

SPICe Briefing

Seat Belts on School Transport (Scotland) Bill

13 March 2017

17/16

Alan Rehfisch



Photo: Plaxton

The Seat Belts on School Transport (Scotland) Bill was introduced in the Scottish Parliament by Gillian Martin MSP on 28 February 2017. The Bill would place a duty on every school authority to ensure that all services provided solely to transport school pupils to and from the establishments where they receive primary or secondary education use vehicles fitted with seat belts.



CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION	3
PROVISIONS OF THE SEAT BELTS ON SCHOOL TRANSPORT (SCOTLAND) BILL.....	3
ENFORCEMENT OF THE NEW DUTY.....	4
FINANCIAL IMPLICATIONS OF THE BILL	4
PETITION PE1098: SCHOOL BUS SAFETY	5
CONSULTATION	6
FITTING OF SEAT BELTS IN SCHOOL TRANSPORT VEHICLES.....	6
USE OF SEAT BELTS IN SCHOOL TRANSPORT VEHICLES	7
SEAT BELTS ON SCHOOL TRANSPORT VEHICLES: CURRENT SITUATION	8
SOURCES	9
RELATED BRIEFINGS	10

EXECUTIVE SUMMARY

- The Bill would place a duty on every school authority (including the managers of grant-maintained and proprietors of independent schools) to ensure that a seat belt is fitted to every passenger seat in every motor vehicle used to provide a dedicated school transport service
- A dedicated school transport service is defined as one with the sole purpose of carrying pupils between their homes and any educational establishment where they receive primary or secondary education
- The Scottish Government expects the duty to come into force at the beginning of the school year in 2018 for primary school transport and 2021 for secondary school transport

INTRODUCTION

This briefing outlines the provisions set out in the [Seat Belts on School Transport \(Scotland\) Bill](#) (“the Bill”). It goes on to describe the development of the proposals in the Bill and the consultation held during the development of the proposals. It also outlines legislation and regulations governing the fitting of seat belts to vehicles used on UK roads and the responsibilities of drivers and others to promote the use of these seat belts.

PROVISIONS OF THE SEAT BELTS ON SCHOOL TRANSPORT (SCOTLAND) BILL

A detailed description of the provisions set out in the Bill can be found in the accompanying [Explanatory Notes](#). A brief summary of the contents of the Bill’s six sections is set out below:

Section 1: Places a duty on school authorities to ensure that a seat belt is fitted to every passenger seat in every motor vehicle used to provide a dedicated school transport service.

Section 2: This defines a dedicated school transport service as one with the sole purpose of carrying pupils between their homes and any educational establishment where they receive primary or secondary education. The provisions of the Bill do not apply to vehicles used for school trips, excursions or registered bus services that, even if they are used extensively by school pupils, can also be used by the general public.

Section 3: This defines other terms used in the Bill, the key definition being “school authority”, which covers:

- An education authority (i.e. a local authority)
- The managers of a grant-aided school
- The proprietor of an independent school

This section also defines “seat belt” using the existing broad definition set out in UK legislation. This means that “seat belt” also includes child restraints, disabled person’s belts, lap belts and

three-point belts, meaning such specialist provision can be supplied in place of a regular seat belt to meet the terms of the Bill.

Section 4: Every school authority must produce a compliance statement, setting out the steps it has taken to comply with the duty imposed by Section 1 of the Bill. The statement should be published as soon as practicable following the end of first year during which the duty is in force, and annually thereafter.

Section 5: Sections 2,3 and 6 come into force on the day after Royal Assent. Section 4 comes into force on a day chosen by the Scottish Ministers. The Policy Memorandum which accompanies the Bill indicates that this is likely to be at the beginning of the school year in 2018 for primary school transport and 2021 for secondary school transport.

Section 6: Provides that the Bill, once enacted, will be known as the Seat Belts on School Transport (Scotland) Act 2017.

ENFORCEMENT OF THE NEW DUTY

There are no specific new enforcement provisions created by the Bill, or penalties for non-compliance. However there are established recourse mechanisms which are applicable to the legal duty. The Bill places a duty on school authorities to ensure any vehicle used for dedicated home-school transport is fitted with seat belts. Where such vehicles are provided under contract to the authority, the requirement for seat belts to be fitted in all vehicles will be set out in the contract. The contract will establish remedies and penalties for situations where the bus operator fails to comply with its terms.

A school authority will have to ensure that any vehicles it owns and uses for dedicated school transport services are fitted with seat belts. Given the types of vehicles owned by school authorities, it is unlikely that they would not already be fitted with seat belts (see the section on Fitting Seat Belts in School Transport Vehicles below for more details).

