TRANSPORT (SCOTLAND) BILL

EXPLANATORY NOTES

(CONTENTS)

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Transport (Scotland) Bill introduced in the Scottish Parliament on 5 June 2000:

- Explanatory Notes;
- a Financial Memorandum;
- an Executive Statement on Legislative Competence; and
- the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Administration, is printed separately as SP Bill 18–PM.
INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Administration in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

PART 1: JOINT TRANSPORT STRATEGIES

Section 1: Joint transport strategies

4. This section gives the Scottish Ministers the power to require specified public bodies to prepare and submit to them a joint transport strategy to address a named transport issue by a specified date.

5. Subsection (2) sets out details of the ancillary provisions which may be included in an order requiring a joint strategy. These includes the form of the joint strategy, the matters to which the public bodies are to have regard, the procedures relating to the preparation and making of the strategy and the timeframe within which a joint strategy should be submitted.

6. Public bodies specified in an order have the discretion to consult such other persons as they consider appropriate in preparing a joint strategy. We would expect those preparing a strategy to consult neighbouring local authorities, the private sector and other interests at appropriate stages in the process.

7. An order made by the Scottish Ministers under the powers conferred by subsection (1) will be subject to negative resolution in the Scottish Parliament.

Section 2: Directions

8. This section sets out the circumstances in which the Scottish Ministers may give directions to specified public bodies in connection with the preparation of a joint transport strategy. The Scottish Ministers will have the power to issue directions in three separate sets of cases, namely:
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in the Scottish Parliament on 5 June 2000

- where no strategy is prepared;
- where no strategy is submitted; or
- in any other case where there are exceptional circumstances justifying the giving of directions.

9. This will allow the Scottish Ministers to ensure that a joint strategy is actually prepared, when an order has been made under section 1. The intention is that the Scottish Ministers will only intervene where a strategy has not been submitted by the due date or where specified public bodies have been unable to reach agreement on its content.

10. Section 2 is without prejudice to section 211 of the Local Government (Scotland) Act 1973 (c.65). This provides the Scottish Ministers with power to order a local inquiry if they believe that a local authority may have failed to do what is statutorily required of them. Such action is however usually considered only where there is evidence to suggest that a breach of statute may have taken place and there is no other resolution or form of redress available.

PART 2: BUS SERVICES

Quality partnership schemes

Section 3: Quality partnership schemes

11. This section empowers local transport authorities, either alone or jointly, to set up quality partnership (“QP”) schemes if this will to any extent implement their relevant general policies (as defined in section 39(1)) and either improve the quality of local services and facilities specified provided in a particular area, or reduce or limit traffic congestion, noise or air pollution. The expression “local transport authority” is defined in section 76(1) as meaning a local authority or the Strathclyde Passenger Transport Authority (“SPTA”).

12. A QP scheme entails the authority providing specified facilities (as defined in section 39(1) and setting quality standards to be observed by bus operators as a condition for using those facilities. The specified facilities under a scheme (such as bus lanes and shelters) must be provided at specific locations along bus routes (or where appropriate prospective bus routes) which bus operators can use. Authorities may also include other ancillary facilities. Information facilities may not be included if the authority has determined that these must be provided throughout their area under sections 30 to 32 of the Bill. Standards that may be imposed on operators under a statutory QP scheme do not extend to service frequency or timing since the primary purpose of these schemes is to improve the quality of service available to the travelling public. The Bill does not prevent authorities and operators from making voluntary arrangements as at present.
Section 4: Consultation as to proposed quality partnership schemes
13. This section sets out requirements as to consultation. Authorities must give notice of proposed schemes in at least one local newspaper circulating in the area, and that notice must either set out the authority’s proposals for facilities and standards of services to be provided or state where and when such details can be inspected. A scheme may not be made without prior consultation with persons specified in section 4(4). These persons include bus operators and representatives of bus users and, if the scheme affects a trunk road, the Scottish Ministers or the Secretary of State.

