Transport (Scotland) Act 2019

2019 asp 17

PART 1

NATIONAL TRANSPORT STRATEGY

1 Preparation of strategy

(1) The Scottish Ministers must prepare a national transport strategy.

(2) The national transport strategy must set out—
- (a) the Scottish Ministers' vision for transport to, from and within Scotland,
- (b) their strategy for realising that vision, and
- (c) the policies which they intend to pursue in order to implement that strategy.

(3) The national transport strategy may include such other information as the Scottish Ministers consider appropriate.

(4) In determining the content of the national transport strategy, the Scottish Ministers must have regard, among other things, to the desirability of transport being provided, developed, improved and operated so as to contribute to improving outcomes in relation to the matters mentioned in subsection (5).

(5) Those matters are—
- (a) the ability of people to realise their human rights,
- (b) social and economic wellbeing, including in particular in relation to—
  - (i) social inclusion,
  - (ii) elderly persons,
  - (iii) inclusion of persons with disabilities,
  - (iv) inclusive economic growth,
  - (v) fair work,
  - (vi) reduction of poverty and inequality,
  - (vii) access to further and higher education via public transport,
  - (viii) sustainability of communities in rural areas,
- (c) the environment, including in particular in relation to—
  - (i) the sustainable and efficient use and re-use of resources,

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(ii) the meeting of the emission reduction targets set out in Part 1 of the Climate Change (Scotland) Act 2009,

(d) health and wellbeing.

Commencement Information

I1 S. 1 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

2 Consultation on strategy

(1) In preparing the national transport strategy, the Scottish Ministers must consult—

(a) such persons as they consider appropriate, and

(b) the general public.

(2) If, before the day on which this section comes into force (and whether before or after the Bill for this Act was passed), anything was done which, had it been undertaken after that day, would to any extent have satisfied subsection (1), that subsection is to that extent to be taken to have been satisfied.

Commencement Information

I2 S. 2 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

3 Publication and laying of strategy

(1) The Scottish Ministers must—

(a) publish the national transport strategy in such manner as they consider appropriate, and

(b) lay a copy of the strategy before the Scottish Parliament.

(2) As soon as reasonably practicable after complying with subsection (1), the Scottish Ministers must—

(a) publish a report setting out—

(i) the consultation process undertaken in order to comply with section 2(1), and

(ii) the ways in which, in preparing the national transport strategy, the Scottish Ministers have taken account of views expressed in the course of that process,

(b) lay a copy of the report before the Scottish Parliament, and

(c) seek to make a statement to the Scottish Parliament on the contents of the strategy.

Commencement Information

I3 S. 3 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

4 Review of strategy

(1) The Scottish Ministers—

(a) must keep the national transport strategy under review, and
(b) may, if they consider it appropriate, revise it.

(2) Sections 1(2) to (5), 2(1) and 3 apply in relation to any revision of the national transport strategy as they apply in relation to the original national transport strategy.

Commencement Information
I4 S. 4 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

5 Reporting on strategy

(1) As soon as reasonably practicable after the end of each reporting period, the Scottish Ministers must—
(a) publish a report setting out—
(i) progress made in the reporting period towards realising the vision in the national transport strategy, and
(ii) steps taken in the reporting period to keep the national transport strategy under review, and
(b) lay a copy of the report before the Scottish Parliament.

(2) A report under subsection (1)(a) may include such other information as the Scottish Ministers consider appropriate.

(3) In subsection (1), "reporting period" means the period of 3 years beginning with the day on which section 3(1) was complied with in relation to the original national transport strategy and each subsequent period of 3 years.

Commencement Information
I5 S. 5 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

PART 2

LOW EMISSION ZONES

VALID FROM 14/01/2021

CHAPTER 1

EFFECT OF A LOW EMISSION ZONE SCHEME

6 Restriction on driving within a zone

(1) A person may not drive a vehicle on a road within a low emission zone in contravention of the terms of a low emission zone scheme unless—
(a) the vehicle meets the specified emission standard, or

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(b) the vehicle is exempt by virtue of subsection (4)(b) or section 17.

(2) Where a person drives a vehicle on a road within a low emission zone in contravention of subsection (1), a penalty charge is payable in respect of the contravention.

(3) But, despite subsection (2), if—

(a) the same vehicle is driven within the same low emission zone in contravention of subsection (1) on more than one occasion in the course of the same day, and

(b) the person to whom the penalty charge notice would be issued in respect of those contraventions is the same person,

only one penalty charge is payable in respect of the contraventions.

(4) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate—

(a) make provision for or in connection with the specification of the emission standard for the purpose of subsection (1)(a),

(b) specify vehicles or types of vehicle which are exempt for the purpose of subsection (1)(b) including, in particular, by reference to their construction or use,

(c) make provision for or in connection with the amount that may be imposed as a penalty charge under subsection (2) (which may include provision for discounts and surcharges).

7 Proving contraventions and issue of a penalty charge notice

(1) The fact that a person was driving a vehicle on a road within a low emission zone may be established only on the basis of a record produced by an approved device.

(2) A record obtained from the Secretary of State or from another source as specified in regulations by the Scottish Ministers, certifying a vehicle's emission standard as at the date and time of the record produced by an approved device, is determinative of whether the vehicle meets the specified emission standard.

(3) Where a local authority considers that a penalty charge is payable under section 6(2) in respect of a low emission zone scheme it has made, it may issue, or make arrangements relating to the issue of, a penalty charge notice in accordance with regulations under section 8(1).

(4) A penalty charge under section 6(2) is payable to the local authority which issued the penalty charge notice—

(a) by the registered keeper of the vehicle, or

(b) in such circumstances, following consultation with such persons as they consider appropriate, as the Scottish Ministers by regulations specify, by such other person as is so specified.

8 Enforcement

(1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, by regulations make provision for or in connection with the enforcement of low emission zone schemes.

(2) Regulations under subsection (1) may, in particular, make provision for or about—
- (a) penalty charge notices (including the form, content and method of issue),
- (b) the timing and manner of payment of a penalty charge,
- (c) reviews and appeals (including grounds of review or appeal) in connection with the issuing of penalty charge notices,
- (d) the manner in which a penalty charge notice may be enforced,
- (e) steps that may be taken following the cancellation of a penalty charge notice (including the issuing of another penalty charge notice in respect of the same contravention),
- (f) enabling local authorities to enter into arrangements with any person in connection with the exercise of a function conferred on a local authority by the regulations or under section 7.

(3) Regulations under subsection (1) may include provision—
- (a) creating offences,
- (b) about the records to be produced by or in connection with approved devices (including what constitutes sufficient evidence of a fact).

(4) The maximum penalty that may be provided for in regulations under subsection (1) creating offences is, on summary conviction, a fine not exceeding level 5 on the standard scale.

VALID FROM 14/01/2021

CHAPTER 2

CREATION AND MODIFICATION OF A LOW EMISSION ZONE SCHEME

Process

9 Power to make or modify a low emission zone scheme

(1) At any time, a local authority may (in accordance with this Chapter)—
- (a) make a low emission zone scheme for all or part of its area,
- (b) amend or revoke a low emission zone scheme made by it.

(2) Where two or more local authorities act jointly to make a low emission zone scheme—
- (a) they must continue to act jointly in relation to the scheme in all respects, and
- (b) a reference to the area of a local authority is a reference to the combined areas of those authorities.

10 Ministerial approval

(1) A low emission zone scheme cannot be made, amended or revoked unless the proposal to make, amend or revoke the scheme is approved by the Scottish Ministers.

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(2) When seeking the approval of the Scottish Ministers for such a proposal, the local authority must provide a statement setting out—
  (a) details of the consultation it has undertaken under section 11, and
  (b) how it has taken account of any representations received in the course of that consultation.

(3) In approving the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers may make such modifications to the proposal as they consider appropriate.

(4) In considering whether to approve the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers—
  (a) must take into account the statement provided by the local authority under subsection (2), and
  (b) may consult, or require the local authority whose proposal it is to consult, such persons as Ministers consider appropriate.

11 Prior consultation

Before a local authority asks the Scottish Ministers to approve the making, amendment or revocation of a low emission zone scheme, it must consult—
  (a) the Scottish Environment Protection Agency,
  (b) Scottish Natural Heritage,
  (c) Historic Environment Scotland,
  (d) such persons as the authority considers represent the interests of—
    (i) the road haulage industry,
    (ii) the bus and coach industry,
    (iii) the taxi and private hire car industry,
    (iv) local businesses, and
    (v) drivers,
    likely to be affected by the proposal,
  (e) such persons (if any) as are specified by the Scottish Ministers in regulations,
  (f) such other persons as the authority considers appropriate.

12 Examination of proposals

(1) This section applies where a local authority proposes to make, amend or revoke a low emission zone scheme.

(2) Either—
  (a) the local authority making the proposal, or
  (b) the Scottish Ministers,
  may (if it or they consider it appropriate) appoint a person ("the reporter") to carry out an examination of, and prepare a report on, the proposal or any aspect of it.

(3) The reporter may carry out an examination in such manner as the reporter considers appropriate and may, in particular, do so by means of—
  (a) consideration of written representations only,

(b) conducting a hearing at which a person who has made representations in respect of the proposal may be given an opportunity to appear and be heard, or

(c) holding an inquiry into the proposal.

(4) Subsections (3) to (5) of section 210 of the Local Government (Scotland) Act 1973 (provisions relating to local inquiries) apply in relation to a hearing or inquiry under subsection (3) of this section as they apply in relation to an inquiry under that Act.

(5) Where an examination is to be carried out, the local authority may not proceed with the proposal until the examination has been completed.

(6) The Scottish Ministers may by regulations make further provision in relation to examinations to be carried out under this section.

(7) Without limit to that generality, such regulations may make provision—

(a) about who may be appointed to carry out an examination under this section,

(b) about the procedure for examinations under this section and, in particular, in relation to—

(i) any representations which are (or are not) to be taken into account,

(ii) who may appear at a hearing or inquiry,

(iii) the procedure for the conduct of any hearing or inquiry,

(iv) things which must be done in preparation for, or following, a hearing or inquiry,

(c) in relation to the financial aspects of an examination and, in particular, about the payment of remuneration, costs and expenses,

(d) in relation to the report to be prepared including, in particular, its form, content and publication.

13 Ministers' power to regulate process

The Scottish Ministers may by regulations make provision about the procedures in relation to low emission zone schemes including, in particular, provision—

(a) specifying the form of a scheme, or any amendment to or revocation of it,

(b) about consultation on proposals (including the publication of proposals and the making and consideration of representations),

(c) about the publication of notice of the making, amendment or revocation of a scheme and of their effect.

Content

14 Required content of a scheme

(1) A low emission zone scheme must specify—

(a) the zone to which it relates, which must be specified—

(i) by reference to an area on a map, and

(ii) by specifying the roads (or parts of a road) which form part of the zone,

(b) the date on which the scheme comes into effect,

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(c) the types of vehicles to which it applies, which must be specified by reference to the vehicles' construction (and subject to any exemptions specified by the Scottish Ministers in regulations under section 6(4)(b)),

(d) the scheme's objectives,

(e) the grace periods applicable under section 15.

(2) Where a low emission zone scheme is made by two or more local authorities jointly, the scheme must make provision as to how any monies received from penalty charges in respect of the scheme are to be apportioned between (or among) those authorities.

(3) For the purpose of subsection (1)(a)(ii), a low emission zone scheme may not specify—

(a) a private road, or

(b) a special road,

within the meaning of section 151(1) of the Roads (Scotland) Act 1984.

(4) The objectives specified under subsection (1)(d) must include—

(a) an objective of contributing towards meeting the air quality objectives prescribed under section 87(1) of the Environment Act 1995 (regulations about air quality), and,

(b) an objective of contributing towards meeting the emission reduction targets set out in Part 1 of the Climate Change (Scotland) Act 2009.

(5) A scheme may make different provision for different purposes, types of vehicles, or areas.

15 Grace period

(1) Section 6(1) is not contravened by a vehicle being driven on a road within a low emission zone prior to the expiry of the applicable grace period.

(2) In subsection (1), "the applicable grace period" means the period that the low emission zone scheme specifies as applying—

(a) in relation to the road, or part of the road, on which the vehicle was driven,

(b) in relation to the type of vehicle being driven, by reference to its construction, and

(c) to the individual who is the registered keeper of the vehicle.

(3) A low emission zone scheme must specify—

(a) a grace period that applies to individuals whose registered address in respect of the vehicle is a residential property within the zone ("residents"),

(b) a grace period that applies to individuals whose registered address is not ("non-residents"), and

(c) in relation to both paragraphs (a) and (b), the types of vehicle to which the grace period applies (which may vary as between residents and non-residents).

(4) A grace period begins on the day the low emission zone scheme comes into effect.

(5) The grace period applicable to non-residents must expire—

(a) not less than 1 year after it begins, and

(b) not more than 4 years after it begins.

(6) The grace period applicable to residents must expire not more than 2 years after the expiry of the grace period applicable to non-residents.

(7) Subsections (4) to (6) are subject to section 16.

16 Grace periods: further provision

(1) Subsections (2) to (5) apply where a road or part of a road—

(a) forms, or has formed, part of a zone to which a low emission zone scheme ("the original scheme") relates, and

(b) is to become, within 12 months of the original scheme ceasing to have effect in relation to the road or part of a road, part of a zone to which a low emission zone scheme ("the subsequent scheme") relates.

(2) If—

(a) a grace period is specified as applying to the road or part of a road in the original scheme, and

(b) that period has expired, or is due to expire, before the road or part of a road becomes part of the zone to which the subsequent scheme relates,

no grace period of the same type may be specified as applying to the road or part of a road in the subsequent scheme.

(3) For the purposes of subsection (2), grace periods are of the same type as one another if they are both specified (or to be specified) in accordance with the same subsection of section 15.

(4) If—

(a) a grace period is specified as applying to the road or part of a road in the original scheme, and

(b) that period is not due to expire before the road or part of a road becomes part of the zone to which the subsequent scheme relates,

subsection (5) applies.

(5) In the circumstances described in subsection (4), the maximum length of the grace period that may be specified as applying to the road or part of a road in the subsequent scheme is to be reduced by the length of time that a grace period will have applied to the road or part of a road when it becomes part of the zone to which the subsequent scheme relates.

(6) Where—

(a) a low emission zone scheme is modified to include a road or part of a road that did not previously form part of the zone to which the scheme relates, and

(b) the road or part of a road has not formed part of a zone to which a low emission zone scheme relates within the period of 12 months prior to the modification taking effect,

subsection (7) applies.

(7) In the circumstances described in subsection (6)—

(a) grace periods must be specified as applying to the road or part of a road in the modified scheme mentioned in subsection (6)(a), and

(b) those periods are to be specified on the basis that—

(i) section 15(4) does not apply, and

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(ii) the grace periods begin on the day the modification takes effect.

17 Time-limited exemptions

(1) A low emission zone scheme may provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption in respect of a vehicle or type of vehicle for the purpose of section 6(1)(b), by reference to the vehicle's use.

(2) Where a low emission zone scheme makes provision for time-limited exemptions under subsection (1), it must specify—

(a) the circumstances in which the local authority must, may or must not grant or renew an exemption,

(b) the maximum period for which an exemption may be granted (which must be no longer than 1 year).

(3) A low emission zone scheme must—

(a) provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption for the purpose of section 6(1)(b) in respect of vehicles which enter the zone to which the scheme relates solely due to their following a signed diversion as a result of a temporary road closure, and

(b) specify the maximum period for which such an exemption is granted (which must be no longer than the length of the road closure).

(4) A time-limited exemption granted or renewed by virtue of subsection (1) or (3) is subject to such conditions or restrictions as are specified by the local authority in the grant or renewal.

18 Power to alter operating hours

(1) Subject to subsection (2), a low emission zone operates at all times.

(2) A low emission zone scheme may specify different rules as to when a zone operates.

19 Ministers' power to specify additional content

The Scottish Ministers may by regulations prescribe further information that may or must be included in a low emission zone scheme.

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CHAPTER 3

OPERATION OF A LOW EMISSION ZONE SCHEME

VALID FROM 14/01/2021

Equipment and signs

20 Use of equipment

(1) This section applies where a local authority has made a low emission zone scheme.

(2) The traffic authority for a road may—

(a) install and maintain, or secure the installation and maintenance of, approved devices,

(b) construct and maintain, or secure the construction and maintenance of, buildings or other structures,

on a road for use for or in connection with the operation of the scheme.

(3) The traffic authority may remove, or secure the removal of, anything installed or constructed under subsection (2).

21 Approved devices

(1) The Scottish Ministers may by regulations make provision for or about the approval of devices to be used for or in connection with the operation of a low emission zone scheme.

(2) A device may not be used for or in connection with the operation of a low emission zone scheme if—

(a) regulations under subsection (1) make provision for or about the approval of that type of device, and

(b) the device is not of a type approved by virtue of the regulations.

22 Traffic signs

(1) Where—

(a) a local authority has made a low emission zone scheme, and

(b) a traffic authority has placed, or secured the placement of, a traffic sign on or near a road in connection with the scheme,

the traffic authority for the road on which a sign has been placed must maintain, or secure the maintenance of, that sign.

(2) In subsection (1), “traffic sign” has the same meaning as in section 64(1) of the Road Traffic Regulation Act 1984 (general provision as to traffic signs).

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VALID FROM 14/01/2021

Information sharing

23 Power to share information

(1) A responsible body may, in the circumstances mentioned in subsection (2), disclose relevant information to—
- (a) another responsible body,
- (b) the Secretary of State,
- (c) a source specified in regulations made under section 7(2), or
- (d) the responsible body's enforcement agent.

(2) The circumstances are that disclosure of the relevant information is—
- (a) necessary to enable the responsible body or enforcement agent to perform a function conferred by virtue of this Part, or
- (b) otherwise necessary for or in connection with the operation of a low emission zone scheme.

(3) Where relevant information is disclosed to an enforcement agent—
- (a) the agent may only use the information, or subsequently disclose it to any other person, as is necessary for or in connection with the enforcement of the low emission zone scheme to which the information relates, and
- (b) any other person to whom the information is subsequently disclosed may only use it for the same purpose.

(4) In this section, "relevant information" means—
- (a) in relation to disclosure under subsection (1)(a), (b) or (c)—
  - (i) the make and model of a vehicle alleged by a local authority (or its enforcement agent) to have driven in the zone to which the scheme relates,
  - (ii) the registration mark of that vehicle (assigned under section 23 of the Vehicle Excise and Registration Act 1994),
  - (iii) the date on which the vehicle is alleged to have driven within the zone to which the scheme relates,
- (b) in relation to disclosure under subsection (1)(d)—
  - (i) the information mentioned in sub-paragraphs (i) to (iii) of paragraph (a),
  - (ii) the name and address of the registered keeper of the vehicle alleged by a local authority (or its enforcement agent) to have driven in the zone to which the scheme relates,
  - (iii) the time when and location where the vehicle is alleged to have driven within the zone to which the scheme relates,
  - (iv) any record of an alleged contravention of section 6(1) produced by an approved device,
  - (v) any record obtained by virtue of section 7(2) certifying a vehicle's emission standard,
  - (vi) any information or representations provided to the local authority by or on behalf of the registered keeper of a vehicle in connection

with any review or appeal made by virtue of regulations made under section 8(1).

(5) For the purposes of this section—

(a) a "responsible body" is—

(i) a local authority operating a low emission zone scheme,

(ii) a person (other than the Scottish Ministers) with whom the local authorities who operate a low emission zone scheme have entered into an arrangement in relation to the function of obtaining and sharing any record mentioned in section 7,

(iii) the Scottish Ministers,

(b) an "enforcement agent" is a person with whom a local authority has entered into arrangements by virtue of—

(i) section 7(3), or

(ii) regulations made under section 8(1).

(6) Nothing in this section authorises a disclosure of any information that would be in contravention of the Data Protection Act 2018.

VALID FROM 14/01/2021

Temporary suspension for events

24 Temporary suspension for events

(1) A local authority may suspend the operation of a low emission zone scheme for a specified period, in respect of the whole zone or any part of the zone to which the scheme relates, where the authority considers it appropriate to do so for the purposes of an event which—

(a) is being held within, or in the vicinity of, the zone to which the scheme relates, and

(b) the local authority considers to be of national importance or significant local importance.

(2) A local authority may not suspend the operation of a low emission zone scheme for more than 7 days unless the Scottish Ministers give prior approval to the proposed suspension.

(3) This section is without prejudice to a local authority's ability to specify, by virtue of section 18(2), rules in a low emission zone scheme as to when a zone operates.

Finances and reporting etc.

25 Ministers' grant-making powers

(1) The Scottish Ministers may make grants—

(a) to a person to meet, or help towards meeting, the person's costs in making alterations to a vehicle in order to reduce its emissions,

(b) to a local authority to meet, or help towards meeting, its costs in—

(i) determining whether to make a low emission zone scheme,
(ii) making a scheme,
(iii) operating a scheme,
(iv) revoking a scheme.

(2) A grant under subsection (1)(a) is subject to such conditions (including as to repayment) as the Scottish Ministers determine.

(3) A grant under subsection (1)(b) is subject to such conditions as may be agreed between the Scottish Ministers and the local authority.

Commencement Information

I6 S. 25 in force at 15.1.2020 by S.S.I. 2019/428, **reg. 2**

VALID FROM 14/01/2021

26 Financial powers etc.

A local authority may—

(a) incur expenditure in or in connection with determining whether to make, making and operating a low emission zone scheme,

(b) enter into arrangements (including arrangements for forming or participating in companies) with any person—

(i) in connection with the making or operation of a scheme, or

(ii) relating to the installation or operation of any equipment used or to be used for or in connection with the operation of a scheme.

VALID FROM 14/01/2021

27 Application of penalty charges

Any monies received from penalty charges in respect of a low emission zone scheme may be applied by the local authority only for the purposes of—

(a) facilitating (directly or indirectly) the achievement of the scheme's objectives, and

(b) if (and only if) any surplus remains, making any repayments required as a condition of a grant under section 25(1)(b).

VALID FROM 14/01/2021

28 Accounts

(1) The Scottish Ministers may by regulations make provision for or about the keeping of accounts by local authorities in connection with their functions under this Part.

(2) Regulations under subsection (1) may, in particular—
- (a) specify the form of the accounts,
- (b) require the publication of a statement of account, and specify the manner in which it must be published,
- (c) make provision about what may, or must, be done jointly where a low emission zone scheme is made jointly.

VALID FROM 14/01/2021

29 Annual report

(1) A local authority which is operating a low emission zone scheme during a financial year must, as soon as reasonably practicable after the end of the financial year—
- (a) prepare an annual report on the operation and effectiveness of the scheme,
- (b) publish the report in such manner as it considers appropriate,
- (c) send a copy of the report to the Scottish Ministers, and
- (d) lay a copy of the report before the Scottish Parliament.