It is also worth noting that the Bill does not place any new duties on bus drivers, other bus operator staff, school staff or pupils travelling on dedicated school transport services – so no new enforcement provisions are required.

Parents or carers concerned about non-compliance with the new duty would be expected to take this up with the school authority in the first instance. Where this is an education authority, that can also involve contact with elected members and use of internal complaints procedures. Ultimately, where such avenues have been exhausted, a complaint could be taken to the Scottish Public Services Ombudsman.

Independent and grant aided schools also have internal complaints procedures that should be able to handle any concerns about non-compliance with the duty.

Ultimately an action of specific performance could be raised in the Court of Session under section 45(b) of the Court of Session Act 1988 in order to require a school authority to comply with the duty in the Bill, in the event that there has been a failure in compliance.

FINANCIAL IMPLICATIONS OF THE BILL

A full analysis of the possible cost implications of the Bill is set out in the [Financial Memorandum](#) which accompanies the Bill. This indicates that requiring all dedicated school transport vehicles to be fitted with seat belts will result in increased costs for bus operators, mainly through retro-fitting seat belts to vehicles without them, purchasing new vehicles and

increased maintenance costs. These costs will be passed on to school authorities through higher contract prices for school transport provision. However, the Scottish Government has an established process with local government, whereby any policy initiatives or legislative changes which place a new burden on local authorities are funded accordingly in addition to the wider local block grant package. The Scottish government states that this means the vast majority of additional costs will fall on the Scottish Government.

The Financial Memorandum summarises the likely costs of the proposals in the Bill as follows:

Costs on local authorities	£8.92m (2018-2031 inclusive)
Costs on the Scottish Government	£8.92m (allocation to local authorities)
Costs on other bodies and individuals	N/A
Total	£8.92m

The total additional cumulative cost between 2018 and 2031 is £8.92m, based on an estimated annual additional cost of £0.202m in 2018, £0.230m in 2019 and 2020, £0.607m in 2021 and £0.765m each year between 2022 and 2031.

PETITION PE1098: SCHOOL BUS SAFETY

Lynn Merrifield, on behalf of Kingseat Community Council, lodged petition [PE1098: School Bus Safety](#) on 9 November 2007. The petition was worded as follows:

“Calling on the Scottish Parliament to urge the Scottish Government to make provision for every school bus to be installed with three point seatbelts for every school child passenger and to ensure that, as part of a local authority’s consideration of ‘Best Value’ in relation to the provision of school buses, proper regard is given to the safety needs of the children.”

The Scottish Government indicated in a [letter](#) to the Public Petitions Committee dated 11 January 2008 that “...it is for authorities themselves to negotiate the terms and conditions of school bus contracts with local transport providers, bearing in mind all local circumstances. Ministers cannot intervene, and nor can they impose particular terms and conditions on authorities or their contractors.”

The petition was considered at numerous Public Petitions Committee meetings, during which it became clear that Scottish Ministers could not compel school authorities to require all dedicated school transport vehicles to be fitted with seat belts. The power to do so was reserved to the UK Government.

Following discussions with UK counterparts, devolution of power on the issue was agreed. Keith Brown MSP (then Minister for Transport and Veterans) [announced](#) (Transport Scotland 2014) on 18 March 2014 that the Scottish Government would introduce legislation to ensure that seat belts were provided on all dedicated school transport, after devolution of competence via a Scotland Act Order. Following further action by the Public Petitions Committee, Scottish Government and UK Department for Transport, the power to introduce such legislation was devolved to the Scottish Parliament during 2015. Petition PE1098 was subsequently closed at the Public Petitions Committee meeting of 12 May 2015.

CONSULTATION

A detailed description of the consultation on the issue of seat belts in school transport vehicles that was carried out prior to the introduction of the Bill can be found in the [Policy Memorandum](#), which accompanies the Bill. In summary, Transport Scotland established a Seat Belts on School Transport Working Group during 2014 to develop proposals for a Bill that would be practical and workable across the country. The group consisted of key stakeholders in education, local government, bus service provision and parent groups.

The Scottish Government (2016) published a [Consultation on Seatbelt Requirements for Dedicated School Transport](#) on 11 March 2016, which was open for comments until 6 June 2016. The consultation posed 10 questions, which aimed to explore whether respondents thought that requiring all dedicated school transport vehicles to be fitted with seat belts was desirable, the role of schools and parents in encouraging seat belt use, whether the requirement should apply to independent schools and whether there were any equality or financial impacts.