Section 5: Making of quality partnership schemes
14. This section provides for the making of a QP scheme (with or without modifications) if an authority have complied with the terms of section 4 of the Bill. The scheme must set out the specified facilities, specified standards of local services and the date on which it will come into operation. The minimum period for a QP scheme is set at 5 years. Procedures for determining any disputes arising in relation to the scheme must be included. In certain circumstances local services may be excluded from a QP scheme, but continue to operate on a specific route. This means that a specified local service would be able to use the scheme's facilities without attaining the quality standards set down by the authority. An example might be a community bus service acting as a feeder to a main bus route, on which there are QP facilities.

15. A QP scheme may not be brought into force before the authority consider it is reasonably practicable for the relevant facilities to be provided and for the operators to meet the prescribed standards. In any event, the operative date may not be earlier than 3 months after the scheme is made, or any necessary traffic orders are made, whichever is the later. The making of traffic regulation orders can often take some time and a scheme should not be brought into force before the specified facilities are in place. No later than 14 days after making a scheme the authority must publish a notice in a local newspaper and notify all operators affected by the scheme, and the traffic commissioner. The notice must set out the scheme, or say where and when the scheme can be inspected, and state if any modifications have been made.

Section 6: Postponement of scheme
16. This section provides for consultation and publicity in the event that an authority postpone the introduction of a QP scheme (for a maximum of 12 months). Again, this is to ensure that appropriate procedures are available for different circumstances. Authorities must, within 14 days of any postponement of a scheme, give notice in a local newspaper and notify all operators affected by the scheme and the traffic commissioner.

Section 7: Effect of quality partnership scheme
17. This section sets out the effect of a QP scheme. It places obligations on both the local transport authority and the bus operators – the former to provide the relevant scheme facilities, and the latter to operate their services to the relevant standards.
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in
the Scottish Parliament on 5 June 2000

This provides for an even-handed partnership, with both parties able to have
confidence that the other’s obligations will be honoured, and that the investment made
will be secure. Authorities will be under a duty to provide specified facilities, and
continue to do so while the scheme remains in operation. The duty yields in the event
of circumstances beyond their control – for example a sewer collapse rendering a bus
lane unusable.

18. If a traffic regulation order (“TRO”) is required for the provision of any
facilities and the consent of the Scottish Ministers or the Secretary of State is required
to the making of that order, local transport authorities are required to use their best
endeavours to obtain that consent. Paragraph 3 of schedule 2 to the Bill makes a
consequential amendment of the Road Traffic Regulation Act 1984 to permit a local
traffic authority to make TROs in this regard.

19. An operator may only use the scheme facilities if a written undertaking is
given to the traffic commissioner who will be responsible for enforcement confirming
that the services specified in the scheme will be provided to the required standard, and
those services are duly provided to that standard (except in circumstances beyond the
operator's control). Where local services are excluded from a QP scheme under
section 5(3) (e.g. a community bus providing a feeder service may be excluded) such
services are not to be subject to the quality standard requirements. But any conditions
applicable to that exclusion are to be treated as if they were prescribed particulars
registered under section 6 of the Transport Act 1985. Thus an excluded operator who
fails to comply with these conditions can face enforcement action by the traffic
commissioner.

Section 8: Variation or revocation of quality partnership schemes
20. This section provides for the variation or revocation of QP schemes. This will
give flexibility both for future changes, and for any circumstances where it may be
necessary to revoke a scheme. The local transport authority may revoke a scheme
before its terminal date, but only if all participating operators consent. Consent
cannot be unreasonably withheld. If a variation requires the making of a traffic
regulation order, then the variation will be subject to the same procedure as the
making of a scheme. Unless modified by regulations made under section 10 any other
variation or revocation is also subject to the same procedure as the making of a
scheme.