(2) A report under this section on the operation and effectiveness of the scheme must in particular include an assessment of—
- (a) the costs of proposing, making and operating the scheme,
- (b) the gross and net revenue gathered by the authority from the operation of the scheme, and
- (c) details of how the revenue has been used to facilitate the achievement of the scheme's objectives.

VALID FROM 14/01/2021

Performance of a scheme

30 Direction to carry out a review

(1) The Scottish Ministers may give a direction to a local authority requiring it to carry out a review of the operation and effectiveness of a low emission zone scheme operated by it.

(2) Without prejudice to the generality of subsection (1), a local authority may, from time to time, carry out a review of the operation and effectiveness of a low emission zone scheme operated by it.

(3) A review must include—
- (a) an assessment of whether the scheme's objectives are being achieved or are likely to be achieved within a reasonable period,
- (b) an assessment of the ways (if any) in which the scheme's objectives are not being achieved or are not likely to be achieved within a reasonable period,

(c) the identification of any areas of the zone to which the scheme relates in which the scheme's objectives are not being achieved or are not likely to be achieved within a reasonable period,

(d) such other matters—

(i) in the case of a review under subsection (1), as are specified in the direction by the Scottish Ministers, or

(ii) in the case of a review under subsection (2), as the local authority considers appropriate.

(4) On completion of a review, the local authority must—

(a) prepare a report of the review's findings, and

(b) give a copy of the report to the Scottish Ministers.

(5) A direction under subsection (1) must—

(a) be in writing,

(b) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.

(6) The Scottish Ministers may amend or revoke a direction given under subsection (1).

(7) Subsection (5) applies to the amendment or revocation of a direction under subsection (1) as it applies to the direction.

31 Action following a review

(1) After receiving a report under section 30, the Scottish Ministers may give a direction to a local authority requiring it to take such steps as are specified in the direction if the Scottish Ministers consider that—

(a) the scheme's objectives are not being achieved, and are not likely to be achieved within a reasonable period,

(b) the local authority has failed to discharge any duty imposed on it under or by virtue of this Part,

(c) the actions, or proposed actions, of the local authority in purported compliance with provision made under or by virtue of this Part are inappropriate in all the circumstances of the case, or

(d) developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of a local authority in pursuance of the provision made under or by virtue of this Part.

(2) A direction under subsection (1) must—

(a) be in writing,

(b) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.

(3) The Scottish Ministers may amend or revoke a direction given under subsection (1).

(4) Subsection (2) applies to the amendment or revocation of a direction under subsection (1) as it applies to the direction.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

VALID FROM 14/01/2021

CHAPTER 4

GENERAL

32 Guidance

(1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, issue written guidance in relation to the exercise of functions conferred on a local authority (whether as a local authority or as a traffic authority) by virtue of this Part.

(2) A local authority must have regard to any written guidance given by the Scottish Ministers about the exercise of functions conferred on it (whether as a local authority or as a traffic authority) by virtue of this Part.

(3) The Scottish Ministers must publish any such guidance in such manner as they consider appropriate as soon as reasonably practicable after it has been given.

33 Interpretation of Part

In this Part—

"approved device" means a device approved under or in accordance with regulations under section 21(1),

"registered address", in relation to the registered keeper of a vehicle, means the address recorded in the record kept under the Vehicle Excise and Registration Act 1994 in respect of that vehicle as being that person's address,

"registered keeper", in relation to a penalty charge payable in connection with a vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 at the time of the contravention to which the penalty charge relates,

"road" has the meaning given by section 151(1) of the Roads (Scotland) Act 1984,

"traffic authority" has the meaning given by section 121A of the Road Traffic Regulation Act 1984,

"vehicle" means a motor vehicle within the meaning of section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act.

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VALID FROM 24/06/2022

PART 3

BUS SERVICES

Provision of services by local transport authorities

34 Provision of bus services etc. by local transport authorities

(1) In the Transport (Scotland) Act 2001—

(a) before section 3 (and the italic heading immediately preceding it) insert—

"**CHAPTER A1**

Provision of bus services etc. by local transport authorities

2A **Provision of bus services etc. by local transport authorities**

(1) A local transport authority may provide a service for the carriage of passengers by road using vehicles that require a PSV operator's licence to do so.

(2) The local transport authority must be satisfied that the provision of such a service will contribute to the implementation of their relevant general policies.

(3)",

(b) in section 79(1) (guidance), after paragraph (b) insert—

"(ba) local transport authorities in relation to the exercise of their functions under section 2A of this Act,".

(2) Except as provided for in subsection (3), sections 66 to 71, 72(1)(c), 72(2), 72(3)(b) and 72(5)(c) of the Transport Act 1985 are repealed.

(3) Sections 66(2) to (7), 67 to 71, 72(1)(c), 72(2), 72(3)(b) and 72(5)(c) of the Transport Act 1985 (and any order made under them) are to continue to have effect in so far as is necessary for the provision of any service or operation of any undertaking that is being provided or operated under or by virtue of those sections or orders on the date subsection (2) comes into force.

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VALID FROM 04/12/2023

Bus services improvement partnerships

35 Bus services improvement partnerships

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) For sections 3 to 12 (including the italic heading immediately preceding section 3), substitute—

"**CHAPTER 1**

BUS SERVICES IMPROVEMENT PARTNERSHIPS

Partnership plans and schemes

3A Bus services improvement partnership plans

(1) A local transport authority may, if they consider it appropriate to do so, make a bus services improvement partnership plan (a "partnership plan") in relation to the whole or part of their area.

(2) A partnership plan is a plan that—
- (a) specifies the area and the period to which the plan relates,
- (b) sets out for the area—
  - (i) an analysis of the local services,
  - (ii) policies relating to the local services,
  - (iii) objectives to be met within the period as regards the quality and effectiveness of the local services provided,
- (c) describes how the partnership scheme (or schemes) to be made at the same time as the partnership plan (see section 3B) is intended to assist in implementing the policies and meeting the objectives, and
- (d) describes the intended effect of any such scheme (or schemes) on areas which are adjacent to the plan's area.

(3) A partnership plan must also—
- (a) describe the proposals for obtaining the views of users of local services in the area about how well the plan and the partnership scheme (or schemes) are working, and
- (b) specify how the plan is to be reviewed and the dates by which reviews are to be completed.

(4) To make a partnership plan a local transport authority must comply with Part 1 of schedule A1.

3B Schemes to implement bus services partnership plans

(1) A local transport authority must, at the same time as making a partnership plan, make one or more bus services improvement partnership schemes (a "partnership scheme") relating to the whole or part of the area to which the plan relates.

(2) A local transport authority that have made a partnership plan may make such further partnership schemes relating to the whole or part of the area of the partnership plan as they consider appropriate.

(3) A partnership scheme is a scheme that—
- (a) specifies the area and the period to which the scheme relates,
- (b) imposes one or more service standards in relation to the local services that have one or more stopping places in that area, and
- (c) specifies one or more—
  - (i) facilities to be provided in the area as part of the scheme, or
  - (ii) measures to be taken under the scheme,

  by the local transport authority.

(4) A partnership scheme may—
- (a) provide for the exemption of such local services or such descriptions of local services as the scheme may specify, and
- (b) specify conditions (if any) as to when such exemptions are to apply.

(5) A partnership scheme may also include requirements for the taking of actions in order to facilitate the operation of the partnership scheme.

(6) A partnership scheme may be made only if the local transport authority are satisfied that—
- (a) the scheme will contribute to the implementation of—
  - (i) the policies set out in the partnership plan to which it relates, and
  - (ii) the authority's relevant general policies, and
- (b) the scheme will—
  - (i) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
  - (ii) reduce or limit traffic congestion, noise or air pollution.

(7) Any specified facility must be provided at specific locations along routes served, or proposed to be served, by local services within the area of the partnership scheme.

(8) Nothing that a local transport authority are required to provide or secure the provision of by virtue of section 33 or 34 is to be specified as a facility or measure for the purposes of a partnership scheme.

(9) A partnership scheme must specify how its operation is to be reviewed and the dates by which reviews are to be completed.

(10) A partnership scheme may provide for circumstances in which it may be varied or revoked in accordance with the provisions of the scheme (rather than under section 3H or, as the case may be, 3I).

(11) To make a partnership scheme a local transport authority must comply with Part 1 of schedule A1.

3C Partnership schemes: service standards

(1) The service standards that a partnership scheme may impose include requirements—
  (a) in relation to the frequency or timing of particular local services or local services of particular descriptions (a "route service standard"), or
  (b) in relation to any other matter relating to the standard of service that is to be provided (an "operational service standard").

(2) A route service standard may, in particular, determine the frequency or timing allowed in relation to a local service—
  (a) by reference only to that service,
  (b) by reference to that service and other local services, taken together.

(3) An operational service standard may, in particular, impose requirements about—
  (a) the vehicles which are used to provide services,
  (b) the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions on services to which the scheme applies,
  (c) ticketing and the manner in which entitlement to travel may be evidenced,
  (d) the pricing of multi-operator travel cards,
  (e) the provision of information to the public about local services,
  (f) the dates on which the timing of local services may be changed.

(4) A partnership scheme may not impose service standards in relation to the use of vehicles under permits granted under section 22 of the 1985 Act.

(5) A service standard imposed by a partnership scheme has effect only in relation to so much of a local service as is provided in the area to which the scheme relates.

(6) The Scottish Ministers may by regulations define the expression "multi-operator travel cards" for the purposes of this section.

3D Route service standards: modification for overprovision

(1) This section applies where—
  (a) a partnership scheme is in operation,
  (b) a route service standard imposed by the scheme applies to a service registered under section 6 of the 1985 Act, and
  (c) the local transport authority who made the scheme are satisfied that, due to an increase (or an expected increase) in the number of

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operators registered in respect of the area of the scheme, the service cannot be provided in accordance with the route service standard.

(2) The local transport authority must modify the route service standard in such manner as is necessary to take account of the number of registered operators (or expected number of such operators) to enable the service to be provided in accordance with the service standard.

(3) A modification of a route service standard under this section is to be treated as a variation under section 3H of the partnership scheme which imposed the service standard and paragraph 18(3) of schedule 1A applies to the modification as it does to such a variation.

(4) Without limit to the generality of section 3M, the Scottish Ministers may by regulations make further provision about the modification of route service standards under this section, including, in particular, provision—

(a) about the process that a local transport authority must comply with before making a modification under this section,

(b) about the circumstances in which a modification may be postponed and the process to be followed to postpone a modification,

(c) specifying circumstances in which this section is not to apply.

3E Partnership schemes: Scottish Ministers' traffic regulation orders

(1) This section applies if, in relation to a proposed partnership scheme or the proposed variation of an existing scheme, the provision of a facility or the taking of a measure requires the making of a traffic regulation order in respect of a road for which the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984).

(2) The partnership scheme may not be made, postponed, varied or revoked unless it is made, postponed, varied or revoked by the local transport authority and the Scottish Ministers acting jointly.

3F Effect of partnership plans and schemes

(1) If a partnership scheme imposes a service standard in relation to a local service, the operator of the service must comply with the service standard.

(2) If a partnership scheme requires a local transport authority or, where section 3E applies, the Scottish Ministers, to provide a facility, they must—

(a) provide the facility not later than the date specified in the scheme for its provision (subject to the local transport authority postponing its coming into operation under section 3G(1) or 3H(4)),

(b) continue to provide the facility for the remainder of the period for which the scheme is in operation.

(3) If a partnership scheme requires a local transport authority or (where section 3E applies) the Scottish Ministers to take a measure, they must—

(a) take the measure not later than the date specified in the scheme for taking it (subject to the local transport authority postponing its coming into operation under section 3G(1) or 3H(4)),

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(b) continue to take the measure for the remainder of the period for which the scheme is in operation.

(4) Subsections (2) and (3) do not apply in relation to any period during which the local transport authority are temporarily unable to provide the facility or, as the case may be, take the measure, due to circumstances beyond their control.

(5) Subsections (2) and (3) do not apply in the case of the Scottish Ministers if they are unable to provide the facility or, as the case may be, take the measure, because of the variation or revocation of a traffic regulation order.

(6) A local transport authority must secure that—

(a) each review of a partnership plan which is required by the plan is carried out in the manner specified in it,

(b) each review of the operation of a partnership scheme which is required by the scheme is carried out in the manner specified in it, and

(c) each review (whether of a plan or scheme) is completed by the date specified in the plan or scheme as the date for completing that review.

3G Postponement of partnership scheme coming into operation

(1) A local transport authority may, if they consider it appropriate, decide to postpone the coming into operation of a partnership scheme or any part of it (such as the date by which a service standard must be met or facility provided) by such period as they think fit.

(2) But the coming into operation of a partnership scheme, or any part of it, must not be postponed by a period or periods which in total exceed 12 months.

(3) To postpone the coming into operation of a partnership scheme or any part of such a scheme, a local transport authority must comply with paragraphs 9 and 10 of schedule A1.

(4) The Scottish Ministers may by regulations amend subsection (2) to specify a different total period of postponement than the one for the time being specified there.

3H Variation of a partnership plan or scheme

(1) A local transport authority may vary—

(a) a partnership plan and any related scheme, or

(b) a partnership scheme.

(2) In particular, a partnership plan or scheme may be varied by changing the area to which the plan or scheme relates so that it—

(a) includes the whole of the area of another local transport authority (a "prospective authority"), or

(b) ceases to include any part of the area of the local transport authority which made the plan or scheme.

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(3) A partnership scheme may be varied only if the local transport authority (and, if applicable, the prospective authority) are satisfied that—
- (a) the scheme, as varied, will contribute to the implementation of—
  - (i) the policies set out in the partnership plan (or those policies in the plan as proposed to be varied) to which it relates, and
  - (ii) the local transport authority's (and, if applicable, the prospective authority's) relevant general policies, and
- (b) the scheme, as varied, will—
  - (i) bring benefits to persons using local services in the whole or any part of the area of the scheme (as varied) by improving the quality or effectiveness of those services, or
  - (ii) reduce or limit traffic congestion, noise or air pollution.

(4) A local transport authority may, if they consider it appropriate, decide to postpone the coming into operation of the variation of a partnership scheme or any part of it by such period as they think fit.

(5) But the coming into operation of the variation of a partnership scheme, or any part of it, must not be postponed by a period or periods which in total exceed 12 months.

(6) To—
- (a) vary a partnership plan or a partnership scheme (otherwise than in accordance with the scheme itself, under section 3D, or when making a franchising framework), a local transport authority (and any prospective authority) must comply with Part 2 of schedule A1, and
- (b) postpone the coming into operation of such a variation, a local transport authority (and any prospective authority) must comply with paragraphs 19 and 20 of that Part.

(7) The Scottish Ministers may by regulations amend subsection (5) to specify a different total period of postponement than the one for the time being specified there.

3I Revocation of a partnership plan or scheme

(1) A local transport authority may—
- (a) revoke a partnership plan that relates to the whole or any part of their area,
- (b) revoke a partnership scheme relating to such a plan.

(2) A local transport authority may not—
- (a) revoke a partnership plan without also revoking all the schemes relating to it, or
- (b) revoke all schemes relating to a plan without also revoking the plan.

(3) To revoke a partnership plan or a scheme (otherwise than in accordance with the scheme itself or when making a franchising framework), a local transport authority must comply with Part 3 of schedule A1.

3J Reports on partnership schemes

(1) A local transport authority must, in relation to each partnership scheme made by them, for each successive period of 12 months during which the scheme is in operation, prepare and publish a report on the effectiveness of the scheme.

(2) For the purposes of subsection (1), the first period is to begin on the date on which the scheme, or any part of it, comes into operation.

(3) In preparing a report under subsection (1), the local transport authority must—

(a) consult the traffic commissioner and such other persons as they consider appropriate for the purposes of assessing the effectiveness of the scheme, and

(b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the scheme during the period under review.

3K Provision of information: bus services improvement partnerships

(1) This section applies if a local transport authority are exercising any of the following functions—

(a) preparing and making a partnership plan or scheme,

(b) reviewing the effectiveness of a partnership plan or scheme, or

(c) determining whether and how to vary, or revoke, a partnership plan or scheme.

(2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.

(3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.

(4) The operator may be required to provide the information—

(a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and

(b) before the end of such period as may be specified by the local transport authority.

(5) A local transport authority that have obtained relevant information under this section may only—

(a) use the information for the purpose of exercising the function for which it was obtained, and

(b) supply the information to a person listed in subsection (6) for use in connection with that function.

(6) The persons are—

(a) a local transport authority,

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(b) persons providing services to the local transport authority in connection with the function being exercised,

(c) where section 3E applies, the Scottish Ministers.

(7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.

(8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.

(9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Where an offence under subsection (8) committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this section, "relevant information" means information of a description specified in regulations made by the Scottish Ministers.

(12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

3L Multi-authority bus services improvement partnerships

(1) Two or more local transport authorities may act jointly to make a partnership plan and scheme (or schemes) under this chapter.

(2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—

(a) a local transport authority, in relation to a partnership plan or a partnership scheme or to a proposed plan or scheme, is a reference to the authorities acting jointly,

(b) the area of a local transport authority is a reference to the combined areas of the authorities,

(c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.

(3) Where two or more local transport authorities act jointly to make a partnership plan or scheme, they must continue to act jointly in relation to the plan or scheme in all respects.

3M Further provision

(1) The Scottish Ministers may by regulations make further provision about—

(a) partnership plans and schemes,

(b) the procedures to be followed to prepare and make, postpone, vary and revoke a plan or scheme (but see also Part 4 of schedule A1

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which confers power on the Scottish Ministers in relation to certain expressions used in those procedures),

(c) reviewing and reporting on the operation of a plan and scheme.

(2) Without limit to that generality, regulations under this section may make provision about—

(a) the form and content of a partnership plan or scheme,

(b) descriptions of local services which may or must be exempted from a scheme,

(c) what may constitute a facility or measure,

(d) the conditions that may be specified in a scheme for its variation or revocation,

(e) the form and content of any notice to be given in connection with a plan or scheme,

(f) the standards and requirements that a scheme or plan may specify in respect of the accessibility of bus services for disabled persons and persons who have limited mobility.”.

36 Procedures for partnership plans and schemes

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) Before schedule 1 insert—

“SCHEDULE A1

(introduced by section 3A)

BUS SERVICES IMPROVEMENT PARTNERSHIP PLANS AND SCHEMES: PROCEDURES

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37 Registration of local services and functions of traffic commissioner

(1) The Transport Act 1985 Act is amended as follows.

(2) In section 6 (registration of local services)—

(a) after subsection (2) insert—

“(2ZA) Where—

(a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation,

(b) a service is registered or a registration of a service is varied under this section, and

(c) a service standard imposed under section 3B(3)(b) of the Transport (Scotland) Act 2001 applies to the service or the service as varied,

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the service standard is to be recorded with the particulars of the service required to be registered under this section.”,”,

(b) after subsection (7) insert—

“(7ZA) Where a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation, the registration of a service may also be cancelled under section 6L of this Act.”.

(3) After section 6J insert—

“**6K Application for registration where service standard has effect**

(1) This section applies where—

(a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation,

(b) a service standard imposed under section 3B(3)(b) of that Act has effect,

(c) an application for registration, or for variation of registration, is made under section 6 of this Act in respect of a local service to which that service standard would apply if the application were granted, and

(d) the application is one which would, but for this section, fall to be accepted.

(2) A traffic commissioner must refuse the application if—

(a) the service standard is an operational service standard, and

(b) the traffic commissioner considers that the person who would be the operator of—

(i) the service proposed to be provided, or

(ii) the service as proposed to be varied,

is unlikely to be able to comply with the service standard as regards that service.

(3) In this section, “operational service standard” is to be construed in accordance with section 3C(1)(b) of the Transport (Scotland) Act 2001.

6L Cancellation of registration when operational service standards not met

(1) This section applies where—

(a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation, and

(b) one or more service standards imposed under section 3B(3)(b) of that Act have effect.

(2) If a traffic commissioner considers that—

(a) an operational service standard imposed by the scheme applies to a service registered under section 6, and

(b) the service is not being provided in accordance with that service standard,

the traffic commissioner may cancel the registration of that service.

(3) In this section, "operational service standard" is to be construed in accordance with section 3C(1)(b) of the Transport (Scotland) Act 2001.

6M Power to make regulations for appeals against service standards decisions

Regulations may make provision for or about appeals relating to any—

(a) decision to record a service standard as a prescribed particular under section 6(2ZA),

(b) refusal of an application by virtue of section 6K(2),

(c) cancellation of the registration of a service by virtue of section 6L(2),

(d) decision to register a service that has a stopping place in the area to which the scheme relates, or

(e) decision not to record a service standard in relation to such a service under section 6(2ZA).

6N Scrutiny of operation of bus services improvement partnership

(1) This section applies where—

(a) a bus services improvement partnership scheme made under section 3B of the 2001 Act ("the scheme") is in operation, and

(b) it appears to a traffic commissioner that the local transport authority (or authorities) who made the scheme may not be complying with their obligations under it including, in particular, any duty arising under section 3F(2) or (3) of the 2001 Act.

(2) The traffic commissioner may—

(a) investigate the actions of the local transport authority (or authorities) in relation to their compliance with their obligations under the scheme,

(b) require the authority (or authorities) to provide such information as the commissioner may specify for the purposes of the investigation.

(3) A local transport authority may be required to provide the information before the end of such period as may be specified by the traffic commissioner when imposing the requirement.

(4) Following an investigation under subsection (2), the traffic commissioner must prepare and publish a report—

(a) setting out whether or not the commissioner is satisfied that the local transport authority (or authorities) are complying with their obligations under the scheme, and

(b) if the commissioner is not satisfied that the authority (or authorities) are complying with their obligations, making such recommendations as the commissioner considers appropriate, including, in particular, recommendations that the authority (or

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authorities) take such remedial action as may be specified in the report.

(5) Before publishing a report prepared under subsection (4), the commissioner must provide a copy of it to—

(a) the local transport authority (or authorities) who made the scheme, and

(b) each operator providing a local service with a stopping place in the area of the scheme.

(6) Where, under section 3E of the 2001 Act, the Scottish Ministers acted jointly with a local transport authority (or authorities) to make the scheme, this section applies to the Scottish Ministers as it applies to the authority (or authorities).

(7) In this section—

"2001 Act" means the Transport (Scotland) Act 2001,

"local transport authority" has the meaning given in section 82(1) of the 2001 Act.".

