

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (WEARING OF SEAT BELTS BY CHILDREN IN
FRONT SEATS) (AMENDMENT) REGULATIONS 2006

2006 No. 2213

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

This memorandum should be read in conjunction with the Explanatory Memorandum to the Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations 2006 (S.I 2006 No. 1892) (the “**Wearing of Seat Belts Amendment Regulations**”). Those Regulations together with these are intended to implement provisions of Directive 2003/20 EC. Both sets of Regulations are intended to come into force on 18 September 2006.

2. Description

- 2.1. These Regulations change current legislation on the wearing of seat belts and other restraints by children under 14 when travelling in the front of a motor vehicle. As so amended, the legislation (details of which are noted below at paragraphs 4.1 - 4.4) will require:

- 2.1.1. children up to 11 years of age but less than 135 centimetres in height, to be secured by child restraints appropriate for their height and weight; and

- 2.1.2. children aged 12 and 13 (and those under 12 but 135 centimetres or more in height), to use either appropriate child restraints or else an adult seat belt.

- 2.2. The Regulations retain certain existing exemptions from the current equivalent requirements. These are exemptions for children with a medical condition making it inadvisable for them to wear a seat belt or child restraint and for disabled children if they are wearing a disabled person’s belt. Children aged 12 and 13 will also be allowed to travel unrestrained in the front of a vehicle if there is no seat belt for them in the front of the vehicle. This latter exemption will also extend to children under 12 but 135cms or more in height (currently it would only be available if they were 150cms or more in height).

- 2.3. The Regulations remove exemptions allowing:

- 2.3.1. children under 1 year to travel in a carry cot; and

- 2.3.2. allowing children to travel in the front seat of a motor car first used before 1st January 1965 which has no rear seat and no appropriate seat belt or child restraint available for the child.

- 2.4. The Regulations also amend two of the existing exemptions as follows.
- 2.5. First they amend the exemption allowing children aged 3 years or over to use an adult belt if an appropriate child restraint is not available either in the front or rear of a vehicle. This exemption will now only be available where the child is travelling on a bus whereas previously it was available for travel in all classes of vehicle.
- 2.6. Secondly, they restrict the existing exemption allowing children to travel unrestrained in certain larger classes of vehicle which are being used to provide a local service to travel on buses which are providing a local service in a “built up” area or on which standing is permitted (provided that the bus is designed for this). A service will be provided in a “built-up” area for these purposes so long as the entire route consists of roads with street lights no more than 200 yards apart in England and Wales or 175 metres apart in Scotland. These are roads for which the normal speed limit is 30 m.p.h.
- 2.7. The Regulations also amend the description of the types of child restraints, or adult belt in the case of large children, which may be used. The effect of the amendment is to permit restraints or belts approved by other member states to be worn in all classes of motor vehicle. Previously restraints approved by other member states could only be worn in a “relevant vehicle”, these being defined as light goods vehicles, passenger cars and small buses
- 2.8. The changes made by these Regulations are complementary to equivalent changes made to the requirements for children under 14 riding in the rear seats of motor vehicles by the Wearing of Seat Belts Regulations. Those regulations also amend the seat belt requirements in relation to adults and children over 14 in the front and rear of motor vehicles. The explanatory memorandum for the Wearing of Seat Belts Regulations sets out fuller details of those changes. The reason for having two separate sets of regulations is explained below at paragraph 4.4.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1. These Regulations implement certain provisions of Directive 2003/20/EC (which amends Council Directive 91/671/EEC relating to the compulsory use of safety belts in vehicles less than 3.5 tonnes). As noted above, other provisions of Directive 2003/20/EC relating to the use of seat belts and child restraints are implemented by the Wearing of Seat Belts Amendment Regulations. The Explanatory Memorandum to those Regulations, at paragraphs 3.7, 3.9 and 3.10, brought the Committee’s attention to four matters of special interest. These matters are also of relevance to the present Regulations. They are:
- 3.1.1. that regulations to amend the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) are being prepared to implement changes to the specification of seat belts and child restraints which Directive 2003/20 requires to be used from 9 May 2008;
- 3.1.2. that the Department is giving further consideration to what implementation, if any, is required in relation to article 1(6) of Directive 2003/20 which inserts

new article 6b into Directive 91/671/EEC. The exemption contained in the article can be relied upon until 9 May 2009 so that any necessary changes are not required to be brought into force until then; and