79 responses were received to the consultation, 59 from individuals and 20 from organisations. A full breakdown of these responses can be found in the Scottish Government's [Consultation on seatbelt requirements for dedicated school transport: Analysis Report](#) (Transport Scotland 2016) which summarises its key finding as follows:

“Responses to the consultation indicated a strong level of support for the proposed legislation, both amongst members of the public and by organisations with an interest in the provision of dedicated school transport. However a small number of respondents did query the likely impact of the proposed changes citing the low rate of accidents involving school buses.”

FITTING OF SEAT BELTS IN SCHOOL TRANSPORT VEHICLES

Legislation governing the construction and use of motor vehicles, including the design, fitting and use of seat belts, is reserved to the UK Government. The legislative requirement for seat belts to be fitted to vehicles used for school transport varies by the type of vehicle and its age. The types of vehicle commonly used to provide school transport services can be categorised as follows:

- **Bus:** A motor vehicle which is constructed or adapted to carry more than 16 seated passengers in addition to the driver. Sometimes referred to in legislation as a “large bus”.
- **Coach:** A motor vehicle constructed or adapted to carry more than 16 seated passengers, in addition to the driver, which has a gross weight of more than 7.5 tonnes and a maximum speed exceeding 60mph
- **Minibus:** A vehicle constructed or adapted to carry more than 8 but not more than 16 seated passengers, excluding the driver
- **Private hire car:** A hire car, generally a regular saloon type car
- **Taxi:** A hire car, sometimes a black cab but can also be a regular saloon type car in certain local authority areas
- **Urban bus:** A bus designed for urban use, allowing for standing passengers

The Road Vehicles (Construction and Use) Regulations 1986 (“the 1986 Regulations”), as amended, set out the requirements for the fitting of seat belts in minibuses, coaches and buses. These requirements can be summarised as follows:

All minibuses, coaches and buses first used on or after 1 October 2001 must be fitted with a seat belt for the driver and each passenger. The only exception to this requirement is for vehicles defined as an "urban bus", which do not require seat belts to be fitted. The requirement to fit front seat belts in cars and taxis took effect in 1972, with a requirement to fit rear seat belts coming into force in 1986.

In addition to these requirements, amendments to the 1986 Regulations made by the Road Vehicles (Construction and Use) (Amendment) (No.2) Regulations 1996 prohibit the use of a coach or a minibus for the purpose of carrying a group of three or more children on an organised trip, unless there are sufficient forward-facing passenger seats that are fitted with seat belts. For the purposes of this regulation a "child" is a person who is aged three years or more but is under the age of 16 years. This came into force on 10 February 1997 except for older coaches registered before 1 October 1988 which had until 10 February 1998 to comply.

In practice, the fact that new minibuses, coaches and buses (excluding urban buses) have had to be fitted with seat belts for over 16 years means that there are very few such vehicles now in use that are not already fitted with seat belts. Effectively, all cars and taxis used for school transport are fitted with seat belts. This means that the majority of school transport vehicles not fitted with seat belts are urban buses, particularly double-deckers. The Bill is aimed at closing off the remaining historical gap in school transport provision.

USE OF SEAT BELTS IN SCHOOL TRANSPORT VEHICLES

The Motor Vehicles (Wearing of Seat Belts) Regulations 1993, as amended, require everyone aged 14 and over to wear available front and rear seat belts in all categories of vehicle – although there are a number of specific exemptions, e.g. a taxi driver carrying a fare.

Bus operators are required to ensure that passengers are made aware of any requirement to wear a seat belt by means of an announcement, an audio-visual presentation or signs displayed in the vehicle.

Rules governing the use of seat belts by children under 14 years of age travelling in coaches and minibuses are set out below:

Coaches: Passengers sitting in seats that are in line with, or in front of, the driver (excluding seats on an upper deck) must use seat belts that are fitted. Passengers aged 14 and over must wear seat belts in the rear seats of coaches. Passengers under 14 years of age are not required to wear a seat belt in the rear seats of a coach.

Minibuses - Front Seats: Children must travel in rear seats (any seat behind the driver) if a child car seat or an adult seat belt is not fitted in the front. The driver is responsible for ensuring that

- children under three years of age use an appropriate child restraint. If one is not fitted, they must travel in the rear
- children aged from three years up to their 12th birthday, and under 1.35 metres tall, use an appropriate child restraint if available, or if not available, wear the seat belt
- children aged between 12 and 13 years (and younger children who are 1.35 metres or taller) use the seat belt.

Rear Seats in Small Minibuses: Passengers sitting in the rear of minibuses that have an unladen weight of 2,540 kg or less must wear seat belts or use an appropriate child restraint. The driver is responsible for ensuring that:

- children under three years of age use an appropriate child restraint.
- children aged from three years up to their 12th birthday, and under 1.35 metres tall, use an appropriate child restraint if available, or if not available, wear the seat belt
- children aged between 12 and 13 years (and younger children who are 1.35 metres or taller) use the seat belt.