VALID FROM 04/12/2023

Local services franchises

38 Franchising arrangements for local services

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) For sections 13 to 27 (including the italic heading immediately preceding section 13) substitute—

"**CHAPTER 2**

LOCAL SERVICES FRANCHISES

Franchising frameworks and franchise agreements

13A Franchising frameworks and franchise agreements

(1) A local transport authority may make a franchising framework covering the whole or any part of their area.

(2) To make a franchising framework a local transport authority must comply with the process set out in section 13C (and the requirements of the sections listed in that section).

(3) A franchising framework is a framework under which—

(a) local services (other than those exempted from the framework by virtue of section 13D(2)) may be provided in the area to which the framework relates only under a franchise agreement, and

(b) the local transport authority determine—

(i) what local services are to be provided in the area to which the framework relates,

(ii) the standards to which the services are to be provided, and

(iii) any additional facilities or services that are to be provided in the area to which the framework relates.

(4) In this Part, "franchise agreement", in relation to a franchising framework, means an agreement under which—

(a) the local transport authority grant to another person the exclusive right to operate the local services to which the agreement relates, and

(b) that person undertakes to provide those services on such terms (including in particular as to frequency, fares and standard of services) as may be specified in the agreement.

(5) A franchise agreement may (but need not) include provision for—

(a) the making of payments by the local transport authority to the person undertaking to provide the local service, or

(b) the making of payments by the person undertaking to provide the service to the authority.

(6) A franchise agreement may include provision requiring one or more of the parties to provide additional facilities or services.

(7) Section 88(1) of the 1985 Act (application to subsidy agreements of section 89 to 92 of that Act) does not apply in relation to franchise agreements.

13B Effects of franchising framework

(1) During any period when a franchising framework is in operation in relation to any local service included in the framework—

(a) sections 6 to 9 of the 1985 Act (registration of local services) do not have effect in relation to the service, and

(b) no such service is to be provided other than under a franchise agreement.

(2) Subsection (3) applies where, in relation to a franchising framework—

(a) a local service is not included in the framework, and

(b) the service is not excluded from the framework (see section 13D(2)(a)).

(3) The local service is not, during the period of operation of the franchising framework, to be provided in the area to which the framework relates.

(4) Subsection (5) applies where, in relation to a franchising framework—

(a) a local service is excluded from the framework, and

(b) conditions are specified as to when the exclusion is to apply (see section 13D(2)(b)).

(5) The specified conditions are to be treated, during the period of operation of the franchising framework, as if they were prescribed particulars of the service concerned registered under section 6 of the 1985 Act.

Process for making franchising frameworks

13C Overview of process

(1) Before making a franchising framework under section 13K, the local transport authority must—
- (a) prepare a proposed franchising framework which meets the requirements of section 13D,
- (b) prepare an assessment of the proposed framework in accordance with section 13E,
- (c) obtain a report from an auditor in accordance with section 13F,
- (d) carry out the consultation required under section 13G,
- (e) make such modifications under section 13H (if any) as they consider appropriate in light of the consultation and, if they consider that it is required under subsection (3) of that section, repeat the steps in paragraphs (b) to (d) of this section,
- (f) obtain approval to make the proposed framework (or the framework as modified) from a panel convened for that purpose by the traffic commissioner under section 13J,
- (g) comply with such additional procedural requirements as may be prescribed.

(2) Where the making of a proposed franchising framework has been approved under section 13J, it may be made by the local transport authority under section 13K.

13D Proposed franchising frameworks

(1) A proposed franchising framework must specify—
- (a) the area to which the framework relates,
- (b) the local services which are to be provided under franchise agreements,
- (c) that the framework is, in so far as relating to each local service included in it, to come into operation—
  - (i) on a date not earlier than 6 months after the day on which the local transport authority who made it enter into a franchise agreement in respect of that service, or
  - (ii) on such earlier date as the local transport authority may specify,
- (d) the period during which it is to remain in operation,
- (e) the standards to which services must be provided under franchise agreements.

(2) A proposed franchising framework may—

(a) provide for the exemption of such local services or such descriptions of local services as the framework may specify, and

(b) specify conditions (if any) as to when such exemptions are to apply.

(3) A proposed franchising framework may provide for such other matters as the local transport authority think fit.

(4) If a proposed franchising framework relates to an area to which a partnership scheme also relates, the proposed franchising framework—

(a) must include—

(i) in a case where the partnership scheme relates only to the area to which the proposed franchising framework relates or a part of that area, provision revoking the partnership scheme, or

(ii) in any other case, provision varying the partnership scheme so that it ceases to relate to any part of the area to which the proposed franchising framework relates, and

(b) may include provision varying the partnership plan or, if appropriate, revoking the plan.

13E Assessment of proposed franchising framework

(1) A local transport authority which propose to make a franchising framework covering the whole or any part of their area must prepare an assessment of the proposed framework.

(2) The assessment must—

(a) set out how, and to what extent, the local transport authority consider the making of the proposed framework will contribute to the implementation of their relevant general policies,

(b) compare the making of the proposed framework to one or more other courses of action available to them to implement those policies,

(c) describe the expected effect of the proposed framework on any areas which are adjacent to the area of the framework,

(d) set out—

(i) how they intend to operate the proposed framework, and

(ii) the extent to which they consider that they will be able to secure that local services are operated under franchise agreements,

(e) set out their analysis of the financial implications for them of making the proposed framework,

(f) set out how they propose to review the effectiveness of the proposed framework once it is made.

(3) The assessment may include such other matters as the local transport authority think fit.

(4) In preparing an assessment under this section, a local transport authority must seek views about the proposed franchising framework from operators

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who, at the time of the assessment being prepared, are providing local services in the area to which the proposed framework relates.

(5) The Scottish Ministers must issue guidance in relation to the preparation of an assessment under this section, and that guidance may, in particular, include guidance about methods to be used when assessing a proposed framework.

13F Audit of proposed franchising framework

(1) This section applies if, after preparing an assessment of a proposed franchising framework under section 13E, a local transport authority wish to proceed with the proposed framework.

(2) The local transport authority must obtain a report from an auditor on the analysis of the financial implications contained in the assessment.

(3) The auditor's report must state whether, in the opinion of the auditor—
- (a) the information relied on by the local transport authority in conducting the analysis is of sufficient quality,
- (b) the analysis of that information is of sufficient quality, and
- (c) the local transport authority have had regard to the guidance issued under section 13E(5) in preparing the analysis.

(4) An auditor must, when preparing a report under this section, have regard to any guidance issued by the Scottish Ministers in relation to the preparation of such reports.

(5) In this section, “auditor” means a person who is eligible to be appointed as a statutory auditor under section 1211 of the Companies Act 2006.

13G Consultation on proposed franchising framework

(1) This section applies if, after obtaining an auditor's report under section 13F, a local transport authority wish to proceed with the proposed franchising framework.

(2) The local transport authority must give notice of their intention to make the proposed franchising framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.

(3) The notice referred to in subsection (2) must—
- (a) describe the proposed franchising framework, including, in particular, the area to which it would relate,
- (b) include a statement that the local transport authority consider that the proposed framework will contribute to the implementation of their relevant general policies, and
- (c) state where copies of the consultation documents listed in subsection (5) may be viewed.

(4) After giving notice of the proposed franchising framework, the local transport authority must consult—
- (a) all operators of local services in the area to which the proposed framework relates,

(b) any other person holding a PSV operator's licence or community bus permit who, in the opinion of the authority, is likely to be affected by the proposed framework,

(c) such organisations appearing to the authority to be representative of employees of such operators as they think fit,

(d) such organisations appearing to the authority to be representative of users of local services as they think fit,

(e) each local transport authority and Transport Partnership whose area is, in the opinion of the authority, likely to be affected by the proposed framework,

(f) the traffic commissioner,

(g) the chief constable of the Police Service of Scotland,

(h) the Competition and Markets Authority,

(i) such other persons as the authority think fit.

(5) The consultation documents are—

(a) the proposed franchising framework,

(b) a report on the assessment prepared under section 13E, including, in particular, a description of how the local transport authority consider the proposed framework will contribute to the implementation of their relevant general policies,

(c) the report obtained from the auditor under section 13F,

(d) such other documents (if any) that the local transport authority think will assist the consultees in considering the proposed framework.

13H Modification of proposed franchising framework

(1) This section applies where, following consultation under section 13G, a local transport authority consider it appropriate to modify the proposed franchising framework.

(2) The local transport authority may make such modifications to the proposed franchising framework as they consider appropriate.

(3) If the local transport authority consider that the modifications materially affect any part of the assessment prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as modified.

(4) Sections 13E to 13G apply to any new assessment of the proposed framework as modified as they apply to the original proposed framework.

(5) The Scottish Ministers must issue guidance in relation to the circumstances in which a local transport authority must prepare a new assessment of a proposed framework.

13I Application for approval of the proposed franchising framework

(1) This section applies where, following a consultation under section 13G, a local transport authority—

(a) either—

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(i) do not make any modifications to the proposed franchising framework, or

(ii) make modifications to the proposed framework, but consider they are not required to prepare a new assessment of the proposed framework under section 13H(3), and

(b) decide to proceed with making the proposed framework (as originally proposed or as modified).

(2) The local transport authority must—

(a) request that the traffic commissioner convene a panel under section 13J(2) for the purpose of considering whether to approve the making of the proposed franchising framework, and

(b) provide the traffic commissioner with the documents listed in subsection (3).

(3) The documents are—

(a) the consultation documents listed in paragraphs (a) to (c) of section 13G(5),

(b) the assessment (or the most recent assessment) prepared under section 13E,

(c) a summary of the responses received to the consultation carried out under section 13G and any action (other than a modification under section 13H) that was taken to address the responses,

(d) a description and explanation of any modifications made to the proposed franchising framework under section 13H.

13J Approval of proposed franchising frameworks

(1) This section applies where the traffic commissioner has received a request to convene a panel under section 13I(2)(a).

(2) The traffic commissioner must—

(a) give notice of the local transport authority seeking approval for the proposed franchising framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,

(b) appoint three persons to form a panel to decide whether or not to approve the making of the proposed framework,

(c) provide the panel with the documents listed in section 13I(3), and

(d) provide the panel with any representations made to the commissioner in connection with the approval of making the proposed framework.

(3) A notice given under subsection (2)(a) must state—

(a) that representations may be made to the traffic commissioner in relation to the application for approval of the making of the proposed franchising framework, and

(b) the period within which such representations may be made.

(4) The panel may decide—

(a) to approve the making of the proposed franchising framework,

(b) to approve the making of the proposed framework subject to the local transport authority making such modifications to the proposed framework as the panel may specify, or

(c) not to approve the making of the proposed framework.

(5) In making its decision under subsection (4), the panel must consider whether the local transport authority have—

(a) complied with the process set out in section 13C(1),

(b) had regard to the guidance issued by Scottish Ministers under section 13E(5),

(c) given appropriate weight to any matter prescribed for the purposes of this section, and

(d) otherwise, reached a reasonable conclusion in deciding to make the proposed franchising framework.

13K Making of franchising framework

(1) This section applies where a panel convened under section 13J has approved the making of a proposed franchising framework.

(2) The local transport authority may, not later than 6 months after the date of the approval, make the franchising framework.

(3) Not later than 14 days after the date on which a franchising framework is made, the local transport authority must—

(a) give notice of their having made the framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area, and

(b) send a copy of the framework to the traffic commissioner.

(4) A notice under subsection (3)(a) must state where a copy of the franchising framework may be viewed.

(5) A franchising framework is, in so far as relating to a local service included in it, to come into operation—

(a) in a case where the framework specifies the date on which it is to come into operation in respect of that service, on the date so specified, and

(b) subject to section 13M, in a case where no date is specified in the framework, on such date as is specified in or determined under the franchise agreement entered into in respect of the service.

Entering into franchise agreements

13L Entering into franchise agreements

(1) This section applies where—

(a) a local transport authority have made a franchising framework, and

(b) that framework has not expired under section 13Q or otherwise ceased to have effect.

(2) The local transport authority may enter into franchise agreements in respect of local services to be provided under the framework.

(3) A local transport authority may enter into a franchise agreement with a person only if that person holds—
  (a) an unconditional PSV operator's licence, or
  (b) a community bus permit.

(4) Not later than 14 days after the date on which a local transport authority enter into a franchise agreement, the local transport authority must—
  (a) give notice of their having made the agreement to—
    (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the agreement, and
    (ii) the traffic commissioner, and
  (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.

(5) A notice under subsection (4) must state—
  (a) the local services to be provided under the franchise agreement,
  (b) the date or dates on which the franchising framework is, in so far as it relates to the local services to be provided under the franchise agreement, to come into operation, and
  (c) the duration of the franchise agreement.

(6) For the purpose of subsection (3)(a), "unconditional", in relation to a PSV operator's licence, means a licence which does not have attached to it a condition imposed under section 26 of the 1985 Act prohibiting or having the effect of prohibiting the holder from using vehicles under the licence to provide the service or services to which the franchising agreement in question relates.

Postponement, variation and revocation of franchise frameworks

13M Postponing commencement of franchising frameworks or variations

(1) A local transport authority may, if they consider it appropriate, decide to postpone the date on which—
  (a) a franchising framework, or
  (b) the variation of a franchising framework,

  would, in so far as relating to a local service in it, come into operation by virtue of section 13K(5)(b) by such period as they think fit.

(2) But the date on which a framework or variation comes into operation under subsection (1) must not be postponed by a period or periods which in total exceed 12 months.

(3) Before postponing the date on which a framework or variation comes into operation under subsection (1), a local transport authority must consult all

operators of local services who are, in the opinion of the local transport authority, likely to be affected by the postponement.

(4) Not later than 14 days after the date on which a local transport authority postpone the date on which a framework or variation comes into operation under subsection (1), the local transport authority must—

(a) give notice of the postponement to—

(i) all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement, and

(ii) the traffic commissioner, and

(b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.

(5) The Scottish Ministers may by regulations make provision in relation to postponements under this section including, in particular, provision reducing or extending the maximum period of postponement in subsection (2).

13N Applications for approval to vary or revoke franchising frameworks

(1) This section applies where a local transport authority wish to vary or revoke a franchising framework they have made.

(2) The local transport authority must—

(a) request that the traffic commissioner convene a panel under section 13O(2) for the purpose of considering whether to approve the proposed variation or revocation of the franchising framework, and

(b) provide the traffic commissioner with an application for approval to vary or, as the case may be, revoke the framework.

(3) An application under subsection (2)(b) must—

(a) state the local transport authority's reasons for wishing to vary or revoke the framework,

(b) set out how, and to what extent, the local transport authority consider the variation or revocation will contribute to the implementation of their relevant general policies,

(c) in the case of a proposal to vary the framework—

(i) set out how it is proposed to vary the framework,

(ii) describe the expected effect that varying the framework will have on the matters set out in the assessment (or, if more than one, the most recent assessment) of the framework prepared under section 13E, and

(iii) if a new assessment is not being prepared, state that the local transport authority do not consider it necessary to prepare a new assessment of the framework as it is proposed to be varied,

(d) include any other information that the local transport authority think will assist the panel convened under section 13O in deciding whether or not to approve the proposed variation or revocation.

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(4) If a local transport authority consider that the proposed variation will materially affect any part of the assessment (or, as the case may be, the most recent assessment) prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as varied.

(5) Where a local transport authority consider under subsection (4) that they are required to prepare a new assessment—

(a) sections 13E to 13H apply to the framework as it is proposed to be varied as they apply to a proposed franchising framework, and

(b) the local transport authority must, as part of the application under subsection (2)(b), provide to the traffic commissioner—

(i) the new assessment,

(ii) the report of the auditor on the new assessment,

(iii) a summary of the responses received to the consultation carried out under section 13G in respect of the new assessment and any action (other than a modification under section 13H) that was taken to address the responses, and

(iv) a description and explanation of any modifications made to the framework as it is proposed to be varied under section 13H.

13O Approval to vary or revoke franchising frameworks

(1) This section applies where the traffic commissioner has received a request to convene a panel under section 13N(2)(a).

(2) The traffic commissioner must—

(a) give notice of the local transport authority's application to vary or revoke the proposed framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,

(b) appoint three persons to form a panel to decide whether or not to approve the proposed variation or revocation of the franchising framework,

(c) provide the panel with the application provided to it under section 13N(2)(b),

(d) provide the panel with any representations made to the commissioner in connection with the application.

(3) A notice given under subsection (2)(a) must state—

(a) that representations may be made to the traffic commissioner in relation to the proposed variation or revocation, and

(b) the period within which such representations may be made.

(4) Where the application is to vary the framework, the panel may decide—

(a) to approve the proposed variation,

(b) to approve the proposed variation of the framework subject to the local transport authority making such modifications to the

framework as it is proposed to be varied as the panel may specify, or

(c) not to approve the proposed variation.

(5) Where the application is to revoke the framework, the panel may decide—

(a) to approve the revocation,

(b) to approve the revocation subject to the local transport authority taking such further action before revoking the framework as the panel may specify in its decision, or

(c) not to approve the revocation.

(6) In making its decision under subsection (4) or, as the case may, be (5), the panel must consider whether the local transport authority have reached a reasonable conclusion in deciding to vary or revoke the framework.

(7) Where the panel has approved the variation or revocation of a framework, section 13K applies to that variation or revocation as it applies to the making of a framework.

13P Reports on franchising frameworks

(1) A local transport authority must, in relation to each franchising framework made by them, for each successive period of 12 months during which the framework is in operation, prepare and publish a report on the effectiveness of the framework.

(2) For the purposes of subsection (1), the first period is to begin on the date on which local services start to be provided under a franchise agreement entered into under the framework.

(3) In preparing a report under subsection (1), the local transport authority must—

(a) consult such persons as they consider appropriate for the purpose of assessing the effectiveness of the framework, and

(b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the framework during the period under review.

13Q Non-implementation of franchising frameworks

(1) A franchising framework is to cease to have effect on the date which falls at the end of the period of 12 months beginning with the day on which the framework was made unless—

(a) the local transport authority which made the framework have entered into a franchise agreement in respect of each local service included in the framework, or

(b) subsection (3) applies.

(2) Subsection (3) applies where—

(a) within the period specified in subsection (1), the local transport authority—

(i) have failed to enter into a franchise agreement in respect of each local service included in the framework, and

(ii) have provided the traffic commissioner with an application for approval to vary the framework, and

(b) after the end of that period—

(i) the panel convened under section 13O to consider that application refuses to approve the proposed variation, or

(ii) the panel so convened has approved the proposed variation but the local transport authority have not varied the framework within the period specified in section 13K(2) (as applied by section 13O(7)).

(3) The franchising framework is to cease to have effect—

(a) on the date that the panel refuse to approve the variation, or

(b) as the case may be, on the date which falls at the end of the period of 6 months after the date of approval.

(4) The Scottish Ministers may by regulations amend subsections (1) and (3) so as to provide for a different period from those for the time being specified in those subsections.

13R Provision of information: local services franchises

(1) This section applies if a local transport authority are exercising any of the following functions—

(a) preparing and making a franchising framework,

(b) reviewing the effectiveness of a franchising framework, or

(c) determining whether and how to vary, or revoke, a franchising framework.

(2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.

(3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.

(4) The operator may be required to provide the information —

(a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and

(b) before the end of such period as may be specified by the local transport authority.

(5) A local transport authority that have obtained relevant information under this section may only—

(a) use the information for the purpose of exercising the function for which it was obtained, and

(b) supply the information to a person listed in subsection (6) for use in connection with that function.

(6) The persons are—

(a) a local transport authority,

(b) an auditor appointed by the local transport authority under section 13F,

(c) any other person providing services to the local transport authority in connection with the function being exercised,

(d) a panel appointed under section 13J(2) or 13O(2).

(7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.

(8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.

(9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Where an offence under subsection (8) committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this section, "relevant information" means information of a description specified in regulations made by the Scottish Ministers.

(12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

13S Multi-authority franchising

(1) Two or more local transport authorities may act jointly to make a franchising framework and enter into a franchise agreement (or agreements) under this chapter.

(2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—

(a) a local transport authority, in relation to a franchising framework or a franchise agreement or to a proposed framework or agreement, is a reference to the authorities acting jointly,

(b) the area of a local transport authority is a reference to the combined areas of the authorities,

(c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.

(3) Where two or more local transport authorities act jointly to make a franchising framework or enter into a franchise agreement, they must continue to act jointly in relation to the framework or agreement in all respects.

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13T Further provision about franchising arrangements

(1) The Scottish Ministers may by regulations make further provision for or in connection with the provisions of this chapter.

(2) The regulations may, in particular, make provision with respect to—

(a) the process to be followed when making, varying or revoking a franchising framework, including—

(i) the form and content of any notice, statement, report, document or application required in connection with the process,

(ii) prescribing time periods for carrying out aspects of the process,

(iii) the assessment and audit of proposed franchising frameworks,

(iv) the consultation processes to be followed,

(v) the holding of inquiries or hearings in connection with objections or representations,

(vi) the approval of making proposed franchising frameworks or proposals to vary or revoke franchising frameworks,

(b) the standards and requirements that a franchising framework may specify in respect of the accessibility of local services for disabled persons and persons with limited mobility,

(c) the local services, or descriptions of local services that must, or may, be exempted from franchising frameworks and the conditions that must, or may, be attached to such exclusions,

(d) the panels to be convened under section 13J(2) and 13O(2) and their functions, including provision about—

(i) the appointment, removal and replacement of members (including the criteria to be considered for appointment as a panel member),

(ii) the remuneration of panel members (including as to payment of panel members' expenses),

(iii) the process to be followed by the panel in making decisions.

(3) The regulations may also make transitional provision in connection with—

(a) the coming into operation of franchising frameworks,

(b) the variation of frameworks, and

(c) the ending of frameworks (whether or not as a result of their revocation).

(4) In particular, regulations in pursuance of subsection (3) may provide for the application, disapplication or modification of the effect of any provision of section 6 to 9 of the 1985 Act in such circumstances as may be prescribed.

(5) In this chapter, “prescribed” means prescribed by regulations made under this section.”.

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VALID FROM 28/11/2022

Information relating to services

39 Provision of service information when varying or cancelling registration

(1) After section 6 of the Transport Act 1985 Act insert—

"Provision of service information in Scotland

6ZA Provision of service information when varying or cancelling registration

(1) This section applies where an operator of a local service registered under section 6 notifies an affected authority in accordance with regulations under that section that the operator proposes to make an application to vary or cancel the registration.

(2) The affected authority may, within such period as may be prescribed, require the operator to provide them with such information relating to the local service as may be prescribed.

(3) The information that may be prescribed is information relating to—
- (a) the number of passengers using the service, the journeys made by those passengers and the fares paid by them, and
- (b) the revenue obtained by operating the service.