Section 9: Reports on quality partnerships
21. This section imposes a duty on local transport authorities, in conjunction with
bus operators, to monitor and collate information on the operation of schemes in order
to assess their effectiveness. Authorities will be required to publish an annual report,
and to submit that report to the Scottish Ministers. In preparing reports, authorities
must have regard to representations received during the relevant period. Reports are
to be published within 6 months of the end of the period to which they relate. The
traffic commissioner must be consulted on the terms of the report before an authority submit it to the Scottish Ministers.

Section 10: Regulations as respects quality partnerships
22. This section empowers the Scottish Ministers to make regulations for various purposes in connection with QP schemes. This will enable any necessary provision to be made in respect of the detailed implementation of QP schemes. The regulations may deal, in particular, with the procedures for making, varying and revoking QP schemes, the scope of permitted exclusions under section 5(3), the form of undertakings under section 7(4), the giving of notice and handling of objections.

Section 11: Eligibility for service subsidies
23. This section amends section 63(5) of the Transport Act 1985 to enable authorities to provide a subsidy to an operator where a service would not otherwise be provided because it did not meet the standard required in a quality partnership scheme. This power will enable authorities to provide a subsidy to an operator to enhance the quality of its buses, perhaps in an area where it would not otherwise be commercially viable to do so.

Quality contract schemes

Section 12: Quality contract schemes
24. This section empowers local transport authorities, either alone or jointly, to set up quality contract (“QC”) schemes if this is the only way to implement their relevant general policies (as defined in section 39(1)) and the scheme proposed would implement those policies in a way which is economic, efficient and effective.

25. In summary, a QC scheme is one under which a local transport authority can determine what local services should be provided in an area, and to what standards, and can enter into contracts with bus operators giving them exclusive rights to provide services to the authority’s specification. A QC scheme cannot be made unless the authority have complied with the notice and consultation requirements set out in section 13 of the Bill, and obtained the approval of the Scottish Ministers.

26. A QC scheme allows the local transport authority to determine the necessary level and standard of bus provision for their area, and to secure that provision through a competitive tendering procedure. A QC scheme will grant exclusive rights to a bus operator (or operators) to provide the specified services in the specified area. QC schemes may contain provisions as to payment by the authority to the operator, a payment of a premium by the operator to the authority, or a zero payment or premium bid. Provision is also made for other services or facilities to be included in a QC. The provisions of section 88(1) of the Transport Act 1985 Act (which relate to tendering for subsidised services under the present arrangements) are disapplied for the purposes of QC schemes.
Section 13: Consultation as to proposed quality contract schemes

27. This section sets out requirements as to consultation. A QC scheme may not be put to the Scottish Ministers for approval without prior consultation with the persons specified in section 13(3). These include bus operators, representatives of bus users, holders of public service vehicle licences or community bus permits and the traffic commissioner. Authorities must give notice of proposed schemes in at least one local newspaper circulating in the area, and that notice must describe the proposed scheme or state where and when such details can be inspected. The authority may modify their proposals in the light of consultation prior to seeking approval from the Scottish Ministers.

Section 14: Approval of proposed quality contract scheme

28. This section deals with the process of seeking and obtaining the approval of the Scottish Ministers to the making of a QC scheme. The Scottish Ministers can call for additional information to inform the decision making process. Any person consulted during the consultation process may make written representations to the Scottish Ministers (which could either be in support of, or opposition to the scheme) after the proposed scheme has been passed to them for a decision. The Scottish Ministers will have the power to approve the scheme (or approve it with modifications) if satisfied that the tests in section 12 are met and that it is in the public interest to make the scheme. (The tests in section 12 are that the scheme must be the only way to implement the authority's relevant general policies in the area affected; and that the proposed scheme will implement those policies in an economic, efficient and effective way).

29. If modifications to a scheme are proposed by the Scottish Ministers, any such modifications must be brought to the attention of the authority making the scheme, and they must in turn consult any of the previously consulted parties likely to be affected; the authority then must notify the Scottish Ministers of the outcome. The Scottish Ministers may approve the scheme once these procedures have been followed.