- 3.1.3. that the legislation necessary to implement Directive 2003/20/EC was required to be put in place before 9 May 2006 a date which the Department regrets has not been achieved. It is intended that both the present Regulations and the Wearing of Seat Belts Amendment Regulations will however come into force on 18 September 2006.
- 3.2. The Explanatory Memorandum for the Wearing of Seat Belts Amendment Regulations also noted that the Department is intending to consult further over how to implement the requirement (set out at new article 2(2)(a) of Directive 91/671 as inserted by article 1.3 of Directive 2003/20) for children aged 3 or more but less than 14 to wear seat belts in the rear seats of large buses (referred to as M3 vehicles in the Directive).
- 3.3. The Committee may wish to note that the position as regards large buses will differ when the present Regulations come into force depending on whether children are sitting in front seats or back seats. In back seats, as noted in the Explanatory Memorandum to the Wearing of Seat Belts Regulations, there will be no statutory requirement for children under 14 to wear seat belts or child restraints. As explained in the Explanatory Memorandum to those Regulations, this is principally because of difficulties in identifying who should be responsible for ensuring such children are properly restrained (see paragraph 3.8 of the EM).
- 3.4. Where the front seats of large buses are concerned, however, the position will be different as the requirement to use a child restraint or seat belt will in general apply as indeed it already does under the present legislation. This in part takes account of the greater ease with which a bus driver would be able to supervise children in the front seats of buses.
- 3.5. In practice, however, the cases where there would be a requirement for children to wear a seat belt or child restraint in the front seat of a large bus would be fairly few. The first reason for this is that large buses (which for these purposes would include most coaches) only very rarely have front seats as these are defined in the existing legislation (which in this respect is unchanged by the current Regulations). Front Seats for these purposes are defined ¹ in effect as those seats on a bus which are parallel to the bus driver's seat; they would not include any seats at the front of the top deck of a bus (these representing rear seats for the purposes of the legislation); nor would they include the "front" seats on a bus if these were further back in the bus than the driver's position. The Department's understanding is that it is only on a very few coaches that seats forward or parallel to the driver's position are found.
- 3.6. Secondly, large buses which are running local services in built-up areas or on which standing is permitted will also be exempt from the requirement for children to wear seat belts/child restraints in front seats.

¹ At regulation 4 of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 (S.I. 1993/31)

4. Legislative Background

- 4.1. Section 15(1) and (2) of the Road Traffic Act 1988 (**the “RTA”**) makes it an offence to drive a motor vehicle with a child under 14 years in a front seat if he is not using the appropriate seat belt or child restraint. Exemptions from these requirements can be set out in regulations. The present regulations for these purposes are the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 (**the “Children in Front Seat Regulations”**). Those Regulations also set out the detailed requirements in relation to the types of seat belt or child restraint to be used. This is principally done by reference to the Road Vehicles (Construction and Use) Regulations 1986 which prescribe markings to be applied to seat belts and child restraints showing the weight and height of child for which they are designed.
- 4.2. The Motor Vehicles (Wearing of Seat Belts) Regulations 1993 (**the “Wearing of Seat Belt Regulations”**) (S.I. 1993/176) make equivalent provision in relation to children under 14 travelling in rear seats and adults and children aged 14 and over travelling in front and rear seats.
- 4.3. The existing legislation implements (and in some respects goes beyond) Council Directive 91/671/EEC. That Directive, as noted, has now been amended by Directive 2003/20/EC of 8 April 2003. The present Regulations are intended to implement Directive 2003/20/EC by amending provisions of the Children in Front Seat Regulations. As noted above, the Wearing of Seat Belts Amendment Regulations (which amend the Wearing of Seat Belt Regulations) are intended to do the same as regards children under 14 travelling in the rear seats of vehicles and adults and children over 14 travelling in the front and rear of vehicles.
- 4.4. Two separate sets of regulations have been required because section 15(1) RTA (which is the principal enabling power for these Regulations) prescribes a negative resolution procedure (see section 195(3) RTA). The principal enabling powers for the Wearing of Seat Belts Amendment Regulations (together with section 2(2) European Communities Act 1972) however were sections 14(1) and 15(3) RTA for which the affirmative draft procedure is prescribed (see section 195(3) and (4) RTA).