(4) A requirement for information under subsection (2) may be made only—
- (a) for the purposes of the affected authority exercising their functions under section 9A of the Transport Act 1968 or, as the case may be, section 63 of this Act, and
- (b) in respect of—
  - (i) the period of 12 months ending on the day on which the requirement is made, or
  - (ii) where the service has not operated for the whole of the period of 12 months preceding the day on which the requirement is made, the period of operation up to the day on which the requirement is made.

(5) An operator who is subject to a requirement under this section—
- (a) must provide any information required under subsection (2) within such period as may be prescribed,
- (b) may, at the same time, provide evidence that the disclosure of some or all of the information it has provided is likely to damage its commercial interests and request that the information in question is not disclosed under section 6ZB(3).

(6) For the purposes of this section and sections 6ZB and 6ZC, "affected authority", in relation to a local service registered under section 6, means a council or a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005 which—

(a) have functions under section 9A of the Transport Act 1968 or section 63 of this Act, and

(b) have within their area or, as the case may be, region a stopping place which would be affected by the variation or cancellation of the registration of the service by an operator.

6ZB Provision of service information: extent of permissible disclosure

(1) An affected authority may disclose information received from an operator under section 6ZA only in accordance with this section.

(2) An affected authority may disclose information of the type described in section 6ZA(3)(a)—

(a) to an economic operator in connection with an invitation to submit a tender to provide a supported service to replace or supplement the service being varied or cancelled,

(b) to another affected authority,

(c) to such other persons as may be prescribed.

(3) An affected authority may disclose information of the type described in section 6ZA(3)(b)—

(a) to an economic operator in connection with an invitation to submit a tender to provide a supported service to replace or supplement the service being varied or cancelled,

(b) to another affected authority.

(4) Information disclosed under subsection (3)(a) of this section—

(a) must be aggregated into an annual figure,

(b) must not be disclosed in circumstances where the affected authority have decided to assume the revenue-related risk for the supported service by keeping the revenue obtained by operating the service.

(5) An affected authority which receive information under subsection (2)(b) or (3)(b) must not disclose that information to any other person.

(6) Where an operator has provided evidence and made a request under section 6ZA(5)(b), the affected authority must—

(a) decide whether, on the basis of the evidence submitted, they are satisfied that the disclosure of some or all of the information is likely to cause damage to the commercial interests of the operator, and

(b) notify the operator of their decision.

(7) The affected authority must not disclose any information which is the subject of a request under section 6ZA(5)(b)—

(a) until they have complied with their duties under subsection (6), and

(b) where they decide that they are satisfied that disclosure of the information is likely to cause damage to the commercial interests of the operator.

(8) An affected authority who, without reasonable excuse, disclose information in contravention of this section commit an offence.

(9) An affected authority who commit an offence under subsection (8) are liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Where an offence under subsection (8) committed by an affected authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this section—

"economic operator" means any person, public entity or group of persons or entities including any temporary association of undertakings that offers to provide local services on the market,

"supported service" means a service which is subsidised under section 9A(4) of the Transport Act 1968 or, as the case may be, section 63(5) of this Act.

6ZC Provision of service information: further provision and consultation

(1) Regulations under this section may make provision for the purposes of giving full effect to sections 6ZA and 6ZB, including, without limit to that generality, provision—

(a) for excluding or modifying the application of section 6ZA in such circumstances as may be specified in the regulations,

(b) about the procedures to be followed by affected authorities and operators, including the manner in which authorities are to require information to be provided,

(c) requiring operators to keep records of such information as may be specified in the regulations,

(d) substituting a different period (or periods) for the period for the time being specified in section 6ZA(4)(b),

(e) about the form and (subject to section 6ZA(3)) content of the information that operators may be required to provide.

(2) Before making regulations under section 6ZA(2) or (5), 6ZB(2) or this section, the Scottish Ministers must consult—

(a) such persons as appear to them to be representative of operators and users of local services,

(b) each council and Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005 which have functions under section 9A of the Transport Act 1968 or section 63 of this Act, and

(c) such other persons as the Scottish Ministers consider appropriate.".

(2) In section 39 of the Transport (Scotland) Act 2001 (penalties), in subsection (1), after paragraph (b) insert—

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

"(ba) failed to comply with a requirement under section 6ZA of the 1985 Act,".

(3) In section 43 of the Transport (Scotland) Act 2001 (power to obtain information about local services), after subsection (5) insert—

"(5A) For the avoidance of doubt, subsection (5)(f) does not apply if (or to the extent that) the operator was also required to provide the information by the local transport authority as an affected authority under section 6ZA(2) of the 1985 Act (provision of service information when varying or cancelling registration).".

PROSPECTIVE

40 Provision of information about bus services

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 35 insert—

"**35A Power to require information about local services**

(1) The Scottish Ministers may by regulations require—
(a) persons who are applying for the registration of a local service or for the variation or cancellation of a registration of a local service to provide prescribed information in relation to the service,
(b) operators of a registered local service to provide prescribed information in relation to the service,
(c) local transport authorities to provide prescribed information in relation to local services that have one or more stopping places in their areas,
(d) the traffic commissioner to provide any prescribed information held by the commissioner in relation to local services.

(2) The information that may be prescribed is such information falling within subsection (3) as appears to the Scottish Ministers to be required in order to make information about local services available for disclosure to users or prospective users of those services.

(3) Information falls within this subsection if it is information about—
(a) routes, stopping places, timetables, fares and tickets,
(b) changes or proposed changes to routes, stopping places, timetables, fares and tickets,
(c) the operation of services including—
(i) real time information about the location of vehicles operating the services and the times at which they stop, or are expected to stop, at stopping places, and
(ii) information about the operation of services in the past.

(4) Regulations made under subsection (1) may make provision about—
(a) the person to whom the information is to be provided,

(b) the time when it is to be provided, and

(c) the manner and form in which it is to be provided, including, in particular, provision—

(i) requiring it to be provided electronically,

(ii) requiring such electronic provision to accord with a prescribed standard.

(5) The provision made in pursuance of subsection (4)(a) may not require the information to be provided to a person other than—

(a) the Scottish Ministers,

(b) a local transport authority,

(c) the Secretary of State,

(d) a prescribed person, being a person who provides or facilitates the provision of, or is to provide or facilitate the provision of, information about local services to users or prospective users of those services.

(6) The regulations may provide that a reference in the regulations to a standard according to which the information is to be provided is to be construed as a reference to that standard as it has effect from time to time.

(7) The regulations may make provision as to the use and disclosure of the information, including, in particular, provision for the information to be made available free of charge and without restrictions on its use and disclosure.

(8) Before laying a draft of a Scottish statutory instrument containing regulations under this section, the Scottish Ministers must consult—

(a) such persons or organisations as the Scottish Ministers consider to be representative of the interests of—

(i) operators of local services,

(ii) users of local services,

(iii) local transport authorities,

(b) the Competition and Markets Authority,

(c) such other persons as the Scottish Ministers think fit.

(9) In this section—

(a) "prescribed" means prescribed in the regulations, and

(b) a reference to registration, in relation to a local service, is a reference to registration under section 6 of the 1985 Act.".

(3) In section 39(1) (penalties), after paragraph (c) insert—

"(ca) failed to comply with a requirement imposed by regulations made under section 35A(1)(a) or (b),".

[F1](4) . . . . . .

Textual Amendments

F1 S. 40(4) omitted (27.11.2023) by virtue of The Transport (Scotland) Act 2019 Amendment Regulations 2023 (S.S.I. 2023/347), regs. 1(1), **2(3)**

VALID FROM 10/01/2022

PART 4

TICKETING ARRANGEMENTS AND SCHEMES

PROSPECTIVE

41 Ticketing arrangements

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 27 insert—

"CHAPTER 3

TICKETING ARRANGEMENTS AND TICKETING SCHEMES

Meaning of "ticketing arrangements" etc.

27A Meaning of "ticketing arrangements" etc.

(1) In this Chapter, "ticketing arrangements" means arrangements under which persons may become entitled—

(a) to make more than one journey on particular local services (whether or not operated by the same person),

(b) to make a particular journey on two or more local services (whether or not operated by the same person),

(c) where a particular journey could be made on local services provided by either (or any) of two or more operators, to make the journey on whichever service the entitled person chooses, or

(d) to make a journey on one or more local services (whether or not operated by the same person) and one or more connecting rail or ferry services or to make more than one such journey,

by entering into a single transaction of such description as the operator or operators of such services may require.

(2) In this Chapter, ticketing arrangements are "smart ticketing arrangements" if they include provision to the effect that evidence of a person's entitlement

to travel may be held or produced by the person in electronic form (whether or not it may also be held or produced in another form).

(3) In this Chapter, "connecting rail or ferry service" means a service for the carriage of passengers by railway or ferry which runs between—

(a) a station, port or stopping place at or in the vicinity of which local services stop and which serves any part of the area to which the arrangement relates, and

(b) any other place.

(4) In subsection (3), "railway" has the same meaning as in section 67(1) of the Transport and Works Act 1992.

(5) The Scottish Ministers may by regulations amend the definition of "ticketing arrangements" in subsection (1) so that it includes arrangements under which persons may become entitled to make a journey on one or more local services (whether or not operated by the same person) and by means of such other service or class of service as may be specified in the regulations.

(6) Regulations under subsection (5) may also amend sections 28 to 31 in their application to services specified in the regulations as the Scottish Ministers consider appropriate.".

(3) Section 28(5) is repealed.

(4) The italic heading immediately preceding section 28 becomes " *Ticketing arrangements* ".

[F2](5) . . . . . .

Textual Amendments

F2 S. 41(5) omitted (27.11.2023) by virtue of The Transport (Scotland) Act 2019 Amendment Regulations 2023 (S.S.I. 2023/347), regs. 1(1), **2(4)**

PROSPECTIVE

42 National technological standard for smart ticketing

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 27A insert—

"National standard and advisory board for smart ticketing

27B National technological standard for smart ticketing

(1) The Scottish Ministers may specify a technical standard for the implementation and operation of smart ticketing arrangements.

(2) A standard may be specified under subsection (1) by reference to a standard published by another person or for another purpose.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(3) The power in subsection (1) to specify a standard includes the power to vary and revoke a specification.

(4) Before specifying a standard under subsection (1) (or varying or revoking a specification) the Scottish Ministers must consult the National Smart Ticketing Advisory Board.

(5) The Scottish Ministers must publish any specification made under subsection (1) (including any variation or revocation of a specification).

(6) In this Chapter, "national technological standard for smart ticketing" means the standard for the time being specified under subsection (1) and published under subsection (5).".

43 National Smart Ticketing Advisory Board

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 27B insert—

"**27C National Smart Ticketing Advisory Board**

(1) The Scottish Ministers must establish an advisory committee to be known as the National Smart Ticketing Advisory Board ("the Board").

(2) The function of the Board is to advise the Scottish Ministers in relation to their functions insofar as they relate to—
   (a) smart ticketing arrangements, and
   (b) the national technological standard for smart ticketing.

(3) The Board also has the function of issuing advice and recommendations to the Scottish Ministers in relation to the strategic development of smart ticketing in Scotland.

(4) The Scottish Ministers may by regulations make provision about the Board, including provision about—
   (a) the appointment, removal and replacement of members,
   (b) the remuneration of members (including as to payment of a member's expenses),
   (c) the process by which the Board makes decisions.

(5) Before making regulations under subsection (4), the Scottish Ministers must consult—
   (a) all local transport authorities,
   (b) such organisations appearing to Scottish Ministers to be representative of users of local services and connecting rail or ferry services as they think fit,
   (c) such organisations appearing to Scottish Ministers to be representative of operators of local services and connecting rail or ferry services as they think fit,
   (d) such other persons as they think fit.".

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

PROSPECTIVE

44 Ticketing schemes

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) In section 29 (ticketing schemes)—

(a) after subsection (3) insert—

"(3A) A ticketing scheme must require the ticketing arrangements—

(a) to be smart ticketing arrangements, and

(b) to comply with the national technological standard for smart ticketing (to the extent it is relevant to the arrangements).

(3B) A ticketing scheme may require the ticketing arrangements to include provision—

(a) enabling payment in particular ways,

(b) about the persons to whom payment may be made,

(c) about enabling entitlement to travel to be evidenced in particular ways,

(d) about providing information about the arrangements to the public,

(e) about publicising local services, fares or ticketing arrangements provided or made available by any operator of a local service of a class specified in the scheme, and

(f) as to the appearance of tickets.

(3C) A ticketing scheme may make provision for ticketing arrangements giving rise to different kinds of entitlement to travel including, in particular—

(a) an entitlement that is valid for a specified period, and

(b) an entitlement that is valid only in a specified area.",

(b) in subsection (5), for "28(5)" substitute " 27A(1) ",

(c) after subsection (6) insert—

"(7) In carrying out their functions under this section and sections 30 and 31 in relation to ticketing schemes, local transport authorities must co-operate with one another.

(8) In carrying out their functions under this section and sections 30 and 31 in relation to ticketing schemes, local transport authorities must have regard to the desirability, in appropriate cases, of having a ticketing scheme that—

(a) facilitates journeys between the area to which the ticketing scheme applies and adjoining areas of Scotland, or

(b) facilitates the adoption of ticketing arrangements similar to those specified in the ticketing scheme in adjoining areas of Scotland.".

(3) In section 30 (consultation as to proposed ticketing scheme)—

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(a) in subsection (1), for "at least one local newspaper circulating" substitute " such manner as they consider appropriate for bringing it to the attention of persons ",

(b) in subsection (3), after paragraph (c) insert—

"(ca) any—

(i) local authority,

(ii) National Park authority (as established by virtue of the National Parks (Scotland) Act 2000), and

(iii) Transport Partnership,

any part of whose area or region would, in the opinion of the authority, be affected by the proposed scheme,

(cb) where the proposed scheme specifies arrangements of a kind mentioned in section 27A(1)(d)—

(i) the Scottish Ministers,

(ii) all operators of connecting rail or ferry services who are, in the opinion of the authority, likely to be affected by it,

(iii) such organisations appearing to the authority to be representative of users of connecting rail or ferry services as they think fit,

(cc) the Competition and Markets Authority,".

(4) In section 31 (making of ticketing scheme)—

(a) after subsection (1) insert—

"(1A) If the scheme specifies arrangements of a kind mentioned in section 27A(1)(d), it may only be made with the agreement of the operator of the connecting rail or ferry service concerned.",

(b) in subsection (3)—

(i) in paragraph (a), for "at least one local newspaper circulating" substitute " such manner as they consider appropriate for bringing it to the attention of persons ",

(ii) in paragraph (b), after "services" insert " or connecting rail or ferry services ",

(iii) after paragraph (c) insert—

"(ca) to every other person consulted in relation to the scheme under section 30(3),".

(c) in subsection (4)(b), after "service" insert " and the connecting rail or ferry services (if any) ",

(d) after subsection (4) insert—

"(5) The authority may vary or revoke the scheme.

(6) If the proposed variation would result in the scheme relating to all or part of the area of another local transport authority, the reference in subsection (5) to the authority includes that other authority.

(7) The variation or revocation is subject to the same procedure as the making of the scheme and in the application of that procedure—

(a) a reference in sections 29 and 30 and subsections (1) to (4) to making a scheme is to be treated as a reference to varying or revoking the scheme,

(b) a reference in those provisions to the proposed scheme is to be treated as a reference to the scheme as proposed to be varied or the proposed revocation of the scheme,

(c) a reference in those provisions to the date on which the scheme comes into operation is to be treated as a reference to the date on which the scheme as varied comes into operation or the date on which the scheme comes to an end.”.

(5) In section 47—

(a) in subsection (1), the words “or ticketing scheme” are repealed,

(b) in subsection (3)(a), the words “and ticketing schemes” are repealed.

(6) Before section 29 insert— “ Ticketing schemes ”.

PROSPECTIVE

45 Directions about ticketing schemes

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 32 insert—

“**32A Directions about ticketing schemes**

(1) The Scottish Ministers may direct a local transport authority, or two or more such authorities, to exercise their power—

(a) under section 29(1) to make a ticketing scheme, or

(b) under section 31(5) to vary a ticketing scheme.

(2) A direction under subsection (1) may specify—

(a) ticketing arrangements or kinds of ticketing arrangements that operators of local services must be required to make and implement under the ticketing scheme,

(b) provision of the kind mentioned in section 29(3B) that the ticketing arrangements must include,

(c) the class of local services to which the scheme is to apply.

(3) Before making a direction under subsection (1), the Scottish Ministers must consult the National Smart Ticketing Advisory Board.

(4) A direction under subsection (1) must—

(a) be in writing, and

(b) be published (as soon as practicable after it is communicated to the local transport authority or authorities), and

(c) set out the Scottish Ministers' reasons for making it.

(5) The Scottish Ministers may revise or revoke a direction under subsection (1).

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
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(6) Subsection (4) applies to the revision or revocation of a direction under subsection (1) as it applies to such a direction.”.

PROSPECTIVE

46 Reports on ticketing arrangements and schemes

(1) The Transport (Scotland) Act 2001 is amended as follows.

(2) After section 32A insert—

“Reports on ticketing arrangements and schemes

32B Reports on ticketing arrangements and schemes

(1) A local transport authority must, as soon as practicable after the end of each financial year, prepare and publish a report on the performance of their functions under sections 28 and 29.

(2) The report is to include information on—
- (a) any determination made by the authority under section 28(1) during the year,
- (b) any arrangements the authority has made under section 28(4) during the year, including, in relation to the required ticketing arrangements to which those arrangements relate—
  - (i) whether or not they are smart ticketing arrangements,
  - (ii) the extent to which they comply with the national technological standard for smart ticketing, and
  - (iii) where they are not smart ticketing arrangements or do not comply with the national technological standard for smart ticketing, the reasons for this, and
- (c) any ticketing schemes the authority has made, varied or revoked during the year.

(3) The reference in subsection (2)(c) to ticketing schemes made, varied or revoked by the authority includes ticketing schemes made, varied or revoked by the authority and one or more other local transport authorities acting jointly.”.

PROSPECTIVE

47 Application of ticketing arrangements and schemes to trams

(1) Subject to the modification contained in subsection (2), the provisions of Chapter 3 of Part 2 of the Transport (Scotland) Act 2001 apply to any service for the carriage of passengers by tramway as they apply to the provision of a local service.

(2) Section 32(2) of the Transport (Scotland) Act 2001 does not apply.

(3) In subsection (1), "tramway" has the same meaning as in section 67(1) of the Transport and Works Act 1992.

(4) Section 54(2) of the Edinburgh Tram (Line One) Act 2006 is repealed.

(5) Section 54(2) of the Edinburgh Tram (Line Two) Act 2006 is repealed.

PROSPECTIVE

48 Guidance

(1) The Transport (Scotland) Act 2001 is modified as follows.

(2) In section 79(1) (guidance)—

(a) in paragraph (c), the words "ticketing schemes," are repealed,

(b) after paragraph (c) insert—

"(ca) local transport authorities in relation to—

(i) their functions under section 28,

(ii) ticketing schemes, and

(iii) the preparation of reports under section 32B,".

VALID FROM 14/01/2021

PART 5

TRAVEL CONCESSION SCHEMES: APPLICATION TO COMMUNITY TRANSPORT

49 Travel concession schemes: application to community transport

(1) The Transport Act 1985 is amended as follows.

(2) In section 93 (travel concession schemes), after subsection (7) there is inserted—

"(7A) Not later than 12 months after the Transport (Scotland) Act 2019 receives Royal Assent, the Scottish Ministers must publish a report setting out their assessment of the costs and benefits of extending travel concession schemes established under this section to—

(a) community bus services within the meaning of section 22(1) of this Act, and

(b) such other transport services as the Scottish Ministers consider appropriate.

(7B) In preparing a report under subsection (7A), the Scottish Ministers must consult—

(a) each local authority,

(b) each regional transport partnership,

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(c) such persons as the Scottish Ministers consider to be representative of community transport users.

(7C) A report under subsection (7A)—

(a) may be published in such format as the Scottish Ministers consider appropriate, and

(b) must be laid before the Scottish Parliament.”.

VALID FROM 14/01/2021

PART 6

PARKING PROHIBITIONS

Pavement parking prohibition

VALID FROM 11/12/2023

50 Pavement parking prohibition

(1) A person must not park a motor vehicle on a pavement (in this Part, this prohibition is referred to as the “pavement parking prohibition”).

(2) For the purposes of the pavement parking prohibition—

(a) a motor vehicle is parked on a pavement if—

(i) it is stationary, and

(ii) one or more of its wheels (or any part of them) is on any part of the pavement,

(b) a stationary motor vehicle is parked whether or not—

(i) the driver of the vehicle is in attendance at the vehicle,

(ii) the engine of the vehicle is running.

(3) The pavement parking prohibition is subject to the exceptions set out in section 55.

(4) In this section—

“footpath” is to be construed in accordance with section 151(2) of the Roads (Scotland) Act 1984 (and does not include a footpath mentioned in subsection (3)(a) or (b) of that section),

“footway” is to be construed in accordance with section 151(2) of that Act,

“motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988, except that—

(a) section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act, and

(b) it does not include a heavy commercial vehicle (within the meaning given by section 20(1) of that Act) (but see section 19(1) of that Act),

“pavement” means a footpath or footway.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

VALID FROM 10/01/2022

51 Exemption orders

(1) A local authority may make an order (in this Part, an "exemption order") providing that the pavement parking prohibition does not apply to a footway within the local authority's area which is specified in the order.

(2) A footway may not be specified in an exemption order unless it, or the carriageway with which it is associated, has the characteristics specified by the Scottish Ministers in a direction under section 67(1).

(3) An exemption order—
- (a) may apply to all or part of a footway,
- (b) must apply—
  - (i) at all times, and
  - (ii) to all motor vehicles,
- (c) may not be subject to conditions.

(4) If the local authority is not the traffic authority for the footway to which an exemption order is to apply, the local authority may not make the order unless the traffic authority for the footway consents to the making of the order.

(5) Subsection (4) applies to an order amending or revoking an exemption order as it applies to an exemption order.

(6) In subsection (2), "carriageway" is to be construed in accordance with section 151(2) of the Roads (Scotland) Act 1984.

52 Exemption orders: form and procedure

(1) The Scottish Ministers may by regulations make provision in connection with the making, amendment and revocation of exemption orders.

(2) Regulations under subsection (1) may, in particular, make provision about—
- (a) the form of an exemption order (or an order amending or revoking an exemption order),
- (b) the procedure to be followed in connection with the making, amendment or revocation of an exemption order,
- (c) publication of a proposal for the making, amendment or revocation of an exemption order (a "proposal"),
- (d) persons who must be consulted about a proposal and the manner and timing of that consultation,
- (e) the process for making objections to a proposal,
- (f) the process for considering any such objections, including the holding of inquiries and the appointment of a person to hold an inquiry,
- (g) modification of a proposal (whether in consequence of an objection or otherwise),
- (h) notice to be given or published of the making, amendment or revocation of an exemption order and the effect of the exemption order (or its amendment or revocation).