Section 15: Making of a quality contract scheme

30. This section provides that a local transport authority can make the QC scheme after the Scottish Ministers approve it, and that it must be made within 6 months of approval. That is to ensure that it cannot be ‘left hanging’ over the heads of local bus operators indefinitely, since to do so would introduce unnecessary uncertainty. The section describes the making of a QC scheme and what it must contain. It also deals with its introduction, duration and scope for exclusions and provides a general power to ensure the authority can make appropriate provision in connection with ancillary matters. Making a QC scheme enables an authority to move on to the next stage - to seek tenders for its operation. It does not enable an authority to bring a scheme into operation immediately.
31. A QC scheme may not come into operation until at least 21 months after it is made. This is in recognition of the fact that some bus operators currently operating in the area may lose the right to do so, and must be allowed due time to adjust and redeploy assets. The Scottish Ministers are to have the power to amend this period. A scheme may last for a minimum of 3 and a maximum of 7 years. If, on review, it is decided to continue QC arrangements, a fresh scheme must be made. This recognises the need to provide a sufficient period of stability for the operator, balanced by the requirement for the authority to ensure that best value is achieved. The Scottish Ministers are to have the power to amend the minimum and maximum periods by order.

32. The section sets out what a scheme must specify, namely details of the area and the dates for introduction and duration. It also sets out what the scheme must outline, namely the services to be provided and the features of proposed tender invitations, and provides for exclusions from a QC scheme. This in effect means that certain specific services may be permitted to operate in the QC area otherwise than by quality contract. It might be deemed appropriate, for example, to allow limited exclusions to cover "feeder" services. Such exclusions may be subject to conditions.

33. The authority must give notice of the making of the scheme in a local newspaper circulating in the area, no more than 14 days after its making, and ensure that the traffic commissioner is sent a copy. The notice must state where and when full details of the scheme can be inspected, and state when the scheme is to come into operation. An authority may vary or revoke a QC if the area to which it relates is wholly or partly to comprise the area of a subsequent QC.

Section 16: Postponement of quality contract scheme

34. This section provides for consultation and publicity in the event that an authority postpone the introduction of a QC scheme (for a maximum of 12 months). Again, this is to ensure that appropriate procedures are available for different circumstances. Authorities must, within 14 days of any postponement of a scheme, give notice in a local newspaper and notify all operators affected by the scheme, and the traffic commissioner. The Scottish Ministers may make regulations as regards postponements and these regulations may in particular cover the maximum period of postponements and any requirement for authorities to reissue invitations to tender in accordance with section 18 of the Bill.

Section 17: Effect of quality contract scheme

35. This section provides that, once a scheme is in operation, sections 6 to 9 of the Transport Act 1985 (which deal with registration of local bus services) will cease to have effect in the relevant area and no local service may be provided in that area except in accordance with a QC. The role of the traffic commissioner in monitoring services is therefore removed and enforcement becomes a matter of contract management for the local transport authority in accordance with the terms of the QC. Where a service is excluded from a QC scheme, however, sections 6 to 9 continue to
Section 18: Tendering for quality contracts
36. This section provides that tenders have to be sought by general invitation no later than three months after the making of a scheme, unless the Scottish Ministers specify an alternative period. The tender must be issued generally by authorities in order to bring it to the attention of persons who may be interested, and issued individually to all persons who request a copy in writing. Tenders will only be acceptable from licensed operators of public service vehicles or persons holding a community bus permit under section 22 of the Transport Act 1985. The authority must, within 14 days of entering into a QC, give notice of the local services to be provided, and the duration of the contract, to the traffic commissioner. The Scottish Ministers may by regulations require that authorities publish information on tenders submitted to them for any particular scheme, or their reasons for entering into a particular contract.