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

- 6.1 Dr Stephen Ladyman has made the following statement regarding Human Rights:

“In my view the provisions of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations 2006 are compatible with the Convention rights.”

7. Policy background

7.1 The policy background to these Regulations is set out in the Explanatory Memorandum to the Wearing of Seat Belts Amendment Regulations.

8. Impact

8.1 The impact of these Regulations are set out in the Explanatory Memorandum prepared for the Wearing of Seat Belts Amendment Regulations.

9. Contact

Andrew Burr of the Road User Safety Division, Department for Transport, Zone 2/11, Great Minster House, 76 Marsham Street, London SW1P 4 DR (Tel: 020 7944 2037); e-mail: andrew.burr@dft.gsi.gov.uk) can answer questions regarding the instrument.

Transposition Note for Directive 2003/20/EC of the European Parliament and of the Council of 8 April 2003 amending Council Directive 91/671/EEC on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 3.5 tonnes

This note supplements and should be read in conjunction with the transposition note for the Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations 2006 (**S.I. 2006 No. 1892, the “Wearing of Seat Belts Amendment Regulations”**) to cover further transposition of the Directive by means of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations 2006 (**the “Children in Front Seat Amendment Regulations”**).

The Children in Front Seat Amendment Regulations, do what is necessary to implement the Directive, in relation to children under 14 travelling in the front seats of motor vehicles including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply. The Wearing of Seat Belts Amendment Regulations make similar provision in implementing the Directive in relation to adults and children 14 and over travelling in the front and rear of motor vehicles and children under 14 travelling in the rear of motor vehicles

In the first column references in brackets are to provisions of the 1991 Directive substituted or amended by the 2003 Directive.

Article	Objective	Implementation	Responsibility
1.2 (1.1)	<p>Requires member states to extend the scope of the 1991 Directive.</p> <p>The 1991 Directive already covers three categories of vehicles: M1 (passenger vehicles except buses (cars)), M2 (buses up to 3.5 tonnes and excluding rear seats) and N1 (goods vehicles with a maximum gross weight not exceeding 3.5 tonnes (light vans) but again excluding rear seats). The 2003 Directive extends the coverage of M2 vehicles up to 5 tonnes and includes rear seats, adds rear seats for N1 vehicles and also adds M3 vehicles (buses over 5 tonnes), N2 vehicles (goods vehicles with a maximum gross weight between 3.5 and 12 tonnes) and N3 vehicles (goods vehicles with a maximum gross weight exceeding 12 tonnes).</p>	<p>The 1991 Directive is implemented in relation to children under 14 in front seats by section 15 (1) of the Road Traffic Act 1988 (the "RTA") and coverage of the 1991 Directive classes of vehicles (and some others - including front seats of all motor vehicles) is provided for under regulation 6 of the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 (S.I. 1993/31) (the "Children in Front Seats Regulations") which applies to all motor vehicles except two-wheeled motor cycles with or without sidecars. The additional 2003 Directive vehicle categories are therefore already covered as regards front seats in the Children in Front Seats Regulations. No further implementation is therefore required as regards children under 14 in front seats. For implementation in relation to children under 14 in rear seats and children 14 and over and adults in front and rear seats see the Transposition notes to the Wearing of Seat Belts Amendment Regulations.</p>	Secretary of State