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

VALID FROM 10/01/2022

53 Exemption orders: traffic signs

(1) This section applies where a local authority (the "exempting authority") makes an exemption order in relation to all or part of a footway.

(2) The traffic authority for the footway must—
  (a) place, or secure the placement of, traffic signs in connection with the exemption order, and
  (b) maintain, or secure the maintenance of, those signs.

(3) Where the traffic authority for the footway is not the exempting authority, the traffic authority may enter into an arrangement with the exempting authority under which the exempting authority is to—
  (a) exercise the functions under subsection (2), or
  (b) assist the traffic authority in connection with the exercise of those functions.

(4) Where the exempting authority enters into an arrangement mentioned in subsection (3)(a), section 65(1) of the Road Traffic Regulation Act 1984 (powers and duties of traffic authorities as to placing of traffic signs) applies to the exempting authority as it applies to the traffic authority for the footway.

(5) In subsection (2), "traffic signs" has the meaning given by section 64(1) of the Road Traffic Regulation Act 1984 (general provisions as to traffic signs).

VALID FROM 11/12/2023

Double parking prohibition

54 Double parking prohibition

(1) A person must not park a motor vehicle on a carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of a carriageway (in this Part, this prohibition is referred to as the "double parking prohibition").

(2) For the purposes of the double parking prohibition, a stationary motor vehicle is parked whether or not—
  (a) the driver of the vehicle is in attendance at the vehicle,
  (b) the engine of the vehicle is running.

(3) But a motor vehicle is not parked for those purposes if it is stationary—
  (a) due to the necessities of traffic, or
  (b) otherwise as a result of circumstances beyond the driver's control.

(4) The double parking prohibition is subject to the exceptions set out in section 55.

(5) In subsection (1)—
  "carriageway" has the meaning given by section 51(6),

"edge of a carriageway" means—

(a) where the edge of the carriageway is marked by a painted solid white line, the edge of the painted line furthest from the centre of the carriageway,

(b) where the edge of the carriageway is not marked by a painted solid white line and is bounded by a kerb, the edge of the kerb closest to the centre of the carriageway,

(c) in any other case, where the surface of the carriageway meets the verge of the carriageway,

"motor vehicle" has the meaning given by section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act.

VALID FROM 11/12/2023

Exceptions to pavement parking prohibition and double parking prohibition

55 Exceptions to pavement parking prohibition and double parking prohibition

(1) This section sets out exceptions to the pavement parking prohibition and the double parking prohibition.

(2) The pavement parking prohibition and the double parking prohibition do not apply where [F3]...—

(a) **[**[F4]the motor vehicle**]** is being used—

(i) for police purposes, including for the purposes of the National Crime Agency,

(ii) for ambulance purposes or for the purpose of providing a response to an emergency at the request of the Scottish Ambulance Service Board,

(iii) for or in connection with the exercise of any function of the Scottish Fire and Rescue Service or Her Majesty's Coastguard, or

(iv) for naval, military or air force purposes,

(b) the achievement of the purposes, or the exercise of the function, would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1), and

(c) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).

(3) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle—

(a) is being used for or in connection with—

(i) the undertaking of works in roads,

(ii) the removal of an obstruction to traffic,

(iii) the collection of waste by or on behalf of a local authority,

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(iv) postal services (within the meaning of section 125(1) of the Postal Services Act 2000),

(b) cannot reasonably be so used without being parked on a pavement or, as the case may be, as mentioned in section 54(1),

(c) is so parked for no longer than is necessary for that use, and

(d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).

(4) In subsection (3)(a)(i), "works in roads" includes—

(a) road works within the meaning given by section 107(3) of the New Roads and Street Works Act 1991,

(b) works for roads purposes within the meaning given by section 145(2) of that Act,

(c) major works for roads purposes with the meaning given by section 145(3) of that Act,

(d) cleaning, placing, removing or adjusting by or on behalf of a roads authority (within the meaning given by section 151(1) of the Roads (Scotland) Act 1984) of any equipment or structure which is placed on or over a road.

(5) The pavement parking prohibition and the double parking prohibition do not apply where—

(a) the motor vehicle is being used by a registered medical practitioner, registered nurse or registered midwife for or in connection with the provision of urgent or emergency health care,

(b) the provision of the care would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1),

(c) the vehicle is so parked for no longer than is reasonable in connection with the provision of the care, and

(d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).

(6) The pavement parking prohibition and the double parking prohibition do not apply where—

(a) the motor vehicle is, in the course of business—

(i) being used for the purpose of delivering goods to, or collecting goods from, any premises, or

(ii) being loaded from or unloaded to any premises,

(b) the delivery, collection, loading or unloading cannot reasonably be carried out without the vehicle being parked on a pavement or, as the case may be, as mentioned in section 54(1),

(c) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded),

(d) the vehicle is so parked for no longer than is necessary for the delivery, collection, loading or unloading and in any event for no more than a continuous period of 20 minutes.

(7) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle is parked wholly within a parking place that is—

(a) authorised by order under section 32(1)(b) of the Road Traffic Regulation Act 1984, or

(b) designated by order under section 45 of that Act.

(8) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle is parked in accordance with permission given by a constable (within the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012) in uniform.

(9) The pavement parking prohibition and the double parking prohibition do not apply where—

(a) the person has parked the motor vehicle for the purpose of saving life or responding to another similar emergency,

(b) the achievement of that purpose would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1), and

(c) the vehicle is so parked for no longer than is necessary for that purpose.

(10) The pavement parking prohibition and the double parking prohibition do not apply where—

(a) the person has parked the motor vehicle for the purpose of providing assistance at an accident or breakdown,

(b) the assistance could not be safely or reasonably provided if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1),

(c) the vehicle is so parked for no longer than is necessary for that purpose, and

(d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).

(11) In this section, "carriageway" has the meaning given by section 51(6).

(12) The Scottish Ministers may by regulations modify this section.

Textual Amendments

F3 Words in s. 55(2) omitted (27.11.2023) by virtue of The Transport (Scotland) Act 2019 Amendment Regulations 2023 (S.S.I. 2023/347), regs. 1(1), **2(5)(a)**

F4 Words in s. 55(2)(a) inserted (27.11.2023) by The Transport (Scotland) Act 2019 Amendment Regulations 2023 (S.S.I. 2023/347), regs. 1(1), **2(5)(b)**

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VALID FROM 11/12/2023

Dropped footway parking prohibition

56 Dropped footway parking prohibition

(1) A person must not park a motor vehicle on a carriageway adjacent to a footway where, for the purpose of assisting pedestrians or cyclists to cross the carriageway—
  (a) the footway has been lowered to meet the level of the carriageway, or
  (b) the carriageway has been raised to meet the level of the footway.

(2) In this Part, the prohibition in subsection (1) is referred to as the "dropped footway parking prohibition".

(3) In this section and section 57—
  "carriageway" has the meaning given by section 51(6),
  "footway" has the meaning given by section 50(4),
  "motor vehicle" has the meaning given by section 54(5).

57 Exceptions to dropped footway parking prohibition

(1) This section sets out exceptions to the dropped footway parking prohibition.

(2) The dropped footway parking prohibition does not apply where the footway has been lowered or the carriageway has been raised as described in section 56(1) for the purpose of access to a driveway or to a garage (whether on commercial or residential premises).

(3) The dropped footway parking prohibition does not apply where—
  (a) the person has parked the motor vehicle for the purpose of saving life or responding to another similar emergency,
  (b) the achievement of that purpose would be likely to be hindered if the vehicle were not parked as mentioned in section 56(1),
  (c) the vehicle is so parked for no longer than is necessary for that purpose.

VALID FROM 22/09/2023

Enforcement of parking prohibitions

58 Imposition of penalty charges

(1) Where a person parks a motor vehicle in contravention of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition, a penalty charge is payable in respect of the contravention.

(2) Where a local authority considers that a penalty charge is payable under subsection (1) in respect of a contravention occurring in its area, it may issue a

notice imposing a penalty charge (a "penalty charge notice") in accordance with regulations under section 59(1).

(3) A penalty charge notice may be issued under subsection (2) only on the basis of—
- (a) conduct observed by an authorised enforcement officer, or
- (b) a record produced by an approved device.

(4) A penalty charge imposed under subsection (2) is payable—
- (a) by the registered keeper of the motor vehicle, or
- (b) in such circumstances, following consultation with such persons as they consider appropriate, as may be specified in regulations made by the Scottish Ministers, by such other person as may be so specified.

(5) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision for or in connection with the amount that may be imposed as a penalty charge, which may include provision for discounts and surcharges.

(6) In this section—

"approved device" means a device approved under or in accordance with regulations under section 59(1),

"authorised enforcement officer" means an individual—
- (a) appointed in connection with the enforcement of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition—
  - (i) by the local authority, or
  - (ii) by a person with whom the local authority has entered into arrangements as mentioned in section 64, and
- (b) in a uniform of a type determined by the local authority in accordance with any directions given under section 67(1),

"registered keeper", in relation to a penalty charge imposed in connection with a motor vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 at the time of the contravention to which the penalty charge relates.

59 Enforcement of parking prohibitions

(1) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision for or in connection with the enforcement of the pavement parking prohibition, the double parking prohibition and the dropped footway parking prohibition.

(2) Regulations under subsection (1) may, in particular, make provision for or about—
- (a) the approval by the Scottish Ministers of devices to be used in connection with the detection of a contravention of a prohibition,
- (b) the notification of a penalty charge, including the form, content and method of notification,
- (c) the timing and manner of payment of a penalty charge,
- (d) reviews and appeals (including grounds of review or appeal) in connection with the imposition of penalty charges,
- (e) the manner in which a penalty charge may be enforced,

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(f) steps that may be taken following the cancellation of a penalty charge, which may include the issuing of another penalty charge in respect of the same contravention.

(3) Regulations under subsection (1) may not confer power to stop motor vehicles.

(4) Regulations under subsection (1) may include provision—

(a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations,

(b) securing that a penalty charge is not required to be paid, or is to be refunded, where the conduct in respect of which the penalty charge is imposed is the subject of—

(i) criminal proceedings,

(ii) a fixed penalty notice (within the meaning of section 52(1) of the Road Traffic Offenders Act 1988),

(iii) a penalty charge notice issued under section 66(1) of the Road Traffic Act 1991 (as applied by an order under paragraph 1 or 2 of schedule 3 of that Act),

(c) securing that a record produced by an approved device is sufficient evidence of the fact recorded in the record in such circumstances as may be specified in the regulations.

VALID FROM 11/12/2023

60 Power to install approved devices

(1) A traffic authority may install and maintain, or secure the installation and maintenance of, approved devices on a road for use in connection with the detection of a contravention of—

(a) the pavement parking prohibition,

(b) the double parking prohibition, or

(c) the dropped footway parking prohibition.

(2) The traffic authority may remove, or secure the removal of, anything installed under subsection (1).

(3) Where the traffic authority is not the local authority for the area in which a device is to be installed, the traffic authority may enter into an arrangement with that local authority under which the local authority is to—

(a) exercise the functions under subsection (1) in relation to the device, or

(b) assist the traffic authority in connection with the exercise of those functions.

(4) In subsection (1), “approved devices” has the meaning given by section 58(6).

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VALID FROM 11/12/2023

Removal, moving and disposal of motor vehicles

61 Removal of motor vehicles parked contrary to parking prohibitions

(1) The Scottish Ministers may by regulations make provision for or about the removal from a road of a motor vehicle which is parked in contravention of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition.

(2) Regulations under subsection (1) may, in particular, make provision for or about—
- (a) notification of the removal of a motor vehicle,
- (b) storage of a motor vehicle that has been removed,
- (c) circumstances in which a motor vehicle that has been removed is to be returned,
- (d) charges that may be imposed in connection with the removal or storage of a motor vehicle,
- (e) reviews and appeals (including grounds of review or appeal) in connection with the removal of a motor vehicle.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
- (b) such other persons as they consider appropriate.

62 Moving motor vehicles parked contrary to parking prohibitions

(1) The Scottish Ministers may by regulations make provision for or about the moving, from a position on a road to another position on the road or on another road, of a motor vehicle which is parked in contravention of—
- (a) the pavement parking prohibition,
- (b) the double parking prohibition, or
- (c) the dropped footway parking prohibition.

(2) Regulations under subsection (1) may, in particular, make provision for or about—
- (a) notification of the moving of a motor vehicle,
- (b) charges that may be imposed in connection with the moving of a motor vehicle,
- (c) reviews and appeals (including grounds of review or appeal) in connection with the moving of a motor vehicle.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
- (b) such other persons as they consider appropriate.

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63 Disposal of removed motor vehicles

(1) The Scottish Ministers may by regulations make provision for or about the disposal of a motor vehicle which has been removed from a road pursuant to regulations under section 61(1).

(2) Regulations under subsection (1) may, in particular, make provision for or about—
- (a) the procedure to be followed before a motor vehicle may be disposed of,
- (b) the manner in which a motor vehicle may be disposed of,
- (c) charges that may be imposed in connection with the disposal of a motor vehicle,
- (d) the application of any proceeds of the disposal of a motor vehicle, including any deductions from such proceeds,
- (e) reviews and appeals (including grounds of review or appeal) in connection with the disposal of a motor vehicle,
- (f) the effect of the disposal of a motor vehicle on any right of the Crown (based on the Crown's right of ownership in lost or abandoned property) in such a vehicle.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
- (b) such other persons as they consider appropriate.

VALID FROM 11/12/2023

Arrangements in connection with enforcement

64 Arrangements in connection with enforcement

A local authority may enter into arrangements with any person for the exercise by that person of any function conferred on the local authority by or under section 58(2), 59(1), 61(1), 62(1) or 63(1).

VALID FROM 11/12/2023

Information sharing

65 Power to share information

(1) A local authority may, in the circumstances mentioned in subsection (2), disclose relevant information to—
- (a) the Secretary of State,
- (b) a source specified in regulations made by the Scottish Ministers,
- (c) the local authority's enforcement agent.

(2) The circumstances are that disclosure of the relevant information is—

(a) necessary to enable the local authority or enforcement agent to perform a function conferred by virtue of this Part, or

(b) otherwise necessary for or in connection with the enforcement of any of the parking prohibitions.

(3) Where relevant information is disclosed to an enforcement agent—

(a) the agent may only use the information, or subsequently disclose it to any other person, as is necessary for or in connection with the enforcement of any of the parking prohibitions, and

(b) any other person to whom the information is subsequently disclosed may only use it for the same purpose.

(4) In this section, "relevant information" means—

(a) in relation to disclosure under subsection (1)(a) or (b)—

(i) the make and model of a vehicle alleged by a local authority (or its enforcement agent) to have parked in contravention of any of the parking prohibitions,

(ii) details of which of those prohibitions is alleged to have been contravened,

(iii) the registration mark of that vehicle (assigned under section 23 of the Vehicle Excise and Registration Act 1994),

(iv) the date on which the alleged contravention took place,

(b) in relation to disclosure under subsection (1)(c)—

(i) the information mentioned in sub-paragraphs (i) to (iv) of paragraph (a),

(ii) the name and address of the registered keeper of the vehicle alleged by a local authority (or its enforcement agent) to have parked in contravention of any of the parking prohibitions,

(iii) the location where the vehicle is alleged to have parked in contravention of any of the parking prohibitions,

(iv) any record of an alleged contravention of any of the parking prohibitions produced by an approved device,

(v) any information or representations provided to the local authority by or on behalf of the registered keeper of a vehicle in connection with any review or appeal made by virtue of regulations made under section **[**[F5]59(1)**]**.

(5) For the purposes of this section—

(a) an "enforcement agent" is a person with whom the local authority has entered into arrangements by virtue of section 64,

(b) the "parking prohibitions" are the pavement parking prohibition, the double parking prohibition and the dropped footway parking prohibition.

(6) Nothing in this section authorises a disclosure of any information that would be in contravention of the Data Protection Act 2018.

Textual Amendments

F5 Word in s. 65(4)(b)(v) substituted (27.11.2023) by The Transport (Scotland) Act 2019 Amendment Regulations 2023 (S.S.I. 2023/347), regs. 1(1), **2(6)**

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VALID FROM 22/09/2023

Accounts

66 Accounts

The Scottish Ministers may by regulations make provision for or about—

(a) the keeping of accounts by local authorities in connection with their functions under this Part,

(b) the purposes for which a surplus in such an account may be applied, and

(c) the publication of a statement of account, and the manner in which it must be published.

Ministerial directions and guidance

67 Ministerial directions

(1) The Scottish Ministers may direct local authorities in connection with the exercise of their functions under this Part.

(2) A direction under subsection (1) may, in particular—

(a) specify assessments to be carried out in connection with the making of exemption orders,

(b) make provision relating to uniforms to be worn by authorised enforcement officers,

(c) specify information to be published by local authorities in connection with this Part.

(3) A direction under subsection (1)—

(a) may be general or relate to a particular function or local authority,

(b) may be given to—

(i) each local authority,

(ii) a particular local authority in relation to the whole or part of the area of the local authority,

(iii) local authorities of a particular description,

(c) must—

(i) be in writing,

(ii) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.

(4) The Scottish Ministers may revise or revoke a direction under subsection (1).

(5) The Scottish Ministers may, in particular, revise a direction under subsection (1) which is given to each local authority so that it—

(a) ceases to apply to—

(i) a particular local authority in relation to the whole or part of the area of the local authority,

(ii) local authorities of a particular description,

(b) applies with modifications to—

(i) a particular local authority in relation to the whole or part of the area of the local authority,

(ii) local authorities of a particular description.

(6) Subsection (3)(c) applies to the revision or revocation of a direction under subsection (1) as it applies to such a direction.

(7) In subsection (2)(b), "authorised enforcement officers" has the meaning given by section 58(6).

68 Ministerial guidance

(1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, issue written guidance in relation to the exercise of functions conferred on a local authority (whether as a local authority or as a traffic authority) by virtue of this Part.

(2) A local authority must have regard to any written guidance given by the Scottish Ministers about the exercise of functions conferred on it (whether as a local authority or as a traffic authority) by virtue of this Part.

(3) The Scottish Ministers must publish any such guidance in such manner as they consider appropriate as soon as reasonably practicable after it is given.

VALID FROM 11/12/2023

Interpretation of Part 6

69 Interpretation of Part 6

In this Part—

"double parking prohibition" has the meaning given by section 54(1),

"dropped footway parking prohibition" has the meaning given by section 56(2),

"exemption order" has the meaning given by section 51(1),

"footway" has the meaning given by section 50(4),

"motor vehicle"—

(a) in relation to the pavement parking prohibition, has the meaning given by section 50(4),

(b) in relation to the double parking prohibition and the dropped footway parking prohibition, has the meaning given by section 54(5),

"pavement" has the meaning given by section 50(4),

"pavement parking prohibition" has the meaning given by section 50(1),

"road" has the meaning given by section 151(1) of the Roads (Scotland) Act 1984,

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"traffic authority" means, in relation to a footway, the body which has the function of making traffic regulation orders under section 1 of the Road Traffic Regulation Act 1984.

VALID FROM 10/01/2022

PART 7

WORKPLACE PARKING

Workplace parking licensing schemes

70 Workplace parking licensing schemes

(1) A workplace parking licensing scheme is a scheme under which a local authority may—

(a) require a person to hold a licence in order to provide workplace parking places (see section 58B) at premises in the area to which the scheme relates, and

(b) charge for such a licence on the basis of the number of places specified in the licence.

(2) A workplace parking licensing scheme must specify—

(a) the area of the local authority to which the scheme relates, which must be specified by reference to an area on a map (the "licensing area"),

(b) the date on which the scheme comes into effect,

(c) the period during which the scheme is to remain in force (or that it is to continue indefinitely),

(d) the days on which, and hours during which, a licence is required,

(e) the charges payable on licences (expressed as a specified sum of money for each workplace parking place provided),

(f) any persons, premises or motor vehicles (or descriptions of such persons, premises or motor vehicles) that are exempt from the scheme or from paying charges under it (see sections 78 and 79), and

(g) arrangements for the periodic review of the operation and effectiveness of the scheme including, in particular, how the outcome of a review is to be communicated to persons affected by it.

(3) A workplace parking licensing scheme may make different provision for different purposes or different areas within the licensing area.

71 Workplace parking places

(1) For the purposes of this Part, a workplace parking place is provided at any premises at any time if a parking place provided at the premises is at that time occupied by a motor vehicle used—

(a) by a relevant person,

(b) by a worker, agent, supplier, business customer or business visitor of a relevant person,

(c) by a person attending a course of education or training provided by a relevant person, or

(d) where a body whose affairs are controlled by its members is a relevant person, by a member of the body engaged in the carrying on of any business of the body,

for the purpose of attending a place at which the relevant person carries on business at, or in the vicinity of, the premises.

(2) In this section "relevant person" means—

(a) the person who provides the parking place in question ("the provider"),

(b) any person with whom the provider has entered into arrangements to provide the parking place (whether or not for that person's own use), or

(c) any person who is associated with—

(i) the provider, or

(ii) a person within paragraph (b).

(3) For the purpose of subsection (2)(c), any two persons are associated if—

(a) one is a company of which the other (directly or indirectly) has control, or

(b) both are companies of which a third person (directly or indirectly) has control.

(4) For the purposes of this section—

"business" includes—

(a) any trade, profession, vocation or undertaking,

(b) the functions of any holder of a public office,

(c) the provision of any course of education or training, and

(d) the functions of, or any activities carried on by, the Scottish Administration, a Government department, a local authority or other statutory body,

"business customer", in relation to a relevant person, means a client or customer of the relevant person who is attending at any premises occupied by the relevant person for the purposes of a business carried on by that client or customer,

"business visitor", in relation to a relevant person, means an individual who—

(a) in the course of the individual's employment, or

(b) in the course of carrying on a business or for the purposes of a business carried on by the individual,

is visiting the relevant person or any premises occupied by the relevant person,

"Government department" means a department of the Government of the United Kingdom,

"supplier", in relation to a relevant person, means—

(a) a person supplying, or seeking to supply, goods or services to the relevant person for the purposes of a business carried on by the relevant person, or

(b) any agent or sub-contractor of such a person,

"worker" means an individual who has entered into, or works under—

(a) a contract of employment, or

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(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, under which the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.

(5) The Scottish Ministers may by regulations amend subsections (1) to (4) for the purpose of adding, removing or varying circumstances in which, for the purposes of this Part, a workplace parking place is provided.

Making and modifying schemes

72 Power to make and modify schemes

(1) A local authority may (in accordance with this Part)—
(a) make a workplace parking licensing scheme for all or part of its area,
(b) amend or revoke a workplace parking licensing scheme made by it.