Rear Seats in Larger Minibuses: In minibuses over 2,540 kg unladen weights, passengers aged under 14 years are not required to wear seat belts.

SEAT BELTS ON SCHOOL TRANSPORT VEHICLES: CURRENT SITUATION

The [policy memorandum](#) which accompanies the Bill indicates that:

“...there are currently 18 local authorities in Scotland which already stipulate the provision of seat belts as a requirement in all dedicated school bus contracts and a further 6 which require it on some contracts, such as services only for primary school pupils or for a particular type of vehicle.”

These 18 (out of the 32 Scottish local authorities) are:

- Aberdeen City Council
- Aberdeenshire Council
- Angus Council
- City of Edinburgh Council
- Dumfries and Galloway Council
- East Ayrshire Council
- East Dunbartonshire Council
- Highland Council
- Inverclyde Council
- Midlothian Council
- Moray Council
- Comhairle nan Eilean Siar
- North Ayrshire Council
- North Lanarkshire Council
- Perth and Kinross Council
- South Lanarkshire Council
- Shetland Islands Council
- Scottish Borders Council

The policy memorandum goes on to state that “...updated 2017 figures...suggests there are now around 110 buses in operation for such provision [dedicated school transport] without seat belts” and “...that the vast majority of the vehicles without seat belts used for dedicated school transport fell within the local authorities covered by Strathclyde Partnership for Transport (SPT), specifically all of the primary school vehicles (within South Ayrshire, East Renfrewshire and Glasgow); and the majority of the secondary school vehicles (within South Ayrshire, East Renfrewshire, Glasgow, West Dunbartonshire, East Ayrshire and Renfrewshire). SPT covers an area with high competition amongst bus companies and in-depth engagement has taken place with the Regional Transport Partnership, which reports that it has begun to add a seat belt requirement into contracts since the Ministerial announcement in 2014 and that there have been no major issues with the transition since then”.

SOURCES

Butcher, Louise (2010) *Buses: Seat Belts*. London: House of Commons. Available at: <http://researchbriefings.files.parliament.uk/documents/SN00542/SN00542.pdf>

Department for Transport (2010) *Seat belts in Minibuses, Coaches and Other Buses*. London: Department for Transport. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407574/Information_Sheet_Seat_Belts_in_Minibuses_Coaches_and_Buses.pdf

RoSPA (2017) *Seat Belts: Law*. London: RoSPA. Available at: <http://www.rospace.com/road-safety/advice/vehicles/in-car-safety-and-crashworthiness/seat-belts-law/>

Scottish Government (2008) *Letter to Public Petitions Committee*. Edinburgh: Scottish Government. Available at: http://external.parliament.scot/S3_PublicPetitionsCommittee/Submissions_07/PE1098A.pdf

Scottish Government (2016) *Consultation on Seatbelt Requirements on Dedicated School Transport*. Edinburgh: Scottish Government. Available at: <http://www.gov.scot/Publications/2016/03/7693/0>

Seat Belts on School Transport Bill [as introduced] Session 5 (2017). SP Bill 7. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/Seat%20Belts%20on%20School%20Transport/SPBill07S052017.pdf>

Seat Belts on School Transport Bill: Explanatory Notes (and other accompanying documents). Session 5 (2017). SP Bill 7-EN. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/Seat%20Belts%20on%20School%20Transport/SPBill07ENS052017.pdf>

Seat Belts on School Transport Bill: Policy Memorandum. Session 5 (2017). SP Bill 7-PM. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/Seat%20Belts%20on%20School%20Transport/SPBill07PMS052017.pdf>

Seat Belts on School Transport Bill: Financial Memorandum. Session 5 (2017). SP Bill 7-FM. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/Seat%20Belts%20on%20School%20Transport/SPBill07FMS052017.pdf>

Transport Scotland (2014) *Minister outlines safety plans for school transport*. Glasgow: Transport Scotland. Available at: <http://www.transport.gov.scot/news/minister-outlines-safety-plans-school-transport>

Transport Scotland (2016) *Consultation on seatbelt requirements for dedicated school transport Analysis Report*. Glasgow: Transport Scotland. Available at: <http://www.transport.gov.scot/system/files/documents/reports/Transport%20Scotland%20-%20FCAS%20-%20School%20transport%20-%20Seat%20belt%20consultation%20-%20Analysis%20Report%20-%20August%202016.pdf>



SPICe

The Information Centre

RELATED BRIEFINGS

[SB16-55 Transport in Scotland](#)

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Alan Rehfisch on extension 85158 or email alan.rehfisch@parliament.scot

Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@parliament.scot.

Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH 99 1SP

www.parliament.scot