1.2 (1.2 - 1.4)	This provision sets out definitions used in the operative provisions of the Directive	Relevant definitions are set out in section 15 ("passenger car"), 185 ("motor vehicle") and 192 ("goods vehicle") of the RTA and in regulation 2 of the Children in Front Seat Regulations to which amendments are made by regulation 3 of the present Regulations.	
1.3 (2.1.a.i - first sub-paragraph)	Requires member state to ensure that all occupants of vehicles use the safety systems provided in M1, N1, N2 and N3 vehicles.	See above for the present scope of national legislation on children in front seats of motor vehicles. The requirement to wear seat belts in front seats arises in the case of children under 14 under section 15(1) of the RTA.	Secretary of State
1.3 (2.1.a.i - second sub-paragraph)	Requires member states to ensure that children less than 150 cm (or where the exemption in amended Article 2(1)(a)(ii) is relied upon, 135cm) travelling in M1, N1, N2 and N3 vehicles are restrained by an integral or non-integral child-restraint system suitable for the child's mass.	This has been implemented, in relation to the front seats of vehicles, by regulations 3(2) and (5) and regulation 6 of the present Regulations as read with section 15(1) of the RTA and regulations 2(5) and 5 of the Children in Front Seats Regulations. Regulation 2(5) of the Children in Front Seat Regulations as amended by regulation 3(5) of the present Regulations defines the requirements to be satisfied by a child restraint both of the integral and non-integral kind. Regulation 2(3) of the Children in Front Seats Regulations (as amended by regulation 3(2) of the present Regulations) defines a "small child" as a child aged less than 12 and less than 135cm in height. A large child is a child (under 14) who is not a small child (again see regulation 2(3) of the Children in Front Seats Regulations). Regulation 5 of the Children in Front Seats Regulations prescribes the description of seat belt to be worn by children under 14 for the purposes of section 15(1) RTA. For a small child	Secretary of State

		<p>(see above) these are a restraint suitable for their weight and height and for a large child (see above) a similarly suitable restraint or an adult belt. Regulation 6 of the present Regulations replaces regulation 7(1) of the Children in Front Seats Regulations and, among other things, amends the current exemption, applying to all classes of vehicle, permitting small children over 3 to wear an adult belt, if a suitable child restraint is not available. This is replaced with an equivalent exemption limited to buses only. Buses are equivalent to M2 and M3 vehicles (see the definition of a “bus” as provided by section 15(9) RTA, as amended by regulation 3(4) of the Wearing of Seat Belts Amendment Regulations and article 1.1 of Directive 91/671, as replaced by article 1.2 of Directive 2003/20, which, among other things, defines M2 and M3 vehicles).</p>	
<p>1.3 (2.1.a.i) third sub-paragraph, first and second indents)</p>	<p>Children under three years may not be carried in M1, N1, N2 and N3 vehicles which are not fitted with safety systems. Children aged three and over and less than 135cm (the exemption in Article 2(1)(a)(ii) is relied upon) may travel in the rear of such vehicles.</p>	<p>This requirement is implemented in relation to front seats by section 15(1) RTA and the Children in Front Seats Regulations as amended by the present Regulations. As noted regulation 6 of the present Regulations reduces the scope of the exemption (at Regulation 7(1)(a) of the Children in Front Seats Regulation) which allows a small child to wear an adult belt in the front seat of all vehicles if a suitable child restraint is not available. That exemption is now restricted to a small child wearing an adult belt in the front of buses (M2 and M3 vehicles) only. Regulation 6 also removes the exemption (at Regulation 7(1)(c) of the Children in Front Seats Regulations) which permitted a child</p>	<p>Secretary of State</p>