(2) A workplace parking licensing scheme may be made only if—
(a) the local authority proposing to make the scheme has a local transport strategy, and
(b) it appears to the authority that the scheme will (directly or indirectly) facilitate the achievement of policies in its strategy.

(3) Two or more local authorities may act jointly to make a workplace parking licensing scheme.

(4) In those circumstances—
(a) they must continue to act jointly in relation to the scheme in all respects, and
(b) unless the context otherwise requires, a reference in this Part to—
(i) a local authority, in relation to a workplace parking licensing scheme or to a proposed scheme, is a reference to the authorities acting jointly,
(ii) the area of a local authority is a reference to the combined areas of those authorities, and
(iii) the local transport strategy of a local authority is a reference to the local transport strategy of each local authority.

73 Prior consultation and impact assessment

(1) Before making, amending or revoking a workplace parking licensing scheme, a local authority must—
(a) prepare and publish—
(i) an outline of the proposed scheme, the scheme as it is proposed to be amended or (as the case may be) notice of the proposed revocation of the scheme ("the proposal"),
(ii) a statement about the objectives of the proposal, and
(iii) an assessment of the impacts of the proposal,

(b) consult such persons as the authority considers appropriate in relation to the proposal (including, in particular, persons that the authority has identified as likely to be affected by the proposal), and

(c) prepare and publish a report which—

(i) summarises the consultation responses received,

(ii) states whether or not the authority intends to proceed with the proposal (or the proposal as modified in light of the consultation), and

(iii) sets out the authority's reasons for whether or not it intends to proceed.

(2) For the purpose of subsection (1)(a)(i), an outline of the proposed scheme must include the proposed—

(a) licensing area,

(b) period during which the scheme is to remain in force (or that it is to continue indefinitely),

(c) charges payable on licences (expressed as a specified sum of money for each workplace parking place provided),

(d) persons, premises or motor vehicles (or descriptions of such persons, premises or motor vehicles) that are to be exempt from the scheme or from paying charges under it (see sections 78 and 79).

(3) For the purpose of subsection (1)(a)(ii), the statement must set out—

(a) the objectives that the local authority intends the proposal to achieve,

(b) its assessment of how (or the extent to which) the proposal will—

(i) achieve those objectives, and

(ii) facilitate (directly or indirectly) the achievement of policies in its local transport strategy, and

(c) how it intends to apply any net proceeds of the scheme (see section 81).

(4) For the purpose of subsection (1)(a)(iii), the assessment must, in particular, set out what the local authority considers to be the likely effects of the proposal on—

(a) persons who may have to pay charges under (or as a result of) the scheme, and

(b) the environment.

(5) A local authority may not make, amend or (as the case may be) revoke the scheme in accordance with the proposal (or the proposal as modified) until a period of 8 weeks beginning with the date on which it published its report under subsection (1)(c) has elapsed.

74 Scottish Ministers' power to regulate process

The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision about the procedures in relation to making, amending and revoking workplace parking licensing schemes including, in particular, provision—

(a) specifying the form of a scheme, or any amendment or revocation of it,

(b) about consultation on proposals (including the publication of proposals and the making and consideration of representations),

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(c) about the publication of notice of the making, amendment or revocation of a scheme and their effect,

(d) about reviews of, and appeals against, decisions in relation to schemes.

75 Examination of proposals

(1) This section applies where a local authority proposes to make, amend or revoke a workplace parking licensing scheme.

(2) Either—

(a) the local authority making the proposal, or

(b) the Scottish Ministers,

may (if it or they consider it appropriate) appoint a person ("the reporter") to carry out an examination of, and prepare a report on, the proposal or any aspect of it.

(3) The reporter may carry out an examination in such manner as the reporter considers appropriate and may, in particular, do so by means of—

(a) consideration of written representations only,

(b) conducting a hearing at which a person who has made representations in respect of the proposal may be given an opportunity to appear and be heard, or

(c) holding an inquiry into the proposal.

(4) Subsections (3) to (5) of section 210 of the Local Government (Scotland) Act 1973 (provisions relating to local inquiries) apply in relation to a hearing or inquiry under subsection (3) of this section as they apply in relation to an inquiry under that Act.

(5) Where an examination is to be carried out, the local authority may not proceed with the proposal until the examination has been completed.

(6) The Scottish Ministers may by regulations make further provision in relation to examinations to be carried out under this section.

(7) Without limit to that generality, such regulations may make provision—

(a) about who may be appointed to carry out an examination under this section,

(b) about the procedure for examinations under this section and, in particular, in relation to—

(i) any representations which are (or are not) to be taken into account,

(ii) who may appear at a hearing or inquiry,

(iii) the procedure for the conduct of any hearing or inquiry,

(iv) things which must be done in preparation for, or following, a hearing or inquiry,

(c) in relation to the financial aspects of an examination and, in particular, about the payment of remuneration, costs and expenses,

(d) in relation to the report to be prepared including, in particular, its form, content and publication.

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Workplace parking licences

76 Licence applications and processes

(1) A workplace parking licensing scheme may include provision for or in connection with—
- (a) applications for a workplace parking licence,
- (b) granting, issuing and renewing a licence,
- (c) imposing conditions on a licence,
- (d) the standard duration of a licence,
- (e) varying or revoking a licence,
- (f) suspending the requirement to hold a licence for a period (and reimbursing charges for such a period).

(2) Provision under subsection (1)(b) may include the granting of short-term workplace parking licences in special circumstances specified in, or determined in accordance with, the scheme.

(3) In connection with the granting of a short-term workplace parking licence, a workplace parking licensing scheme may include provision conferring a discretion on any person.

(4) The duration of a short-term workplace parking licence (or the total duration of a series of such licences) may not exceed 12 months.

(5) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make, or require or permit workplace parking schemes to include, provision about reviews of, and appeals against, decisions in relation to workplace parking licences.

(6) A person commits an offence if the person intentionally provides false or misleading information in or in connection with an application in respect of a workplace parking licence.

(7) A person guilty of an offence under subsection (6) is liable on—
- (a) summary conviction, to a fine not exceeding the statutory maximum, or
- (b) conviction on indictment, to a fine.

77 Content of licences

(1) A workplace parking licence must—
- (a) state the name of the person to whom it is granted,
- (b) specify the duration of the licence,
- (c) identify the premises to which it relates,
- (d) specify the maximum number of motor vehicles which may be parked at those premises at any one time, and
- (e) state the amount of the charge paid on the licence and set out the calculation of that amount.

(2) A workplace parking licence may include such other information in relation to the workplace parking licensing scheme or licensing processes as the local authority considers appropriate.

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Exemptions

78 Exemptions etc.

(1) A workplace parking licensing scheme must provide for the exemptions described in section 79.

(2) A workplace parking licensing scheme may otherwise provide for—
- (a) specific premises, or premises of a specified description,
- (b) premises with a specified number of parking places (or fewer), or
- (c) descriptions of persons or motor vehicles (including descriptions by reference to any parking places provided for the exclusive use of such persons or motor vehicles),

to be exempt from the scheme or from paying charges under the scheme.

(3) The same premises must not be subject to more than one workplace parking licensing scheme at the same time.

(4) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make further provision in relation to exemptions, including by—
- (a) exempting from workplace parking licensing schemes (or requiring schemes to exempt) such premises, persons or vehicles (or descriptions of premises, persons or vehicles) as may be specified in the regulations, and
- (b) prohibiting the exemption from schemes of premises, persons or vehicles of such descriptions as may be specified in the regulations.

79 National exemptions

(1) The following workplace parking places are to be exempt from charges under a workplace parking licensing scheme—
- (a) places for the exclusive use of persons using motor vehicles displaying a badge issued—
  - (i) under section 21 of the Chronically Sick and Disabled Persons Act 1970,
  - (ii) under a provision of the law of Northern Ireland corresponding to that section, or
  - (iii) by a member state of the EU for purposes corresponding to the purposes of that section,
- (b) subject to subsection (2)(b), places at qualifying NHS premises, and
- (c) places at hospices (that is, premises used for the purpose of caring for the dying or incurably ill).

(2) A workplace parking licensing scheme may—
- (a) require premises with workplace parking places mentioned in subsection (1) to hold a workplace parking licence in respect of the places, and
- (b) specify that workplace parking places at qualifying NHS premises that are provided for persons who do not provide services for the health service within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 ("the 1978 Act") are not to be exempt from charges under a workplace parking licensing scheme.

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(3) In this section, "qualifying NHS premises" means—

(a) a health service hospital within the meaning of section 108(1) of the 1978 Act or a state hospital within the meaning of section 102(2) of that Act,

(b) any other premises occupied by a Health Board or Special Health Board constituted under section 2(1) of the 1978 Act,

(c) premises that are (or such part of premises as is) used wholly or mainly for the provision of primary medical services as construed in accordance with section 2C(5) of the 1978 Act, and

(d) such other similar premises as the Scottish Ministers may specify under section 78(4).

Financial provisions

80 Charges

(1) The charges imposed in respect of any premises by a workplace parking licensing scheme must be paid—

(a) by the occupier of the premises, or

(b) in such circumstances as the Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, specify, by such other person as may be specified.

(2) The charges that may be imposed by a workplace parking licensing scheme may include different charges (or no charge) for different cases, including (in particular)—

(a) different days,

(b) different times of day,

(c) different parts of the licensing area,

(d) different descriptions of persons,

(e) different descriptions of premises, including different numbers of workplace parking places provided at a licensed premises, and

(f) different classes of motor vehicles.

(3) In setting the charges imposed by a workplace parking licensing scheme, a local authority must have regard to the purposes for which the authority is to apply any of the net proceeds of the scheme (see section 81).

81 Application of net proceeds of workplace parking licensing schemes

(1) A local authority (the authority) may apply the net proceeds of a workplace parking licensing scheme (or, in a case where the authority is acting jointly with another local authority or authorities, the authority's share of the net proceeds) only for purposes of facilitating the achievement of—

(a) policies in the authority's local transport strategy, or

(b) in the case of a joint scheme, the policies in the local transport strategy of a local authority with whom the authority is acting jointly.

(2) Before applying any share of net proceeds under subsection (1)(b), the authority must be satisfied that doing so will benefit some part of its area.

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(3) In this Part, "net proceeds" means the amount of money (if any) by which the gross amount received under the workplace parking licensing scheme for a financial year exceeds the expenses of operating the scheme for the financial year.

82 Accounts

(1) The Scottish Ministers may by regulations make provision for or about the keeping of accounts by local authorities in connection with the exercise of functions under this Part.

(2) Regulations under subsection (1) may, in particular—
- (a) specify the form and content of accounts,
- (b) require the publication of accounts, and specify the manner in which they must be published,
- (c) make provision for how accounts are to be prepared and kept where two or more authorities are acting jointly in respect of a workplace parking licensing scheme.

Enforcement

83 Penalty charges

(1) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision for or in connection with—
- (a) the imposition of charges ("penalty charges") in respect of acts, omissions, events or circumstances relating to, or connected with, workplace parking licensing schemes, and
- (b) the notification, payment, adjudication and enforcement of penalty charges.

(2) Penalty charges in respect of any premises must be paid by—
- (a) the occupier of the premises, or
- (b) in such circumstances as may be specified, such other person as may be specified.

(3) Without limit to the generality of subsection (1), regulations made under it—
- (a) may make, or may permit or require workplace parking licensing schemes to include, provision—
  - (i) about the imposition of penalty charges in specified circumstances,
  - (ii) about the timing and manner of payment of penalty charges,
  - (iii) specifying the amount of penalty charges, including any reduced penalty charges or increased penalty charges and the circumstances in which such reduced or increased penalty charges are payable,
  - (iv) about reviews of, and appeals against, decisions in relation to penalty charges,
  - (v) about the cancellation of penalty charges,
- (b) may make provision—
  - (i) requiring local authorities to serve a notice of a penalty charge on any person it believes to be liable to pay such a charge,
  - (ii) about the form and content of such a notice,

(iii) about the way that compliance with such a notice may be enforced.

(4) In this section "specified" means specified in regulations made under subsection (1).

84 Evidence from approved devices

The Scottish Ministers may by regulations make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Part, or proceedings in respect of a failure to comply with the provisions of a workplace parking licensing scheme, to be given by production of—

(a) a record produced by a device specified in, or approved in accordance with, the regulations, and

(b) a certificate (whether in the same or another document) as to the circumstances in which the record was produced authenticated in a manner specified in the regulations.

85 Enforcement powers

(1) An authorised person may—

(a) enter any premises in the licensing area of a workplace parking licensing scheme (other than any premises that is used as a dwelling),

(b) require the production of information relating to the requirement to hold a licence under a scheme, and specify the form in which the information is to be produced,

(c) take copies of, or take possession of, information (in whatever form) which relates to the requirement to hold a licence under a scheme and retain if for as long as the authorised person considers necessary.

(2) The powers in subsection (1) may be exercised only for the purposes of—

(a) establishing if workplace parking places are being provided at the premises either—

(i) without a licence, or

(ii) without a licence in respect of all of the places being provided,

(b) establishing if there is, or has been, any contravention of the conditions of a licence in respect of the premises,

(c) serving notice of a penalty charge.

(3) In this section and sections 86 and 87, "authorised person" means a person who is authorised by a local authority to exercise functions under this section in respect of a workplace parking licensing scheme made by it.

86 Enforcement powers: warrants

(1) This section applies to the powers conferred by section 85(1).

(2) A sheriff may grant a warrant under this subsection only if the sheriff is satisfied, by evidence on oath—

(a) that there are reasonable grounds for entering premises for a purpose specified in section 85(2), and

(b) that—

(i) entry to the premises has been refused,

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(ii) such a refusal is reasonably expected,
(iii) the premises are unoccupied, or
(iv) the occupier is temporarily absent.

(3) A warrant authorises an authorised person—
(a) to enter the premises,
(b) to exercise any other power conferred by section 85(1), and
(c) if necessary, to use reasonable force in doing so.

(4) A warrant expires—
(a) 28 days after the day on which the warrant was granted, or
(b) if earlier, when any period as is specified in it for the purpose for which it was granted expires.

87 Enforcement powers: further provision

(1) This section applies to the powers conferred by section 85(1) (whether exercised by virtue of that section or under a warrant granted under section 86).

(2) The power of entry may be exercised only at a reasonable time of day.

(3) An authorised person seeking to exercise a power must, on request, produce evidence of the person's identity and authorisation before exercising the power.

(4) An authorised person may take on to the premises such other persons, and such materials and equipment, as the authorised person considers necessary.

(5) If an authorised person enters the premises by virtue of a warrant, the authorised person must, if taking possession of anything under section 85(1)(c), leave a statement on the premises giving particulars of what has been taken and by whom.

(6) On leaving any premises which an authorised person is authorised to enter under a warrant, the person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against entry as the person found them.

(7) A person commits an offence if the person—
(a) without reasonable excuse, fails to comply with a requirement of an authorised person, or
(b) intentionally obstructs an authorised person in the exercise of a power conferred by section 85(1).

(8) A person who commits an offence under subsection (7) is liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum, and
(b) on conviction on indictment, to a fine.

88 Power of entry: Crown land

(1) The power of entry conferred under section 85(1)(a) is exercisable in relation to Crown land specified in column 1 of the following table only with the consent of the person specified in the corresponding entry in column 2 of the table (the “appropriate authority”).

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Crown land	Appropriate authority
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Crown Estate (that is, the property, rights and interests under the management of the Crown Estate Commissioners)	The Crown Estate Commissioners
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Scottish Crown Estate	The person managing the land
Land an interest in which belongs to Her Majesty in right of the Crown other than land forming part of the Crown Estate or the Scottish Crown Estate	The office-holder in the Scottish Administration or, as the case may be, the Government department managing the land
Land an interest in which belongs to Her Majesty in right of Her private estates	The person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers
Land an interest in which belongs to an office-holder in the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which belongs to a Government department	The Government department
Land an interest in which is held in trust for Her Majesty by an office-holder in the Scottish Administration for the purposes of the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which is held in trust for Her Majesty for the purposes of a Government department	The Government department

(2) In subsection (1)—

(a) the reference to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862,

(b) "Government department" means a department of the Government of the United Kingdom,

(c) "Scottish Crown Estate" means the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies.

(3) It is for the Scottish Ministers to determine any question that arises as to who in accordance with subsection (1) is the appropriate authority in relation to any land, and their decision is final.

89 Interpretation of Part

In this Part—

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"licence" means a licence under a workplace parking licensing scheme,

"licensing area" is to be construed in accordance with section 70(2),

"local transport strategy", in relation to a local authority, means a strategy prepared by a local transport authority or a local traffic authority, that relates to transport in the local authority's area,

"motor vehicle" means a motor vehicle within the meaning of section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act,

"net proceeds" has the meaning given in section 81,

"penalty charge" is to be construed in accordance with section 83(1),

"workplace parking licensing scheme" is to be construed in accordance with section 70(1),

"workplace parking place" is to be construed in accordance with section 71.

PROSPECTIVE

PART 8

RECOVERY OF UNPAID PARKING CHARGES

Application

90 Application of Part

(1) This Part applies where—

(a) the driver of a vehicle is required by virtue of a relevant obligation to pay parking charges in respect of the parking of the vehicle on relevant land, and

(b) those charges have not been paid in full.

(2) It is immaterial for the purposes of this Part whether or not the vehicle was permitted to be parked (or to remain parked) on the land.

Key concepts

91 Meaning of "relevant obligation"

In this Part, "relevant obligation" means—

(a) an obligation arising under the terms of a relevant contract, or

(b) an obligation arising, in circumstances in which there is no relevant contract, as a result of a trespass or other delict committed by parking the vehicle on the relevant land.

92 Meaning of "parking charge"

(1) In this Part, "parking charge" means—

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(a) in the case of a relevant obligation arising under the terms of a relevant contract, a sum in the nature of a fee or charge,

(b) in the case of a relevant obligation arising as a result of a trespass or other delict, a sum in the nature of damages,

however the sum in question is described.

(2) The reference to a sum in the nature of damages is to a sum of which adequate notice was given to drivers of vehicles (when the vehicle was parked on the relevant land).

(3) For the purposes of subsection (2), "adequate notice" means notice given by—

(a) the display of one or more notices in accordance with any applicable requirements prescribed in regulations under section 103 for, or for purposes including, the purposes of subsection (2), or

(b) where no such requirements apply, the display of one or more notices which—

(i) specify the sum as the charge for unauthorised parking, and

(ii) are adequate to bring the charge to the notice of drivers who park vehicles on the relevant land.

93 Meaning of "relevant contract"

In this Part, "relevant contract" means a contract (including a contract arising only when the vehicle was parked on the relevant land) between the driver and a person who is—

(a) the owner or occupier of the land, or

(b) authorised, under or by virtue of arrangements made by the owner or occupier of the land, to enter into a contract with the driver requiring the payment of parking charges in respect of the parking of the vehicle on the land.

94 Meaning of "relevant land"

(1) In this Part, "relevant land" means any land (including land above or below ground level) other than—

(a) a public road within the meaning of section 151(1) of the Roads (Scotland) Act 1984,

(b) a parking place which is provided or controlled by the Secretary of State, the Scottish Ministers or a local authority,

(c) any land, not falling within paragraph (a) or (b), on which the parking of a vehicle is subject to statutory control.

(2) In subsection (1)(b), "parking place" has the meaning given by section 32(4)(b) of the Road Traffic Regulation Act 1984.

(3) For the purposes of subsection (1)(c), the parking of a vehicle on land is "subject to statutory control" if any enactment imposes a liability (whether criminal or civil, and whether in the form of a fee or charge or a penalty of any kind) in respect of the parking on that land of vehicles generally or of vehicles of a description that includes the vehicle in question.

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Right to recover unpaid charges from keeper of vehicle

95 Right in certain circumstances to recover from keeper of vehicle

(1) The creditor has the right to recover any unpaid parking charges from the keeper of the vehicle.

(2) The right under this section applies only if—
- (a) the conditions specified in sections 96, 97, 102 and 103 (so far as applicable) are met, and
- (b) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.

(3) For the purposes of the condition in subsection (2)(b), the vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.

(4) The right under this section may only be exercised after the end of the period of 28 days beginning with the day on which the notice to keeper is given.

(5) The Scottish Ministers may by regulations prescribe a description of an amount as the maximum that may be recovered from a keeper by virtue of the right conferred by this section.

(6) Nothing in this section affects any other remedy the creditor may have against the keeper of the vehicle or any other person in respect of any unpaid parking charges (but this is not to be read as permitting double recovery).

(7) The right under this section is subject to section 104 (which provides for the right not to apply in certain circumstances in the case of a hire vehicle).

96 First condition: lack of knowledge of driver's name and address

(1) The first condition for the purposes of section 95 is that the creditor—
- (a) has the right to enforce against the driver of the vehicle the requirement to pay the unpaid parking charges, but
- (b) is unable to take steps to enforce that requirement against the driver because the creditor does not know both the name of the driver and an address at which the driver for the time being resides or can conveniently be contacted.

(2) Subsection (1)(b) ceases to apply if, at any time after the end of the period of 28 days beginning with the day on which the notice to keeper is given, the creditor begins proceedings to recover the unpaid parking charges from the keeper.

97 Second condition: giving of notices to driver and keeper

(1) The second condition for the purposes of section 95 is that the creditor (or a person acting for or on behalf of the creditor)—
- (a) has given a notice to driver in accordance with section 98, followed by a notice to keeper in accordance with section 99, or
- (b) has given a notice to keeper in accordance with section 100.

(2) If a notice to driver has been given, any subsequent notice to keeper must be given in accordance with section 99.

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98 Giving of notice to driver

(1) A notice which is to be relied on as a notice to driver for the purposes of section 97(1)(a) is given in accordance with this section if the following requirements are met.

(2) The notice contains such information as the Scottish Ministers may by regulations prescribe.

(3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).

(4) The notice is given—

(a) before the vehicle is removed from the relevant land after the end of the period of parking to which the notice relates, and

(b) while the vehicle is stationary,

by affixing it to the vehicle or by handing it to the person appearing to be in charge of the vehicle.

99 Giving of notice to keeper following giving notice to driver

(1) A notice which is to be relied on as a notice to keeper for the purposes of section 97(1)(a) is given in accordance with this section if the following requirements are met.

(2) The notice contains such information as the Scottish Ministers may by regulations prescribe.

(3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).

(4) The notice is given to the keeper, by such means as the Scottish Ministers may by regulations prescribe, within the period of 28 days following the period of 28 days beginning with the day after that on which the notice to driver was given.

(5) When it is given, the notice is accompanied by any evidence prescribed under section 101.

100 Giving of notice to keeper without giving notice to driver

(1) A notice which is to be relied on as a notice to keeper for the purposes of section 97(1)(b) is given in accordance with this section if the following requirements are met.