Section 19: Exceptions from section 18(1)
37. Section 19(1) enables the Scottish Ministers, by regulations, to provide for cases where normal tender procedures will not apply. Section 18(1) will not apply where it appears to the authority that action is urgently needed to maintain an existing service, to secure the replacement of a service that has ceased to operate or to meet unexpected public transport requirements. If an authority do enter into such an agreement they must invite tenders as soon as possible for the longer-term delivery of the contract. The duration of these “emergency” agreements is limited to 3 months after the end of the period allowed for the submission of tenders so as to ensure that the tender provisions are not improperly circumvented.

38. The section also makes provision for agreements to be entered into in circumstances where no tender, or no acceptable tender, is received. The Scottish Ministers may by regulations require that authorities which enter into such agreements publish a statement that no tender was submitted to them, or a statement of their reasons for considering that no acceptable tender was received.

Section 20: Variation or revocation of quality contract schemes
39. This section makes provision for the variation or revocation of a QC scheme, if the Scottish Ministers give prior approval. A QC scheme may be varied by increasing or decreasing the size of the area covered, or increasing or decreasing the level of specified services. A QC scheme may be revoked by the authority, or authorities, who made it if the conditions in section 12(1) are no longer met with respect to it, or if one or more authorities make another QC scheme covering in part or in whole the area to which the scheme being revoked relates. Where the Scottish Ministers do approve a variation or revocation, the procedure set out in section 15 (making of a QC scheme) applies to that variation or revocation, subject to any modifications of that procedure made by the Scottish Ministers through regulations.
The section also provides powers for the Scottish Ministers to make regulations allowing them to revoke a scheme after it has been made but before it comes into operation in circumstances set out in the regulations (for example, an unexpected collapse of the tender process).

Section 21: Reports on quality contracts
40. This section imposes a duty on authorities, in conjunction with bus operators, to monitor and collate information on the operation of QC schemes in order to assess their effectiveness. Authorities will be required to publish an annual report, and to submit that report to the Scottish Ministers. In preparing reports authorities must have regard to representations received during the relevant period. Reports are to be published within 6 months of the end of the period to which they relate.

Section 22: Non-implementation of quality contract schemes
41. This section provides that a QC scheme will cease to have effect if an authority have not, within 12 months of the date the scheme was made, entered into a quality contract with an operator.

Section 23: Regulations as respects quality contract schemes
42. This section empowers the Scottish Ministers to make regulations in relation to the detailed implementation of QC schemes. The regulations may deal with the procedures for making, varying and revoking QC schemes; the scope of permitted exclusions under section 15(4), the giving of notice and handling of objections, the holding of inquiries or hearings into objections and various other ancillary matters.

Section 24: Transitional provision as respects quality contract schemes
43. This section empowers the Scottish Ministers to make, by regulations, such transitional provision as they consider appropriate in connection with the coming into operation of QC schemes, the variation of such schemes and the ending of such schemes (whether or not as a result of their revocation). The Scottish Ministers may also make regulations to modify or remove the impact of sections 6 to 9 of the Transport Act 1985.

Ticketing

Section 25: Ticketing arrangements
44. This section imposes a duty on authorities to determine what ticketing arrangements should be made available on local bus services in their area. This enables authorities to determine whether the provision of joint ticketing arrangements is necessary, and if so, to determine whether those arrangements are being made available. Before making such a determination, the authority must consult organisations representative of local bus users. If it is considered that the appropriate ticketing arrangements are not being made available the authority must seek to make arrangements with operators for the provision of such arrangements on a voluntary
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in the Scottish Parliament on 5 June 2000

basis. If such voluntary arrangements cannot be made an authority may impose a ticketing scheme under section 26 of the Bill.

Section 26: Ticketing schemes
45. If satisfactory arrangements cannot be made under section 25, this section enables local transport authorities, alone or jointly, to set up ticketing schemes, whereby operators of local bus services are required to make and implement arrangements to accept each other's tickets or provide integrated ticketing in ways specified in the scheme. In doing so the local transport authority must be satisfied that this is in the public interest and would to any extent implement their relevant general policies (as defined in section 39(1)).

