



# Transport (Scotland) Act 2001

## 2001 asp 2

### PART

#### ROAD USER CHARGING

##### *Road user charging schemes*

#### **49 Charging schemes**

- (1) A charging scheme may be made by a local traffic authority or by two or more such authorities acting jointly.
- (2) A charging scheme may be made only in respect of roads for which the charging authority, or either (or any) of the charging authorities, are the local traffic authority.
- (3) A charging scheme may be made only if—
  - (a) the charging authority, or each of the charging authorities, proposing to make the scheme have a local transport strategy; and
  - (b) the scheme appears desirable to the authority, or each of them, for the purpose of directly or indirectly facilitating the achievement of policies in their strategy.
- (4) Charges imposed in respect of any motor vehicle by a charging scheme shall be paid—
  - (a) by the registered keeper of the motor vehicle; or
  - (b) in such circumstances as the Scottish Ministers may by regulations specify, by such other person as may be so specified.
- (5) In this Part of this Act—

“charging authority”, in relation to a charging scheme made or proposed to be made by one authority, means the authority by which the charging scheme is or is proposed to be made;

“charging authorities”, in relation to a charging scheme made or proposed to be made jointly by more than one authority, means the authorities by which the charging scheme is or is proposed to be made; and

“charging scheme” means a scheme for imposing charges in respect of the use or keeping of motor vehicles on roads.

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## **50 Charging schemes to be made, varied and revoked by order**

- (1) A charging scheme shall be contained in an order made by the charging authority or the charging authorities (acting jointly).
- (2) Any charging scheme may be varied or revoked by order made by the charging authority or authorities (acting jointly) who made the scheme.
- (3) The Scottish Ministers may by regulations make provision as respects orders made under this section, including (in particular)—
  - (a) provision specifying the form of orders;
  - (b) provision about consultation on proposals for orders (including the publication of such proposals and the making and consideration of objections to proposals); and
  - (c) provision about the publication of notice of orders and of their effect.

## **51 Confirmation of orders**

- (1) A charging scheme shall not come into force unless the order making it has been submitted to and confirmed by the Scottish Ministers; and a variation or revocation of such a charging scheme shall not take effect until the order making the variation or revocation has been so submitted and confirmed.
- (2) Subsection (1) above shall not apply in such circumstances as may be specified in, or determined in accordance with, regulations made by the Scottish Ministers.
- (3) Where confirmation of an order is required by this section, the order may be confirmed by the Scottish Ministers—
  - (a) in the form in which it is submitted; or
  - (b) subject to such modifications as they may specify.

## **52 Charging schemes: consultation and inquiries**

- (1) Before an order making, varying or revoking a charging scheme is made, the charging authority or charging authorities (acting jointly)—
  - (a) shall consult such persons as may be specified in regulations made under section 50(3) of this Act; and
  - (b) may consult such other persons as they think fit, about the scheme or, as the case may be, the variation or revocation.
- (2) Where an order making, varying or revoking a charging scheme is submitted to the Scottish Ministers under section 51 of this Act they may at any time before the order is confirmed—
  - (a) consult; or
  - (b) require the charging authority or authorities to consult, other persons about the charging scheme or, as the case may be, the variation or revocation.
- (3) The Scottish Ministers—
  - (a) may cause an inquiry to be held in relation to a charging scheme, or the variation or revocation of such a scheme; and
  - (b) may appoint the person or persons by whom such an inquiry is to be held.

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- (4) The charging authority or charging authorities (acting jointly)—
  - (a) may cause an inquiry to be held in relation to a charging scheme proposed to be made by them, or the proposed variation or proposed revocation of a charging scheme made by them; and
  - (b) may appoint the person or persons by whom such an inquiry is to be held.
- (5) Without prejudice to the generality of subsection (3) above, the Scottish Ministers may by regulations specify circumstances in which a charging authority or charging authorities (acting jointly) shall cause an inquiry to be held in relation to a charging scheme proposed to be made by them, or the proposed variation or proposed revocation of a charging scheme made by them.
- (6) Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) (witnesses and costs at inquiries) shall apply in relation to any inquiry held by virtue of this section.