(2) The notice contains such information as the Scottish Ministers may by regulations prescribe.

(3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).

(4) The notice is given to the keeper, by such means as the Scottish Ministers may by regulations prescribe, within the period of 14 days beginning with the day after that on which the period of parking to which the notice relates ended.

(5) When it is given, the notice is accompanied by any evidence prescribed under section 101.

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101 Notices to keeper: accompanying evidence

(1) The Scottish Ministers may by regulations prescribe evidence which must accompany a notice which is to be relied on as a notice to keeper for the purposes of section 97(1)(a) or section 97(1)(b) (as the case may be).

(2) The regulations may, in particular, make provision as to—
- (a) the means by which any prescribed evidence is to be generated or otherwise produced (which may include a requirement to use equipment of a kind approved for the purpose by a person specified in the regulations), or
- (b) the circumstances in which any evidence is, or is not, required to accompany a notice to keeper.

102 Third condition: keeper's details obtained from Secretary of State

(1) The third condition for the purposes of section 95 is that—
- (a) the creditor (or a person acting for or on behalf of the creditor) has made an application for the keeper's details in relation to the period of parking to which the unpaid parking charges relate,
- (b) the application was made during the period mentioned in section 99(4) (where notice to the driver has been given) or 100(4) (where no notice to the driver has been given), and
- (c) the information sought by the application is provided by the Secretary of State to the applicant.

(2) The third condition applies only if the vehicle is a registered vehicle.

(3) In subsection (1)(a), "application for the keeper's details" means an application for the following information to be provided to the applicant by virtue of regulations made under section 22(1)(c) of the Vehicle Excise and Registration Act 1994—
- (a) the name of the registered keeper of the vehicle during the period of parking to which the unpaid parking charges relate, and
- (b) the address of that person as it appears on the register (or, if that person has ceased to be the registered keeper, as it last appeared on the register).

103 Fourth condition: display of notices on relevant land

(1) The fourth condition for the purposes of section 95 is that any applicable requirements prescribed under this section were met as regards the relevant land at the beginning of the period of parking to which the unpaid parking charges relate.

(2) The Scottish Ministers may by regulations prescribe requirements as to the display of notices in relevant land where parking charges may be incurred in respect of the parking of vehicles on the land.

(3) The provision made under subsection (2) may, in particular, include provision—
- (a) requiring notices of more than one kind to be displayed on relevant land,
- (b) as to the content or form of any notices required to be displayed,
- (c) as to the location of the notices required to be displayed.

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Hire vehicles

104 No right to recover from vehicle-hire firm

(1) This section applies in the case of parking charges incurred in respect of the parking of a vehicle on relevant land if—

(a) the vehicle was at the time of parking hired to any person under a hire agreement with a vehicle-hire firm, and

(b) the keeper has been given a notice to keeper within the period mentioned in section 99(4) or 100(4) (as the case may be).

(2) The creditor may not exercise the right under section 95 to recover from the keeper any unpaid parking charges specified in the notice to keeper if, within the period of 28 days beginning with the day after that on which that notice was given, the creditor is given—

(a) a statement signed by or on behalf of the vehicle-hire firm to the effect that at the material time the vehicle was hired to a named person under a hire agreement,

(b) a copy of the hire agreement, and

(c) a copy of a statement of liability signed by the hirer under that hire agreement.

(3) The statement of liability required by subsection (2)(c) must—

(a) contain a statement by the hirer to the effect that the hirer acknowledges responsibility for any parking charges that may be incurred with respect to the vehicle while it is hired to the hirer,

(b) include an address given by the hirer (whether a residential, business or other address) as one at which documents may be given to the hirer,

(and it is immaterial whether the statement mentioned in paragraph (a) relates also to other charges or penalties of any kind).

(4) A statement required by subsection (2)(a) or (c) must be in such form as the Scottish Ministers may by regulations prescribe.

(5) The giving of documents referred to in subsection (2) must be by such means as the Scottish Ministers may by regulations prescribe.

(6) In this section—

(a) "hire agreement" means an agreement which—

(i) provides for a vehicle to be let to a person ("the hirer") for a period of any duration (whether or not the period is capable of extension by agreement between the parties), and

(ii) is not a hire-purchase agreement within the meaning of the Consumer Credit Act 1974,

(b) any reference to the currency of a hire agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on terms and conditions specified in it, and

(c) "vehicle-hire firm" means any person engaged in the hiring of vehicles in the course of a business.

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

105 Right to recover from hirer

(1) If—

(a) the creditor is by virtue of section 104(2) unable to exercise the right to recover from the keeper any unpaid parking charges mentioned in the notice to keeper, and

(b) the conditions mentioned in subsection (2) are met,

the creditor may recover those charges (so far as they remain unpaid) from the hirer.

(2) The conditions are that—

(a) the creditor has within the relevant period given the hirer a notice in accordance with subsection (5) (a "notice to hirer"), together with a copy of the documents mentioned in section 104(2) and the notice to keeper,

(b) a period of 21 days beginning with the day on which the notice to hirer was given has elapsed, and

(c) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.

(3) In subsection (2)(a), "the relevant period" is the period of 21 days beginning with the day after that on which the documents required by section 104(2) are given to the creditor.

(4) For the purposes of subsection (2)(c) a vehicle is presumed not to be a stolen vehicle at the material time, unless the contrary is proved.

(5) The notice to hirer must contain such information as the Scottish Ministers may by regulations prescribe.

(6) The giving of documents referred to in subsection (2)(a) must be by such means as the Scottish Ministers may by regulations prescribe.

(7) In this section, "the hirer" means the person who is the hirer in relation to the vehicle as referred to in section 104.

Military vehicles

106 Military vehicles

This Part does not apply in relation to a vehicle that—

(a) at the relevant time is used or appropriated for use for naval, military or air force purposes, or

(b) belongs to any visiting forces (within the meaning of the Visiting Forces Act 1952) or is at the relevant time used or appropriated for use by such forces.

General

107 Power to modify Part

(1) The Scottish Ministers may by regulations modify this Part for the purpose of—

(a) amending the definition of "relevant land" in section 94,

(b) adding to, removing or amending any of the conditions to which the right conferred by section 95 is for the time being subject.

(2) The power to modify this Part for the purpose mentioned in subsection (1)(b) includes, in particular, power to add to, remove or amend—

(a) any provisions that are applicable for the purposes of a condition, and

(b) any powers of the Scottish Ministers to prescribe anything for the purposes of a condition by regulations.

108 Interpretation of Part

In this Part—

"the creditor" means the person who is for the time being entitled to recover unpaid parking charges from the driver of the vehicle,

"driver" includes, where more than one person is engaged in the driving of the vehicle, any person so engaged,

"keeper" means the person by whom the vehicle is kept at the time the vehicle was parked, which in the case of a registered vehicle is to be presumed, unless the contrary is proved, to be the registered keeper,

"notice to driver" means a notice given in accordance with section 98,

"notice to keeper" means a notice given in accordance with section 99 or 100 (as the case may be),

"registered address" means, in relation to the keeper of a registered vehicle, the address described in section 102(3)(b) (as provided by the Secretary of State in response to the application for the keeper's details required by section 102),

"registered keeper", in relation to a registered vehicle, means the person in whose name the vehicle is registered,

"registered vehicle" means a vehicle which is for the time being registered under the Vehicle Excise and Registration Act 1994,

"vehicle" means a mechanically-propelled vehicle or a vehicle designed or adapted for towing by a mechanically-propelled vehicle.

VALID FROM 14/01/2021

PART 9

ROAD WORKS

Scottish Road Works Commissioner: status and functions

109 Status of the Scottish Road Works Commissioner

(1) The Transport (Scotland) Act 2005 is amended as follows.

(2) In section 16 (creation, appointment, status and funding of Scottish Road Works Commissioner), after subsection (4) insert—

"(4A) The Commissioner is, as such, to be regarded as a juristic person distinct from the individual for the time being holding the office.".

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

VALID FROM 01/04/2024

110 Inspection functions

(1) The Transport (Scotland) Act 2005 is amended as follows.

(2) After section 18 insert—

"**18A Power to carry out inspections**

(1) The Commissioner or an inspector ("the authorised person") may—

(a) enter any premises of the type mentioned in subsection (3) and inspect it and anything in it,

(b) require the production of any information relating to the fulfilment of specified functions or obligations, and specify the form in which the information is to be produced,

(c) take copies of, or take possession of, information (in whatever form) which relates to the fulfilment of specified functions or obligations and retain it for as long as the authorised person reasonably considers necessary,

(d) carry out an examination of, and conduct tests on, any equipment used or to be used in fulfilling specified functions or obligations by—

(i) an undertaker,

(ii) a road works authority, or

(iii) a roads authority,

(e) require any person to provide the authorised person with such facilities and assistance as the authorised person reasonably considers necessary.

(2) The powers in subsection (1) may be exercised only for the purposes of—

(a) establishing whether an offence has been committed under the 1991 Act,

(b) establishing whether a duty under section 118 or 119 of the 1991 Act has been breached, or

(c) establishing whether a duty under section 60(3A) or 61B of the 1984 Act has been breached.

(3) The premises referred to in subsection (1)(a) are—

(a) any premises (other than any premises that is used as a dwelling) occupied or used by any of the following persons for the purposes of exercising their functions as—

(i) an undertaker,

(ii) a road works authority, or

(iii) a roads authority, or

(b) any land on which works in roads are being carried out.

(4) For the purposes of this section—

(a) an "inspector" means a member of staff—

(i) appointed under paragraph 1(1) of schedule 2, and

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(ii) designated by the Scottish Ministers as an inspector for the purpose of this section,

(b) a "specified function or obligation" means—

(i) any function or obligation under the 1991 Act, or

(ii) any function or obligation under the 1984 Act so far as it relates to works in roads.

18B Inspections: warrants

(1) This section applies to the powers conferred by section 18A(1).

(2) A sheriff may grant a warrant under this subsection only if the sheriff is satisfied, by evidence on oath—

(a) that there are reasonable grounds for entering premises—

(i) for a purpose specified in section 18A(2), and

(ii) of a type mentioned in section 18A(3)(a), and

(b) that—

(i) entry to the premises has been refused,

(ii) such a refusal is reasonably expected,

(iii) the premises are unoccupied, or

(iv) the occupier is temporarily absent.

(3) A warrant authorises an authorised person—

(a) to enter the premises,

(b) to exercise any other power conferred by section 18A(1), and

(c) if necessary, to use reasonable force in doing so.

(4) A warrant expires—

(a) 28 days after the day on which the warrant was granted, or

(b) if earlier, when any period as is specified in it for the purpose for which it was granted expires.

18C Inspections: further provision

(1) This section applies to the powers conferred by section 18A(1) (whether exercised by virtue of that section or under a warrant granted under section 18B).

(2) The power of entry may be exercised only at a reasonable time of day.

(3) An authorised person seeking to exercise a power must, on request, produce evidence of the person's identity and authorisation before exercising the power.

(4) An authorised person may take onto the premises such other persons, and such materials and equipment, as the authorised person considers necessary.

(5) If an authorised person enters the premises by virtue of a warrant, the authorised person must, if taking possession of anything under section 18A(1)(c), leave a statement on the premises giving particulars of what has been taken and by whom.

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(6) On leaving any premises which an authorised person is authorised to enter under a warrant, the person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against entry as the authorised person found them.

18D Offence of obstructing inspections

(1) A person commits an offence if the person—
  (a) without reasonable excuse, fails to comply with a requirement of an authorised person, or
  (b) intentionally obstructs an authorised person in the exercise of a power conferred by section 18A(1) or by virtue of section 18F.

(2) A person who commits an offence under subsection (1) is liable—
  (a) on summary conviction, to a fine not exceeding the statutory maximum,
  (b) on conviction on indictment, to a fine.

18E Liability of authorised persons

(1) An authorised person does not incur any civil or criminal liability for anything done or omitted to be done in the exercise or purported exercise of a power conferred by section 18A(1) or by virtue of section 18F.

(2) Subsection (1) does not apply where it is proved that—
  (a) the authorised person acted in bad faith,
  (b) the authorised person failed to exercise a reasonable degree of care and skill, or
  (c) the authorised person did not act on reasonable grounds.

(3) For the purpose of subsection (1), no regard is to be had to any defect in the appointment of an authorised person.

(4) Subsection (1) does not affect any liability of any other person in respect of things done or omitted to be done by the authorised person.

18F Power to make regulations about inspections

(1) The Scottish Ministers may by regulations make further provision about the functions of authorised persons in relation to inspections.

(2) Regulations under subsection (1) may, in particular, make provision—
  (a) conferring powers on an authorised person,
  (b) specifying requirements with which an authorised person must comply.”.

(3) In section 52 (orders and regulations), in subsection (3)—
  (a) after “above” insert “ or regulations under section 18F ”,
  (b) after “draft of the order” insert “ (or, as the case may be, regulations) ”.

(4) In paragraph 3 of schedule 2 (Scottish Road Works Commissioner: further provision)—

(a) the existing text becomes sub-paragraph (1), and

(b) after sub-paragraph (1), insert—

"(2) A report under sub-paragraph (1)—

(a) must include information on the use made during the year of the Commissioner's inspection functions conferred by section 18A or by virtue of section 18F,

(b) may include recommendations—

(i) as to how to improve the carrying out of works in roads,

(ii) in furtherance of the Commissioner's functions under section 17(1)(b) or (c),

(iii) on any other matter relating to the Commissioner's functions.

(3) The Commissioner may at any time give the Scottish Ministers and publish a report on any person who has functions conferred on or permissions granted to them by or under the 1991 Act who has—

(a) failed to comply with the 1991 Act and any obligations imposed on them under it, or

(b) failed to follow good practice within the meaning of section 17(4).".

VALID FROM 01/04/2024

111 Compliance notices

(1) The New Roads and Street Works Act 1991 is amended as follows.

(2) After section 153 insert—

"Power of Scottish Road Works Commissioner to issue compliance notices

153A Compliance notices

(1) Where the Commissioner considers that a person has breached a specified duty to which the person is subject, the Commissioner may issue a compliance notice to the person.

(2) A "compliance notice" is a notice requiring the person to whom it is issued to take the steps set out in the notice in order to address the person's breach of a specified duty.

(3) For the purpose of this section, the specified duties are the duties—

(a) in the Roads (Scotland) Act 1984, under—

(i) section 60(1) and (3A) (fencing and lighting of obstructions and excavations),

(ii) section 61B (requirement for qualified supervisors and operatives),

(b) in this Act, under—

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(i) section 112B (duty to enter certain information in the Scottish Road Works Register),
(ii) section 113(1) and (4) (advance notice of certain works),
(iii) section 114(1) (notice of starting date of works),
(iv) section 114A(2) (notice confirming start of works),
(v) section 116(2) (notice of emergency works),
(vi) section 118 (general duty of road works authority to co-ordinate works), other than the duty to issue or approve codes of practice under subsection (3),
(vii) section 119 (general duty of undertakers to co-operate), other than the duty under subsection (2),
(viii) section 124(1) and (2) (safety measures),
(ix) section 126(1), (2) and (2C) (qualifications of supervisors and operatives),
(x) section 129(1) to (5) (duty of undertaker to reinstate),
(xi) section 130(1) and (2) (materials, workmanship and standard of reinstatement),
(xii) section 139(1B) and (2) (duty to inform undertakers of location of apparatus),
(xiii) section 140(1) (duty to maintain apparatus).

153B Restriction on issuing a compliance notice

(1) A compliance notice may not be issued to a person in respect of a breach of a duty arising out of a particular act or omission if a compliance notice has previously been issued to the person (and not withdrawn) in respect of the same breach arising out of the same act or omission.

(2) A compliance notice may not be issued to a person—
(a) in respect of a breach of a duty arising out of a particular act or omission which amounts to an offence, and
(b) requiring that person to take steps to stop committing the offence,
if criminal proceedings have been brought against the person for the same offence arising out of the same act or omission.

(3) A compliance notice issued in contravention of subsection (1) or (2) is of no effect.

153C Content and form of a compliance notice

(1) A compliance notice must include the following information—
(a) a statement of the grounds for issuing the notice, including a statement of—
(i) the duty that is alleged to have been breached, and
(ii) the act or omission which has caused the Commissioner to conclude that the duty has been breached,
(b) details of the steps that the Commissioner requires the person to whom the notice is issued to take in order to—
(i) stop breaching the duty, or

(ii) ensure that the duty will not be breached in future,

(c) the date of issue of the notice,

(d) the period of time within which the required steps are to be taken ("the compliance period"),

(e) information about the person to whom, and as to how and by when, any representations about the notice may be made,

(f) information about the right of appeal, including the period of time within which an appeal may be made,

(g) an explanation of the consequences of failure to comply with the requirements of the notice.

(2) The reference in subsection (1)(d) to the period of time within which the required steps are to be taken is a reference to such period of not less than 28 days, beginning with the date on which the notice was issued, as the Commissioner determines.

(3) The Scottish Ministers may by regulations make further provision about the form and content of compliance notices including, in particular—

(a) provision about the form and content of any of the information required to be included under subsection (1),

(b) provision about other information that is to be included in addition to that required under subsection (1).

153D Variation of a compliance notice

(1) The Commissioner may vary a compliance notice so as to extend the compliance period.

(2) A compliance notice may be varied in accordance with subsection (1)—

(a) at any time before expiry of the compliance period,

(b) by issuing a notice in writing to that effect to the person to whom the compliance notice was issued.

(3) The variation of a compliance notice under this section does not affect the date of its issue for the purpose of section 153F.

153E Withdrawal of a compliance notice

(1) The Commissioner may withdraw a compliance notice.

(2) A compliance notice may be withdrawn—

(a) at any time before completion of the steps that are to be taken to comply with the requirements of the notice,

(b) by issuing a notice in writing to that effect to the person to whom the compliance notice was issued.

(3) Where a compliance notice is withdrawn, it is to be treated as if it had never been issued.

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153F Appeal against a compliance notice

(1) A person to whom a compliance notice has been issued may, before the expiry of the period of 21 days beginning with the date of issue of the notice, appeal to a sheriff against the decision to issue the notice.

(2) In an appeal under this section, the sheriff may—
- (a) cancel the compliance notice, or
- (b) affirm the notice, either with or without modifications.

(3) Where an appeal is made under this section, the compliance period is suspended until the appeal is finally determined or is withdrawn.

153G Failure to comply with a compliance notice

(1) If a person to whom a compliance notice has been issued fails, without reasonable excuse, to comply with the notice, the person commits an offence.

(2) Where a person to whom a compliance notice has been issued fails to take any step required by the notice, the person does not, by reason of that failure, commit an offence under subsection (1) if—
- (a) the person takes other steps to—
  - (i) stop breaching the duty in respect of which the notice was issued, or (as the case may be)
  - (ii) ensure that the duty in respect of which the notice was issued will not be breached in future, and
- (b) the Commissioner notifies the person in writing that those steps are acceptable for the purposes of complying with the notice.

(3) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000,
- (b) on conviction on indictment, to a fine.

153H Effect of a compliance notice on criminal proceedings

(1) This section applies where a compliance notice is issued to a person—
- (a) in respect of a breach of a duty arising out of a particular act or omission which amounts to an offence, and
- (b) requiring that person to take steps to stop committing the offence.

(2) Criminal proceedings for the offence may not be brought against the person in respect of the same act or omission before the end of the compliance period.

(3) If the person—
- (a) complies with the requirements of the compliance notice, or
- (b) though failing to comply, by virtue of section 153G(2) does not commit an offence under section 153G(1) in relation to the notice,

the person may not at any time be convicted of the offence arising out of the same act or omission.

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153I Power to make supplementary etc. provision

(1) The Scottish Ministers may by regulations make such supplementary, incidental or consequential provision as they consider appropriate in connection with compliance notices and the carrying out of the Commissioner's functions under sections 153A to 153H.

(2) Regulations under subsection (1) may, in particular, include provision facilitating, prohibiting or restricting—

(a) the issuing of a compliance notice in respect of a breach of a duty arising out of a particular act or omission in cases where a fixed penalty notice has been issued in respect of the same act or omission,

(b) the issuing of a fixed penalty notice in respect of an act or omission in cases where a compliance notice has been issued in respect of the breach of a duty arising out of the same act or omission.

(3) Regulations under subsection (1) may make such modifications of section 153H and paragraph 6 of schedule 6B as the Scottish Ministers consider appropriate in relation to the case where a person has been issued with a compliance notice and a fixed penalty notice in relation to the same breach of a duty arising out of the same act or omission.

(4) But, for cases where a compliance notice is issued to a person—

(a) in respect of a breach of a duty arising out of a particular act or omission which amounts to an offence, and

(b) requiring that person to take steps to stop committing the offence,

regulations under subsection (1) may not make provision which has the effect that the person may still be convicted of the offence if the condition in subsection (5) is met.

(5) The condition is that the person both—

(a) makes payment in accordance with the fixed penalty notice, and

(b) complies with the requirements of the compliance notice or, though failing to comply, by virtue of section 153G(2) does not commit an offence under section 153G(1) in relation to the notice.

(6) In this section, "fixed penalty notice" means a fixed penalty notice within the meaning given in schedule 6B."

(3) In section 163 (meaning of "prescribed" and regulations generally), after subsection (2) insert—

"(2A) Regulations under section 153I(1) which modify section 153H or paragraph 6 of schedule 6B are subject to the affirmative procedure.".

PROSPECTIVE

112 Fixed penalty notices

(1) The New Roads and Street Works Act 1991 is amended as follows.

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(2) In schedule 6A (fixed penalty offences under Part 4), at the end of the table, insert—

"An offence under section 153G(1)	Failure to comply with a compliance notice".

(3) In schedule 6B (fixed penalties for certain offences under Part 4)—

(a) in paragraph 1(1) for "An" substitute " The Commissioner, an authorised member of the Commissioner's staff or an ",

(b) after paragraph 1(1) insert—

"(1A) But, despite sub-paragraph (1), a road works authority may not give a fixed penalty notice in relation to an offence under section 153G(1).",

(c) in paragraph 1(2)—

(i) the words after "Schedule" become paragraph (a),

(ii) after paragraph (a), insert—

"(b) "issuing authority" means the Commissioner or (as the case may be) the road works authority.",

(d) in paragraph 4—

(i) in sub-paragraph (1), after "subject to" insert " sub-paragraph (1A) and ",

(ii) after sub-paragraph (1), insert—

"(1A) The penalty for a fixed penalty offence in relation to an offence under section 153G(1) is such amount, not exceeding £100,000, as is prescribed.",

(e) in paragraph 5, before sub-paragraph (1) insert—

"(A1) This paragraph applies to fixed penalty offences other than an offence under section 153G(1).",

(f) in paragraph 7(4)(b) for "road works authority in whose area the offence was committed" substitute " issuing authority ",

(g) after paragraph 13, insert—

"13A (1) The Scottish Ministers may by regulations make such supplementary, incidental or consequential provision as they consider appropriate in connection with fixed penalty notices and the carrying out of issuing authorities' functions under this schedule.