Section 27: Consultation as to proposed ticketing schemes
46. This section sets out requirements as to consultation. A ticketing scheme may not be made without prior consultation with bodies specified in section 27(3). This includes bus operators, representatives of bus users, and the traffic commissioner. Authorities must give notice of the proposed schemes in at least one local newspaper circulating in the area and specify the date on which the scheme is proposed to come into effect.

Section 28: Making of a ticketing scheme
47. This section enables authorities to make ticketing schemes if they have complied with the consultation requirements in section 27. A scheme may be made as proposed or with modifications, and shall specify the date it comes into force (not less than 3 months after it is made). There are additional requirements as to publicity and the giving of notice (not later than 14 days after a scheme is made) when a decision is taken to make a scheme. Authorities must give notice of the proposed schemes in at least one local newspaper circulating in the area, and specify the date on which the scheme will come into effect and identify the classes of local services affected by it. The traffic commissioner and bus operators must also be notified separately. The Scottish Ministers may prescribe by regulations what other manner of notice should be given or any other persons to be notified.

Section 29: Effect of ticketing scheme
48. This section imposes a duty on operators to implement the scheme from the date it comes into force. Failure to do so may result in enforcement action by the traffic commissioner under section 6 of the 1985 Act (by virtue of section 29(2) of the Bill) and under section 111 of the 1985 Act (by virtue of amendments in section 36 of the Bill).

Provision of information

Section 30: Information about bus services
49. This section enables an authority to determine in accordance with their relevant general policies (as defined in section 39(1)), how and what local bus
information should be made available in their area. Before making such a determination, the authority must consult the traffic commissioner and organisations representative of local bus users. If it is considered that information is not being made available in accordance with the authority’s determination, the authority must seek to make arrangements with operators for its provision. This section and sections 31 and 32 do not apply to any authority to the extent that part of their area falls within the passenger transport area of the SPTA but they do apply to the SPTA in respect of bus information relating to the SPTA area.

Section 31: Duty of authority to make information available
50. This section provides that, if arrangements cannot be made by agreement, local transport authorities, alone or jointly, must either make the bus information available or secure that it is made available. In such a case the authority may recover reasonable costs from the operators concerned. Operators must furnish information to the authority or a third party in such circumstances to enable the authority to meet these obligations. Failure to do so may result in enforcement action by the traffic commissioner under section 111 of the 1985 Act (by virtue of consequential amendments made to that section by section 36 of the Bill).

Section 32: Bus information: supplementary
51. This section provides that, in exercising their powers under sections 30 and 31, authorities must have regard to economy, efficiency and effectiveness and must not discriminate against operators.

Financial provisions

Section 33: Agreements providing for service subsidies
52. This section amends the criteria by reference to which authorities must decide which tender to accept in the case of tenders for additional subsidised public transport services under section 9A of the Transport Act 1968 and section 63 of the Transport Act 1985. It introduces a new “best value” test by requiring authorities to have regard to economy, efficiency and effectiveness and also to have regard to the relevant general policies, and environmental issues, namely the reduction or limitation of traffic congestion, noise or air pollution.

53. This section also removes the present constraint (imposed by section 92(1) of the 1985 Act) that in exercising powers to subsidise those services authorities must not act so as “to inhibit competition”. It is replaced with a new duty to have regard to the interests of the public and of operators. This is intended to make it easier for authorities to subsidise additional service frequency in appropriate circumstances by removing them from the requirement to consider whether competition might be inhibited.
Section 34: Grants to bus service operators
54. This section makes new statutory provision for grants to bus operators, including power to make regulations as to the classes of bus services for which grant may be paid, and the method of calculation. This section provides a more flexible power enabling grant to be paid by the Scottish Ministers on a different basis from the current Fuel Duty Rebate scheme operated under section 92 of the Finance Act 1965. The Commission for Integrated Transport is currently reviewing subsidies to the bus industry in England and Wales, and the Scottish Executive will wish to assess the outcome of that scrutiny before making alternative arrangements under this section.