		under 1 year in a carry cot in the front seat. In relation to rear seats, the requirements of the Directive are implemented by section 3(3) RTA, as amended by regulation 3(3) of the Wearing of Seat Belts Amendment Regulations.	
1.3 (2.1.a.ii)	Allows member states to substitute 135cm for 150cm as the height when children may be restrained by an adult belt.	Regulation 3(2) implements this part of Article 1.3 by substituting 135cm for 150cm in the definition of a “small child” in regulation 2(3) of the Children in Front Seat Regulations.	Secretary of State
1.3 (2.1.a.iii) to (2.1.b)		See the Transposition Note for the Wearing of Seat Belts Amendment Regulations for implementation of these provisions.	Secretary of State
1.3 (2.1.c and d)	Allows member states to permit until 8 May 2008 the use of child-restraint systems approved in accordance with the national standards in member states. After that date child-restraint systems must conform to the standards of Regulation 44/03 of the United Nations Economic Commission for Europe (UN-ECE) or Directive 75/541/EEC.	The Transposition Note to the Wearing of Seat Belts Amendment Regulations explains that Article 2.1d is already provided for by regulation 5 of the Children in Front Seats Regulations. Amendments to regulation 5 by regulation 5 of the present regulations have the effect of extending the scope of the derogation to the new classes of vehicles brought within the 1993 Directive as amended by the 2003 Directive. Article 2.1c will be implemented by separate amendments to the Road Vehicles (Construction and Use) Regulations 1986 and consequential amendments to the Children in Front Seats Regulations and the Motor Vehicles (Wearing of Seat Belts) Regulations 1993 (S.I. 1993/31). These will be timed to take effect on 8 May 2008.	Secretary of State
1.3 (2.2a)	Requires member states to ensure that all occupants aged three and over of M2 and M3 vehicles use the safety systems provided when they are seated.	This provision is implemented in relation to children under 14 in the front seats of vehicles by section 15(1) of the RTA as read with the Children in Front Seats Regulations. Regulation 7(1) of those Regulations, as amended by Regulations 6 of the	Secretary of State

		present Regulations permits small children (those under 12 and under 135cms in height) to wear an adult belt in a bus (i.e. and M2 or M3 vehicle - see above) if a suitable child restraint is not available. Large children (those aged 12 and 13 and those under 12 but 135cms or over in height - see above at 1.3 (2.1.a.i - second sub-paragraph) must wear a suitable child restraint or an adult belt (section 15(1) RTA read with regulation 5(1) of the Children in Front Seats Regulations). But if neither a suitable restraint nor an adult belt are available a large child may travel unrestrained (see regulation 7(3) of the Children in Front Seats Regulations).	
1.3 (2.6)		See the Transposition Note for the Wearing of Seat Belts Amendment Regulations for implementation of these provisions..	Secretary of State
1.4	This repeals article 4 of Directive 91/671 which allowed children over 3 years to be restrained by adult belts in M1, M2 and N1 vehicles and children under 3 to be carried unrestrained if a suitable child restraint was unavailable.	See comments above at 1.3 (2.1 a.i second sub-paragraph) and 1.3 (2.1 a.i. third sub-paragraph first and second indents). These provisions in effect displace article 4; the relevant national implementation provisions are indicated at those entries.	Secretary of State
1.5 (6, 3 rd , 4 th and 5 th indent)		See the Transposition Note for the Wearing of Seat Belts Amendment Regulations for implementation of these provisions.	Secretary of State
1.5 (6, 6 th indent)	Provides that member states may grant an exemption from the requirement to wear seat belts in M2 and M3 vehicles used for local transport in urban and built-up areas, or in which standing is allowed.	Regulation 6 (which amends regulation 7(2) of the Children in Front Seats Regulations) provides this exemption for children under 14. The definition of a “built up” area for the purposes of regulation 6 is inserted by regulation 3(6) of the present Regulations.	Secretary of State
1.5 (6a) and (6b)		Refer to the Transposition Note to the Wearing of Seat Belts Amendment Regulations.	Secretary of State