### **53 Matters to be dealt with in charging schemes**

- (1) A charging scheme shall—
  - (a) designate the roads in respect of which charges are imposed;
  - (b) specify or describe the events by reference to the happening of which a charge is imposed in respect of a motor vehicle being used or kept on a road;
  - (c) specify the classes of motor vehicles in respect of which charges are imposed;
  - (d) specify the classes of motor vehicles which are exempt from charges or in respect of which reduced rates of charges are imposed;
  - (e) specify the charges imposed;
  - (f) specify the period during which it is to remain in force; and
  - (g) make provision for or in connection with the collection, payment and recording of charges.
- (2) Subject to section 49(2), and to any modifications made by virtue of section 51(3)(b), of this Act, the designation of the roads in respect of which charges are imposed by a charging scheme shall be such as the charging authority or authorities may determine.
- (3) No charge may be imposed by a charging scheme in respect of the keeping of a motor vehicle on a road unless such charge also has effect in respect of the use of the motor vehicle on that road.
- (4) The charges that may be imposed by a charging scheme include different charges (which may be no charge) for different cases, including (in particular)—
  - (a) different days;
  - (b) different times of day;
  - (c) different roads;
  - (d) different distances travelled;
  - (e) different purposes for which motor vehicles are being used;
  - (f) different numbers of occupants; and
  - (g) different classes of motor vehicles.
- (5) A charging scheme may specify that the charges specified in the scheme shall be increased, on such dates as may be so specified, by reference to such percentage increases in the retail prices index as may be so specified.

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- (6) In setting the charges imposed by a charging scheme, the charging authority or authorities (acting jointly) shall have regard to the purposes for which the authority or authorities are, in accordance with schedule 1 to this Act, to apply the net proceeds of the charging scheme.
- (7) A charging scheme may contain provision requiring—
  - (a) such documents as may be specified in the scheme to be displayed on a motor vehicle while it is on a road in respect of which charges are imposed; or
  - (b) such equipment as may be so specified to be carried in or fitted to a motor vehicle while it is on such a road.
- (8) In this section “the retail prices index” means—
  - (a) the general index of retail prices (for all items) published by the Office for National Statistics; or
  - (b) where that index is not published for a month, any substituted index or figures published by that Office.

#### **54 Charging schemes: exemptions etc.**

- (1) The Scottish Ministers may make regulations requiring charging schemes to contain provision for or in connection with—
  - (a) exemptions from charges; or
  - (b) the application of reduced rates of charges.
- (2) A road shall not be subject to charges imposed by more than one charging scheme at the same time.

#### **55 Penalties and liability for charges**

- (1) The Scottish Ministers may by regulations make provision for or in connection with the imposition, notification, payment, adjudication and enforcement of charges (in this section such charges being referred to as “charging scheme penalty charges”) in respect of acts, omissions, events or circumstances relating to or connected with charging schemes.
- (2) Regulations under this section may include provision for or in connection with setting the rates of charging scheme penalty charges (which may include provision for surcharges or discounts).
- (3) Charging scheme penalty charges in respect of any motor vehicle shall be paid—
  - (a) by the registered keeper of the motor vehicle; or
  - (b) in such circumstances as may be specified in regulations under this section, by such other person as may be so specified.
- (4) A person commits an offence if with intent to avoid payment of, or with intent to avoid being identified as having failed to pay, a charge imposed by a charging scheme the person—
  - (a) interferes with any equipment used for or in connection with charging under the charging scheme; or
  - (b) causes or permits the registration plate of a motor vehicle to be obscured.

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- (5) A person commits an offence if with intent to avoid payment of, or with intent to avoid being identified as having failed to pay, charges imposed by a charging scheme or charging scheme penalty charges the person makes or uses any false document.
- (6) A person commits an offence if the person removes a notice of a charging scheme penalty charge which has been fixed to a motor vehicle in accordance with regulations under this section unless—
  - (a) the person is the registered keeper of the vehicle or a person using the vehicle with the registered keeper's authority; or
  - (b) the person does so under the authority of the registered keeper or such a person or of the charging authority or any of the charging authorities.
- (7) A person guilty of an offence under subsection (4) or (5) above shall be liable on summary conviction to—
  - (a) a fine not exceeding level 5 on the standard scale; or
  - (b) imprisonment for a term not exceeding 6 months, or to both.
- (8) A person guilty of an offence under subsection (6) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## **56 Examination, immobilisation and removal of vehicles etc.**