(2) Regulations under sub-paragraph (1) may, in particular, include provision prohibiting or restricting the giving of a fixed penalty notice to a person in respect of an offence arising out of an act or omission in cases where the person has already been given a fixed penalty notice in respect of the same offence arising out of the same act or omission by a different issuing authority.".

(h) in each of the following paragraphs, for each occurrence of the expression "road works authority" substitute " issuing authority "

(i) paragraph 3(3),

(ii) paragraph 4(3),

(iii) paragraph 6(3) and (5)(a),

(iv) paragraph 7(4)(a),
(v) paragraph 8(1), (2)(a) and (3),
(vi) paragraph 12(1) and (2).

VALID FROM 10/01/2022

113 Functions in relation to the Scottish Road Works Register

(1) Section 112A of the New Roads and Street Works Act 1991 (the Scottish Road Works Register) is amended as follows.

(2) For subsections (6) and (7) substitute—

"(6A) The Commissioner is to—

(a) make publicly available, in such form and manner as the Commissioner considers appropriate—

(i) information contained in the SRWR relating to the timing, location, duration and purpose of works in roads, and

(ii) such other information contained in the SRWR as the Scottish Ministers may prescribe, and

(b) make information contained in the SRWR available to—

(i) any person having authority to execute works of any description in a road, or

(ii) any person who does not have that authority, but who appears to the Commissioner to have sufficient interest in the information to be permitted to access it.".

VALID FROM 10/01/2022

Permission to execute works in a road

114 Permission to execute works in a road

(1) In the Roads (Scotland) Act 1984, section 61 (granting of permission to place etc. apparatus under a road) is repealed.

(2) In the New Roads and Street Works Act 1991, in section 109 (permission to execute road works), subsections (7) and (8) are repealed.

VALID FROM 10/01/2022

Safety measures for the carrying out of works in roads

115 Fencing and lighting of obstructions and excavations

(1) The Roads (Scotland) Act 1984 is amended as follows.

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(2) In section 60 (fencing and lighting of obstructions and excavations)—

(a) in subsection (1), after "person" insert " (other than a roads authority) ",

(b) after subsection (3) insert—

"(3A) Where the roads authority places or deposits anything on a road so as to cause an obstruction, or executes works in a road, they must comply with the requirements in paragraphs (a) to (d) of subsection (1).",

(c) in subsection (4)—

(i) for "or (2)" substitute " , (2) or (3A) ",

(ii) for "either" substitute " any ".

(3) After section 60 insert—

"**60A Safety measures: codes of practice**

(1) The Scottish Ministers may, for the purposes of section 60, and following consultation with such persons as they consider appropriate, issue or approve codes of practice giving practical guidance as to the matters mentioned in that section.

(2) A code of practice under subsection (1) must be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is issued or approved.

(3) If (and in so far as) a person complies with such a code of practice, the person is to be taken to comply with the requirements imposed on the person by section 60(1) or, as the case may be, (3A).

(4) A failure to comply with such a code of practice is evidence of a failure to comply with the requirements imposed on the person by section 60(1) or, as the case may be, (3A).".

(4) In schedule 8 (penalties for offences)—

(a) in respect of the entry for section 60(3) (paragraph 9 in column 1), in column 2, for "Level 3." substitute " Level 5. ",

(b) in respect of the entry for section 60(4) (paragraph 10 in column 1), in column 2, for "Level 3." substitute " Level 5. ".

VALID FROM 25/01/2023

116 Qualifications of supervisors and operatives

(1) In the Roads (Scotland) Act 1984, after section 61A insert—

"**61B Requirement for qualified supervisors and operatives**

(1) This section applies to any person (including a roads authority) executing—

(a) works (other than road works within the meaning of section 107(3) of the New Roads and Street Works Act 1991) in

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

or on a road or works which otherwise involve a person placing or depositing anything on a road so as to cause an obstruction—

(i) to which the requirements of section 60(1)(b) or (c) apply, and

(ii) which involve the placing of lights, fences, barriers or signs on a carriageway,

(b) works in a road which involve—

(i) breaking up the road, or any sewer, drain or tunnel under it, or

(ii) tunnelling or boring under the road, and

(c) works to subsequently reinstate the road.

(2) The person executing the works must secure that—

(a) the execution of the works is supervised by an individual having a prescribed qualification as a supervisor, and

(b) there is on site at all times when any such works are in progress at least one individual having a prescribed qualification as a trained operative.

(3) Where a roads authority are not the person who is executing the works, the authority may by notice require the person executing the works—

(a) to notify the authority of the name of any individual who is or has been the supervisor, or trained operative, in respect of the work, and

(b) to provide the authority with prescribed evidence of the requisite qualification of the individual.

(4) The Scottish Road Works Commissioner may by notice require the roads authority—

(a) to notify the Commissioner of the name of any individual who is or has been the supervisor or trained operative in respect of any work to which this section applies, and

(b) to provide the Commissioner with prescribed evidence of the requisite qualification of the individual.

(5) A notice under subsection (3) or (4) may—

(a) require the notification of—

(i) the name of an individual who was the supervisor or, as the case may be, trained operative at a particular time,

(ii) all individuals who have been the supervisor, or as the case may be, trained operative,

(b) be given at any time while the works are being executed or within such period after their completion as is prescribed.

(6) A person who receives a notice under subsection (3) must comply with the requirements of the notice within the period and manner prescribed.

(7) A person, other than a roads authority, who fails to comply with a duty imposed on the person by subsection (2) or (6) commits an offence.

(8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(9) The Scottish Ministers may by regulations make provision for the purposes of this section, including provision—

(a) specifying circumstances in which the duties in subsection (2) do not apply to a person executing works in a road,

(b) specifying—

(i) circumstances in which more than one trained operative must be on site at all times when work is in progress, and

(ii) the number of trained operatives that must be on site in those circumstances,

(c) about the approval of bodies conferring qualifications (and the withdrawal of such approval),

(d) about the circumstances in which a qualification may be conferred,

(e) about the form of any evidence to be issued by an approved body to certify or otherwise show that a qualification has been conferred on an individual.

(10) In this section, "prescribed" means prescribed by the Scottish Ministers in regulations made under subsection (9).

(11) This section does not apply to an undertaker executing road works, within the meaning of Part IV of the New Roads and Street Works Act 1991.".

(2) In the New Roads and Street Works Act 1991, in section 126 (qualifications of supervisors and operatives)—

(a) after subsection (1) insert—

"(1ZA) The duty under subsection (1) continues until the road is reinstated.",

(b) after subsection (2) insert—

"(2ZA) The duty under subsection (2) continues until the road is reinstated.",

(c) after subsection (2ZA) (inserted by this section) insert—

"(2ZB) For the purpose of subsection (2), the Scottish Ministers may by regulations specify—

(a) circumstances in which more than one trained operative must be on site at all times when work is in progress, and

(b) the number of trained operatives that must be on site in those circumstances.".

VALID FROM 25/01/2023

Commencement and completion notices

117 Commencement and completion notices

(1) The New Roads and Street Works Act 1991 is amended as follows.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(2) In section 112B (duty to enter information in the Scottish Road Works Register)—

(a) after subsection (2) insert—

"(2A) On the completion of works of the kind referred to in subsection (2), the road works authority must, within such period as may be prescribed, enter in the SRWR such information about their completion (including the date on which the works were completed) as may be prescribed.",

(b) after subsection (5) insert—

"(5A) Where a road works authority, a local roads authority or the Scottish Ministers—

(a) are under a duty to enter in the SRWR the prescribed information about proposed works under this section, and

(b) have begun to execute the works,

they must, within such period as may be prescribed, enter in the SRWR the date on and time at which the works began and any further prescribed information.",

(c) in subsection (6)—

(i) after "shall" insert " , within such period as may be prescribed, ",

(ii) after "completion" where it second occurs insert " (including the date on which the works were completed) ",

(d) after subsection (8) insert—

"(9) For the purposes of subsections (2A), (5A) and (6), different periods of notice may be prescribed for different descriptions of works.".

(3) After section 114 insert—

"**114A Notice confirming start of works**

(1) This section applies where an undertaker—

(a) is under a duty to give notice of the undertaker's intention to begin to execute road works under section 114(1), and

(b) has begun to execute the works.

(2) The undertaker must, within such period as may be prescribed, give notice of the date on and time at which the works began.

(3) Different periods of notice may be prescribed for different descriptions of works or in cases where the undertaker has been given notice under section 117(1).

(4) Cases may be prescribed in which no notice is required under subsection (2).

(5) For the purposes of subsection (2), an undertaker gives notice by—

(a) giving notice to any person or authority to whom notice is required to be given under section 114(3A),

(b) entering in the SRWR a copy of the notice.

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(6) An undertaker who, in contravention of subsection (2), fails to give notice commits an offence.

(7) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In proceedings against a person for an offence under this section, it is a defence for the person to show that the contravention was attributable—

(a) to the person not knowing the position, or not knowing of the existence, of another person's apparatus, or

(b) to the person not knowing the identity or address of—

(i) a relevant authority, or

(ii) the person to whom any apparatus belongs,

and that the person's ignorance was not due to any negligence on the person's part or to any failure to make inquiries which the person ought reasonably to have made.”.

(4) In section 129 (duty of undertaker to reinstate)—

(a) in subsection (3), for the words from “before” to “completed” substitute “ within such period after the reinstatement is completed as may be prescribed ”,

(b) in subsection (4), after “so” insert “ within such period as may be prescribed ”,

(c) after subsection (5A) insert—

“(5B) For the purposes of subsections (3) and (4), different periods of notice may be prescribed for different descriptions of works.”.

VALID FROM 25/01/2023

Reinstatement of roads following works

118 Reinstatement quality plans

(1) The New Roads and Street Works Act 1991 is amended as follows.

(2) After section 130 insert—

“**130A Reinstatement quality plans: undertakers etc.**

(1) This section applies where a person (other than a roads authority) proposes to execute road works or works for road purposes which will involve—

(a) breaking up the road, or any sewer, drain or tunnel under it,

(b) tunnelling or boring under the road,

(c) any other activity that will involve reinstating the road.

(2) Before commencing the proposed works, the person must enter in the SRWR—

(a) a plan, approved by the Commissioner, which sets out the intended approach to reinstating the road after completion of the proposed works (a "specific reinstatement quality plan"), or

(b) either—

(i) a plan, approved by the Commissioner, which sets out the intended approach to reinstating roads in circumstances such as those applicable for the proposed works (a "general reinstatement quality plan"), or

(ii) a notice confirming that an applicable general reinstatement quality plan has previously been approved and entered.

(3) Where a person enters a notice under subsection (2)(b)(ii), the Commissioner may require the person, before commencing the proposed works, to enter in the SRWR—

(a) a specific reinstatement quality plan for the proposed works, or

(b) an updated general reinstatement quality plan,

which has been approved by the Commissioner.

(4) The Commissioner may approve a plan under this section only if the Commissioner is satisfied that the plan demonstrates the person—

(a) is competent to safely and effectively execute the reinstatement of the road, and

(b) has in place quality control procedures sufficient to ensure that the reinstatement of the road is to a sufficient standard and in compliance with the statutory obligations applicable to the works.

(5) A person who fails to comply with a duty to which the person is subject under subsection (2) or (3) commits an offence.

(6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

130B Reinstatement quality plans: roads authorities

(1) This section applies where a roads authority proposes to execute works for roads purposes which will involve—

(a) breaking up the road, or any sewer, drain or tunnel under it,

(b) tunnelling or boring under the road,

(c) any other activity that will involve reinstating the road.

(2) The Commissioner may, at any time before works to reinstate the road commence, require the roads authority to enter in the SRWR a plan, approved by the Commissioner, which sets out the authority's intended approach to reinstating the road in respect of the proposed works.

(3) The Commissioner may approve a plan under subsection (2) only if the Commissioner is satisfied that the plan demonstrates that the authority has in place—

(a) appropriate arrangements to safely and effectively execute the reinstatement of the road, and

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(b) quality control procedures sufficient to ensure that the reinstatement of the road is to a sufficient standard and in compliance with the statutory obligations applicable to the works.

(4) Nothing in this section prevents a roads authority from—

(a) preparing a plan for the reinstatement of a road and sending it to the Commissioner for approval,

(b) entering a plan approved by the Commissioner in the SRWR.

130C Reinstatement quality plans: codes of practice and further provision

(1) The Scottish Ministers may issue or approve for the purposes of sections 130A and 130B codes of practice giving practical guidance as to the matters mentioned in sections 130A and 130B (and regulations made under this section).

(2) The Scottish Ministers may by regulations make further provision about plans to be entered in the SRWR under section 130A or 130B.

(3) In particular, and without limit to that generality, regulations under subsection (2) may include provision—

(a) about the form and content of the plans,

(b) about the form, content and timing of any notice to be entered in the SRWR under section 130A(2)(b)(ii),

(c) specifying circumstances in which the Commissioner may (or must) require—

(i) a person to enter a plan in the SRWR under section 130A(3), or

(ii) a roads authority to enter a plan in the SRWR under section 130B(2),

(d) relating to the process to be followed (including any time periods which must be complied with) by the Commissioner in order to require a plan to be entered in the SRWR,

(e) requiring a plan to be reviewed by the person who has entered it in the SRWR at such intervals or otherwise in such circumstances as are specified,

(f) about the consequences of complying, and of failing to comply, with a code of practice issued or approved under subsection (1).

(4) Regulations under subsection (2) may create offences for failure to comply with requirements imposed under the regulations.

(5) Where regulations under subsection (2) include provision creating an offence—

(a) they must provide for the offence to be triable summarily only, and

(b) they must provide for the maximum penalty for the offence to be a fine, which must not exceed level 5 on the standard scale.

(6) Regulations under subsection (2) which include provision creating an offence are subject to the affirmative procedure.”.

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

VALID FROM 01/04/2024

Information about apparatus

119 Information about apparatus

(1) The New Roads and Street Works Act 1991 is amended as follows.

(2) For section 138 (records of location of apparatus) substitute—

"**138A Entering details about apparatus in the Scottish Road Work Register**

(1) This section applies where a person—
- (a) places in, alters the position of, or removes from a road, apparatus that belongs to the person,
- (b) discovers, in the course of executing other works in a road, apparatus that belongs to the person (but in respect of which no information, or incorrect information, is entered in the SRWR), or
- (c) is informed under section 139 about the location of apparatus that belongs to the person.

(2) The person must, except in such cases as are prescribed, enter in the SRWR such information about the apparatus as is prescribed as soon as is reasonably practicable after the occurrence of an event in paragraph (a) to (c) of subsection (1).

(3) If the person fails to comply with the duty under subsection (2)—
- (a) the person commits an offence, and
- (b) the person is liable to compensate any person in respect of loss or damage incurred by that person in consequence of the failure.

(4) A person guilty of an offence under subsection (3)(a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In civil or criminal proceedings against a person arising out of a failure to comply with the duty under subsection (2), it is a defence for the person to show that all reasonable care was taken to secure that no such failure occurred by—
- (a) the person and the person's employees, and
- (b) any contractor of the person and the contractor's employees.".

(3) In section 139 (duty to inform undertakers of apparatus)—
- (a) for subsection (1) substitute—

"(1A) Subsection (1B) applies where a person executing works of any description in a road finds apparatus belonging to an undertaker which—
- (a) is not entered in the SRWR, or
- (b) is entered in the SRWR but the details pertaining to it are incorrect.

(1B) The person must take such steps as are reasonably practicable to inform the undertaker to whom the apparatus belongs of its location and (so far as appears from external inspection) its nature and whether it is in use.”,

(b) in subsection (2)(a), for the words from “note” to “prescribed)” substitute “ enter in the SRWR ”,

(c) in subsection (3), for “(1)” substitute “ (1B) ”, and

(d) in subsection (4), for “(1)” substitute “ (1B) ”.

(4) The italic heading immediately preceding section 138 becomes “ *Duties and liabilities with respect to apparatus* ”.

PART 10

MISCELLANEOUS AND GENERAL

VALID FROM 01/10/2023

Health boards: duty to have regard to community benefit in non-emergency patient transport contracts

120 Health boards: duty to have regard to community benefit in non-emergency patient transport contracts

Before entering into a contract for the provision of non-emergency patient transport services, each health board must have regard to the extent to which the contract will improve the economic, social or environmental wellbeing of the board's area in a way additional to the main purpose of the contract in which the requirement is included.

VALID FROM 01/10/2023

Health boards: duty to work with community transport bodies

121 Health boards: duty to work with community transport bodies

(1) In providing non-emergency patient transport services, each health board must work with bodies which provide community transport services in its area.

(2) But nothing in subsection (1) requires a body which provides community transport services in its area to undertake work for which it does not have the capacity.

(3) As soon as reasonably practicable after the end of each financial year, each health board must publish a report setting out—

(a) the steps it has taken to comply with the duty in subsection (1),

(b) its position on the extent to which non-emergency patient transport services in its area have been—
(i) effective, and
(ii) cost effective,
(c) any further action it proposes to take to comply with the duty in subsection (1).

(4) A report under subsection (3) may be published in such manner as the board considers appropriate.

(5) In this section, "community transport services" means—
(a) community bus services within the meaning of section 22(1) of the Transport Act 1985, and
(b) such other transport services or descriptions of transport services which are provided—
(i) by a body concerned for the social and welfare needs of one or more communities, and
(ii) without a view to profit by that body or anybody else,
as the Scottish Ministers may by regulations specify.

Regional Transport Partnerships: finance

122 Regional Transport Partnerships: finance

(1) Section 3 of the Transport (Scotland) Act 2005 (regional Transport Partnerships: funding and borrowing) is amended as follows—
(a) in subsection (4)—
(i) after "its" insert "estimated",
(ii) after "year" where it second occurs insert ", and of any outstanding expenses from the financial year previous to that year,",
(iii) the "or" immediately following paragraph (b) is repealed,
(iv) after paragraph (c) insert—
"(d) by funds held by the Transport Partnership that it allocates to meet expenses for that year.",
(b) after subsection (4) insert—

"(4A) A Transport Partnership must, having regard to its transport strategy, prepare a forecast of its net expenses for each financial year and provide a copy of the forecast to—
(a) its constituent councils, or
(b) where there is only one, that council.".

(2) Paragraph 28 of schedule 3 of the Local Government (Scotland) Act 1975 (application of schedule to other bodies) is amended as follows—
(a) in sub-paragraph (1), for "and the Strathclyde Passenger Transport Authority" substitute ", the Strathclyde Passenger Transport Authority and a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005",
(b) in sub-paragraph (2)—

(i) after "this" insert "Schedule to—",

(ii) the "and" immediately following paragraph (a) is repealed,

(iii) after paragraph (b) insert ", and

(c) a Transport Partnership.".

(3) In section 165(6) of the Local Government etc. (Scotland) Act 1994 (meaning of "authority"), for "or the Strathclyde Passenger Transport Authority" substitute ", the Strathclyde Passenger Transport Authority or a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005".

Commencement Information

I7 S. 122(1)(a)(2)(3) in force at 19.3.2020 by S.S.I. 2020/68, **reg. 2(a)**

I8 S. 122(1)(b) in force at 1.4.2020 by S.S.I. 2020/68, **reg. 2(b)**

VALID FROM 10/01/2022

The British Waterways Board

123 The British Waterways Board

(1) The Transport Act 1962 is amended as follows.

(2) In section 1 (the British Waterways Board etc.), in subsection (6), for "between one and four" substitute " at least 4 but no more than 9 ".

PROSPECTIVE

Certain orders under the Roads (Scotland) Act 1984: objections

124 Certain orders under the Roads (Scotland) Act 1984: objections

(1) The Roads (Scotland) Act 1984 is amended as follows.

(2) For section 152(3) there is substituted—

"(3) The Scottish Ministers may by regulations prescribe the procedure to be followed when making an order under subsection (2).

(3ZA) Regulations under subsection (3) may, in particular, specify—

(a) the content of the order, and

(b) the manner in which public notification is to be given of any proposal to make an order.".

Status: *Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

General

VALID FROM 22/09/2023

125 Individual culpability where offending by an organisation

(1) This section applies where—
- (a) an offence in this Act or any regulations made under it is committed by a relevant organisation, and
- (b) the commission of the offence—
  - (i) involves consent or connivance on the part of a responsible individual, or
  - (ii) is attributable to neglect on the part of a responsible individual.

(2) The responsible individual (as well as the relevant organisation) commits the offence.

(3) For the purposes of this section—
- (a) "relevant organisation" means an organisation listed in the first column of the table in paragraph (c),
- (b) "responsible individual" means, in relation to a relevant organisation—
  - (i) an individual falling within the corresponding entry in the second column of the table in paragraph (c), or
  - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry,
- (c) the table is as follows—

Relevant organisation	Individual
Company as mentioned in section 1 of the Companies Act 2006	Director, manager, secretary or other similar officer
	Member, where the company's affairs are managed by its members
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs.

VALID FROM 22/09/2023

126 Crown application

(1) Nothing in this Act or any regulations made under it makes the Crown criminally liable.

(2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).

(3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

VALID FROM 10/01/2022

127 Minor and consequential amendments and repeals

The schedule contains minor and consequential amendments and repeals.

128 Regulations

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
  (b) different provision for different purposes or areas.

(2) Regulations under sections 6(4)(a), 6(4)(b), 6(4)(c), 7(4)(b), 52(1), 55(12), 71(5), 78(4) and 107(1) are subject to the affirmative procedure.

(3) Regulations under section 8(1) or 59(1)—
  (a) which create a criminal offence are subject to the affirmative procedure,
  (b) otherwise, are subject to the negative procedure.

(4) Regulations under section 129(1)—
  (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
  (b) otherwise, are subject to the negative procedure.

(5) Otherwise (and subject to subsection (6)) regulations under this Act are subject to the negative procedure.

(6) This section does not apply to regulations under section 130(2).

129 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

(2) Regulations under subsection (1) may modify any enactment (including this Act).

130 Commencement

(1) This section and sections 128, 129 and 131 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

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Changes to legislation: *There are currently no known outstanding effects for the Transport (Scotland) Act 2019. (See end of Document for details)*

(3) Regulations under subsection (2) may—

(a) include transitional, transitory or saving provision,

(b) make different provision for—

(i) different purposes,

(ii) different areas.

131 Short title

The short title of this Act is the Transport (Scotland) Act 2019.

Status:
Point in time view as at 01/04/2020. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Transport (Scotland) Act 2019.