the duty relating to seat belts imposed by section 1;
- **Section 5** gives the Scottish Ministers the power to commence the Bill by regulations;
- **Section 6** describes the short title of the Bill.

## Rationale for subordinate legislation

5. The Bill contains a single power to make subordinate legislation which is delegated to the Scottish Ministers. This power is explained in detail in the following paragraphs. Careful consideration has been given (as explained at paragraphs 8-9 below) as to whether this provision necessitated subordinate legislation or whether it could have been made on the face of the Bill.

## Delegated Power

### Section 5 – Commencement

Power conferred on: the Scottish Ministers

Power exercisable by: regulations made by Scottish statutory instrument

Parliamentary procedure: laid, no procedure

### Provision

6. Subsection (1) provides that this section and sections 2, 3 and 6 come into force on the day after Royal Assent.

7. Subsection (2) provides that any remaining provisions of the Bill, once enacted, come into force on such date as the Scottish Ministers may by regulations appoint.

8. Subsection (3) provides that regulations under subsection (2) may include transitional, transitory or saving provision; and that different days may be appointed for different purposes.

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### Reason for taking power

9. Some formal sections of the Bill (i.e. the short title and interpretation provisions, as well as section 5 itself) are commenced on the day after Royal Assent. Subsection (2) enables the Scottish Ministers to bring the Bill's substantive provisions (i.e. the duties in sections 1 and 4) into force at a later date by means of commencement regulations. This is to allow for school authorities and transport providers to have time to adjust to the duty in section 1 to have seat belts fitted on dedicated school transport. It is anticipated that this duty will be brought into force for vehicles transporting primary school pupils by the start of the 2018-19 school year and for those transporting secondary school pupils by the start of the 2021-22 school year, the number of vehicles used for secondary provision being greater, requiring more time to adapt. However, rather than prescribing these dates on the face of the Bill, taking this power provides for greater flexibility and it is usual practice for commencement provisions to be dealt with in this way.

10. It should be noted that the power to make transitional, transitory or saving provision under subsection (3) is not a substantive one but is dependent on commencement. It may be necessary, for example, to make saving provision in relation to contracts between school authorities and transport providers that are entered into before the main duty comes into force. There may be other unforeseen issues which arise at the time of commencement which require transitional, transitory or saving provision and subsection (3) allows for this.

### Choice of procedure

11. It is normal practice for commencement regulations to be laid before Parliament but not subject to any parliamentary procedure. Commencement regulations bring into force provisions whose underlying policy has already been considered by the Parliament during the passage of the Bill. Any regulations under this section will be laid before Parliament as soon as practicable after being made. This is provided for by virtue of section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

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