- (1) The Scottish Ministers may by regulations make provision enabling or requiring charging schemes to confer powers on persons specified in, or determined in accordance with, the regulations for or in connection with examining a motor vehicle for the purpose of ascertaining—
  - (a) whether any document required by a charging scheme to be displayed on a motor vehicle while it is on a road in respect of which charges are imposed is so displayed;
  - (b) whether any equipment required by a charging scheme to be carried in or fitted to the motor vehicle while it is on such a road is carried or fitted, is in proper working order or has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge; or
  - (c) whether any conditions relating to the use of any such equipment are satisfied.
- (2) Regulations under subsection (1) above may include provision for or in connection with—
  - (a) conferring on a person duly authorised in writing by the charging authority, or any of the charging authorities, power to enter a motor vehicle for the purpose of exercising any of the powers conferred on that person by virtue of that subsection;
  - (b) conferring on a person on whom power to enter a motor vehicle has been conferred by virtue of paragraph (a) above power to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under section 55(4) or (5) of this Act.
- (3) Any person who intentionally obstructs a person acting in the exercise of any power conferred by virtue of subsection (2) above shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.

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- (4) The Scottish Ministers may by regulations make provision enabling or requiring charging schemes to make provision for or in connection with—
- (a) the fitting of immobilisation devices to motor vehicles;
  - (b) the fixing of notices to motor vehicles to which an immobilisation device has been fitted;
  - (c) the removal and storage of motor vehicles;
  - (d) the release of motor vehicles from immobilisation devices or from storage;
  - (e) the satisfaction of conditions before the release of a motor vehicle; and
  - (f) the sale or destruction of motor vehicles not released.
- (5) Any person who removes or interferes with a notice fixed to a motor vehicle in accordance with provision included in a charging scheme by virtue of subsection (4) above in contravention of such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Any person who removes or attempts to remove an immobilisation device fitted to a motor vehicle in accordance with provision included in a charging scheme by virtue of subsection (4) above in contravention of such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Any person who intentionally obstructs a person exercising any power conferred by provision included in a charging scheme by virtue of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A charging scheme may authorise or require—
- (a) the examination of a motor vehicle;
  - (b) the fitting of an immobilisation device to a motor vehicle; or
  - (c) the removal of a motor vehicle,
- only if the vehicle is on a road.
- (9) In this section “immobilisation device” has the same meaning as in section 104 of the Road Traffic Regulation Act 1984 (c. 27).

## **57 Equipment etc.**

- (1) The charging authority, or any of the charging authorities, may—
- (a) install and maintain, or authorise the installation and maintenance of, any equipment; or
  - (b) construct and maintain, or authorise the construction and maintenance of, any buildings or other structures,
- used or to be used for or in connection with the operation of a charging scheme.
- (2) The Scottish Ministers may by regulations approve standards for equipment installed, or authorised to be installed, by charging authorities for or in connection with the operation of charging schemes.
- (3) No equipment may be installed for or in connection with the operation of a charging scheme if it is incompatible with a standard approved under subsection (2) above.

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## **58 Traffic signs**

- (1) The Scottish Ministers may direct the charging authority, or any of the charging authorities, in relation to a charging scheme to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with the scheme.
- (2) A charging authority which is or could be given a direction under this section may enter any land, and exercise any other powers which may be necessary, for placing and maintaining traffic signs, or causing traffic signs to be placed and maintained, in connection with any charging scheme in respect of which a direction is or could be given.
- (3) A direction under this section shall be given in writing and may be varied or revoked by the Scottish Ministers.
- (4) In this section “traffic signs” has the same meaning as in section 64 of the Road Traffic Regulation Act 1984 (c. 27).

## **59 Non-domestic rating exemption**

After section 8AA of the Valuation and Rating (Scotland) Act 1956 (c. 60) there shall be inserted—

### **“8B Property used for road user charging scheme to be excluded from valuation roll**

- (1) There shall not be entered in the valuation roll any lands and heritages—
  - (a) that consist of a road in respect of which charges are imposed by a charging scheme made under Part 3 of the Transport (Scotland) Act 2001 (asp 2); or
  - (b) subject to subsection (2) below, that are used solely for or in connection with the operation of such a scheme.
- (2) Lands and heritages such as are mentioned in subsection (1)(b) above do not include office buildings.”.