

BUS SERVICES (NO. 2) BILL

Supplementary Delegated Powers Memorandum from the Department for Transport

A. INTRODUCTION

1. This memorandum has been prepared by the Department for Transport to assist with the scrutiny of the Bus Services (No. 2) Bill (“the Bill”).
2. This Memorandum describes powers in the Bill conferring power to make subordinate legislation and other delegated powers which were amended or added at the Public Bill Committee and Report stage in the House of Commons (second House). This Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced, and as amended during Lords passage.
3. This memorandum covers six new delegated powers, made by amendments approved by the House of Commons at Committee stage between 24 June and 3 July 2025, and at Report Stage on 10 September 2025.

B. DELEGATED POWERS

Safeguarding duty: drivers of school services

Clause 33

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary procedure: Negative

Context and Purpose

4. This clause has been amended to provide for the duty to check the criminal record certificates of drivers of closed school bus services which have stops in Wales not to apply until switched on by regulations. It also excludes that duty entirely for ‘local bus services’ as defined in the Bus Services (Wales) Bill and services for which the Welsh Ministers, Welsh local authorities or governing bodies of schools in Wales are responsible. The clause inserts a new section 29B into the Public Passenger Vehicles Act 1981 (“the 1981 Act”).
5. The Welsh Government are bringing forward the Bus Services (Wales) Bill through the Senedd, and, as such, do not consider it necessary for the powers under this clause to

extend to services for which Welsh authorities are responsible as they will have powers through existing legislation and the Wales Bill to achieve a similar outcome.

Justification for taking the power

6. The amendment made at Committee Stage to this clause excludes school services with a stopping place in Wales from the requirement to check criminal record certificates, unless the Secretary of State makes regulations to include them.
7. The regulations cannot apply the requirement to check criminal record certificates to the services described in paragraph (2) of new section 29B (Application of section 29A duty: services in Wales). The Welsh Government has or will have powers to achieve similar outcomes to clause 33 for those services.
8. As introduced, clause 33 mandates operators to check the enhanced criminal record certificate, which includes information on whether the individual is barred from undertaking regulated activity relating to children, or up-to-date information in relation to that enhanced criminal record certificate, of their drivers every three years before permitting such drivers to drive a public service vehicle on a closed school service.
9. Government intends for the regulations to be made after the Bus Services (Wales) Bill is passed. This will allow for the regulations to apply clause 33 to those closed school bus services that have a stop in Wales, where the Welsh Government is unable to achieve the same outcomes as those enabled under clause 33.
10. In furtherance of this aim, and given the complex interactions with devolved legislation, the Department considers that regulations are the most appropriate vehicle to achieve the purpose of this clause, as amended.

Justification for the procedure

11. Regulations made under this power will be subject to the negative procedure, by virtue of section 61(1) of the 1981 Act. This is the default procedure currently applicable to regulations made under the Act and regulations made using this power will not expand the legislative requirements, only extend the scope to certain closed school bus services which have a stop in Wales, as appropriate. On this basis the negative procedure is considered to provide the appropriate level of scrutiny.

Training about crime and anti-social behaviour

Clause 34

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary procedure: Negative

Context and Purpose

12. This clause has been amended to provide for the training requirement in new section 144F of the Transport Act 2000 not to apply to services that have stops in Wales until switched on by regulations, and excludes that requirement entirely for services for which the Welsh Ministers are responsible or which are provided in Wales under a service permit granted by the Welsh Ministers. This takes the form of a new section 144G of the Transport Act 2000.
13. In common with the new power under clause 33, due to the Welsh Government bringing forward their own legislation through the Senedd, it is no longer considered necessary for these powers to extend to services for which Welsh authorities are responsible or services provided under a service permit insofar as they are provided in Wales.

Justification for taking the power

14. The amendment made to this clause at Committee Stage provides that the training requirement will only apply to England-only services, until the Secretary of State makes regulations that switch on the training requirement in relation to particular cross-border services between England and Wales, once the Senedd has passed its own bus legislation (the Bus Services (Wales) Bill). Government intends for the regulations to be made after the Bus Services (Wales) Bill is passed.
15. In the case of regulations being made, the training requirement cannot apply to cross-border services which are being provided pursuant to a duty owed by Welsh Ministers (such as under a franchise or where the Welsh Ministers provide the cross-border service directly).
16. Where the cross-border service is being provided under a service permit, the training requirement cannot apply to any part of that service provided in Wales (but it may apply to the part that is provided in England if provided for in regulations).
17. In common with clause 33, due to the complex interactions between this Bill and devolved legislation, the Department considers that regulations are the most appropriate vehicle to achieve the purpose of this clause, as amended.

Justification for the procedure

18. Section 160(2) of the Transport Act 2000 makes the negative procedure the default procedure for regulations in Part 2 of the Act, where this new provision will be inserted.

Use of zero-emission vehicles for local services in Scotland

Clause 38 – Restriction on using non zero-emission vehicles for registered local services in Scotland – power to specify the date after which a non-zero emission vehicle must have been first registered under the Vehicle and Registration Act 1994 in order to be caught by the restriction.

Power conferred on: Scottish Ministers

Power exercised by: Regulations

Parliamentary procedure: Affirmative (Scottish Parliament)

Context and Purpose

19. Clause 38 of the Bill, inserted at Report Stage, adds a new section 35B into the Transport (Scotland) Act 2001 which prohibits the use of “new” non-zero emission buses on registered local bus services in Scotland. This was following a request from the Scottish Government to do so.
20. The policy aim of only prohibiting the use of “new” non-zero emission buses is achieved under section 35B(3)(b)), which provides that vehicles will only come within the scope of the prohibition if they are first registered under the Vehicle and Registration Act 1994 on or after a date specified in regulations. Subsection (5) provides that the date specified cannot be before 1 January 2030.
21. Restricting the usage of new non-zero emission buses on Scottish local bus routes would deliver significant environmental and air quality benefits contributing to the UK meeting its interim carbon budget and net-zero emissions targets, as required by the Climate Change Act 2008.
22. The measure will affect all bus services in Scotland which are within the scope of section 6 of the Transport Act 1985, which sets out the mechanism for the registration of local bus services, as well as those which are not required to be registered under that section because of section 13B(1)(a) of the Transport (Scotland) Act 2001.
23. In relation to cross border services, the restriction is intended to apply only to the part of a service operating in Scotland.

Justification for taking the power

24. Not specifying in primary legislation the exact date after which vehicles must have been registered ensures that the Scottish Government has flexibility to adapt policy depending on changes in technology and market economics. The policy will provide certainty for manufacturers, bus operators and local transport authorities to begin transitioning their fleets away from non-zero emission buses. It will empower them

to focus research and development and other activities on achieving zero emissions, thereby reducing the need for subsidy support by making zero emission buses cheaper and reducing operator running costs.

25. Setting the earliest possible date after which vehicles must have been registered to be caught by the restriction as 1 January 2030, will provide reassurance that there will be sufficient time to properly plan the transition.

Justification for the procedure

26. The affirmative procedure, under section 81(4) of the Transport (Scotland) Act 2001, is considered appropriate for this new power, given the important content of the regulations (i.e. setting the date).

Clause 38 - Subsection (4)(a) of the new section 35B – power to specify documentation to determine what is included in a vehicle’s tailpipe emissions

Power conferred on: Scottish Ministers

Power exercised by: Regulations

Parliamentary procedure: Negative

Context and Purpose

27. As explained above, clause 38 will insert a new provision in the Transport (Scotland) Act 2001 which will prohibit the use of new non-zero emission buses on registered local bus services in Scotland. The prohibition will apply to vehicles that emit tailpipe emissions. To provide certainty for operators of buses, and for the traffic commissioner in their enforcement of the restriction, the Department considers it necessary to provide the Scottish Ministers with the power to specify in regulations which documentation may be used to establish that a vehicle emits zero tailpipe emissions.

Justification for taking the power

28. To ensure that the ability to certify a vehicle as zero emission stays current as both policy and technology changes, the Department judges it appropriate to not include this on the face of the Bill and rather specify such documentation in secondary legislation.

Justification for the procedure

29. Section 81(3) of the Transport (Scotland) Act 2001 makes the negative procedure the default procedure for regulations, except for those listed in section 81(4). Given the

limited and technical nature of the provision that is to be made under these regulations, the negative procedure will afford an appropriate level of scrutiny.

Clause 38 - Subsection (4)(b) of the new section 35B – power to make regulations to exempt vehicles of specified descriptions, from the restriction on using new non-zero emission buses on registered local bus services in Scotland

Power conferred on: Scottish Ministers

Power exercised by: Regulations

Parliamentary procedure: Negative

Context and Purpose

30. There may be a need to exempt certain types of vehicles from the aforementioned restriction on using new, non-zero emission buses on registered local bus services in Scotland. For example, exemptions may be needed where adequate zero-emission models are unavailable for particular types of service, and volumes are so low as to make investment in them unfeasible.

Justification for taking the power

31. If the Scottish Government considers that the market for specific types or use cases of zero emission vehicles has not developed sufficiently by the time the measure takes effect, then Scottish Ministers may consider exempting those types of vehicles to enable the relevant local services reliant on those vehicles to still run, provided there are no reasonable alternatives. The market for zero emission buses is developing quickly; it would be appropriate to make an assessment nearer to the time the restrictions will come into effect.

Justification for the procedure

32. Section 81(3) of the Transport (Scotland) Act 2001 makes the negative procedure the default procedure for regulations, except for those listed in section 81(4). Given the limited and technical nature of the provision that is to be made under these regulations, the negative procedure will afford an appropriate level of scrutiny.

Clause 38 - Subsection (3)(c) of the new section 35B – power to make regulations to exempt specified local services, or descriptions of local services, from the restriction on using new non-zero emission buses on registered local bus services in Scotland

Power conferred on: Scottish Ministers

Power exercised by: Regulations

Parliamentary procedure: Negative

Context and Purpose

33. As for the above power, there may be a need to exempt certain services from the aforementioned restriction on using new non-zero emission buses on registered local bus services in Scotland. For example, exemptions may be needed where particular types of service are unviable to operate with zero emission vehicles.

Justification for taking the power

34. As for the above power, there may be a need for Scottish Ministers to exempt certain local services from the restriction set out in subsection 1 of the newly inserted Section 35B, if the market for specific types or use cases of zero emission vehicles has not developed sufficiently by the time the measure comes into force. This power would allow particular services to be run by vehicles that are not zero-emission vehicles, while not allowing those vehicles to operate all registered local services.

Justification for the procedure

35. Section 81(3) of the Transport (Scotland) Act 2001 makes the negative procedure the default procedure for regulations, except for those listed in section 81(4). Given the limited and technical nature of the provision that is to be made under these regulations, the negative procedure will afford an appropriate level of scrutiny.