Section 35: Penalties
55. This section makes alternative provision to section 111 of the Transport Act 1985 (traffic commissioners’ powers in respect of unreliable or unregistered services) and is linked to the repeal of that section by section 34(6) of the Bill. Section 111 of that Act presently allows the traffic commissioner to demand repayment of 20% of eligible fuel duty rebate in the event of an operator being found to have contravened section 6 of the 1985 Act. Under this section, the traffic commissioner will be able to impose a maximum penalty of £550 (or such other sum as may be prescribed by order) multiplied by the number of vehicles the operator is licensed to use under his public service vehicle licence. The new penalty represents approximately the same level of penalty as the current penalty. There will continue to be a right for operators to appeal to the Transport Tribunal.

Section 36: Repayment of grants towards bus fuel duty
56. This section amends the present power of the traffic commissioner under section 111 of the Transport Act 1985 to impose a penalty on a bus operator, if that operator fails “to a significant extent” to operate services as registered under section 6 of the Transport Act 1985. The amended provision will enable the traffic commissioner to impose additional penalties in relation to:

- Operators using QP facilities when not entitled to do so (section 7(4));
- Operators providing a service within a QC area without entering into a QC with the local transport authority (section 17(1)(b));
- Operators failing to implement a ticketing scheme when required to do so (section 29(1)); and
- Operators failing to provide information to a local transport authority (section 31(3)).

57. The section also amends the current level of penalty which the traffic commissioner must impose - a penalty of 20% of the fuel duty rebate paid in the previous three months. The amendment will enable the traffic commissioner to impose a penalty between 1% and 20% and there will no longer be a requirement to be satisfied that the operator has failed “to a significant extent”, thus allowing a more
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in the Scottish Parliament on 5 June 2000

flexible, and perhaps more frequent, use of the power. (This amendment only has effect, however, until such time as section 111 of the 1985 Act is replaced by the provisions of section 35 of this Act.)

Environmental protection

Section 37: Traffic regulation conditions to reduce or limit pollution
58. This section extends the powers of the traffic commissioner to impose traffic regulation conditions on local bus services under section 7 of the Transport Act 1985. These powers currently allow the traffic commissioner, at the request of local authorities, to impose restrictions on routes and stopping places in the interests of preventing danger to road users or reducing severe traffic congestion. This section will enable the traffic commissioner to do so for the additional purposes of reducing or limiting noise or air pollution.

Co-operation

Section 38: Co-operation
59. This section requires local transport authorities, when carrying out their functions under this Act in relation to QPs, QCs, ticketing schemes and the provision of information to have regard to the desirability of joint arrangements with other authorities and to co-operate with one another.

PART 3: ROAD USER CHARGING AND WORKPLACE PARKING LEVY

Road User Charging Schemes

Section 40: Charging schemes
60. This section sets out the meaning of a road user charging scheme. A road user charging scheme may only be introduced by local authorities as the local traffic authorities, acting either singly or jointly. It will be for local authorities to decide whether or not they wish to bring forward a scheme. Subsection (2) provides that a charging scheme made by a local authority or authorities acting jointly may apply only to roads for which the charging authority or charging authorities are the traffic authority. This means that the charging authority have no powers to charge for the use of trunk roads, even where they fall within the area of a local charging scheme.

61. Subsection (3) provides that charging schemes should be introduced only where the charging authority have a local transport strategy (as defined in section 76(1)) setting out the authority’s agreed policies for transport in their area. Section 73 provides that the Scottish Ministers may issue guidance relating to the preparation of strategies.
62. A charging scheme is defined in subsection (5) as a scheme for imposing charges on the use or keeping of motor vehicles on specified local roads. The term “keeping” is required to allow for the inspection of stationary vehicles in a paper-based area licensing scheme. The keeper of the vehicle will usually be liable for the charge incurred, although there may be cases where the Scottish Ministers specify that other persons (e.g. the driver or the signatory of a hire agreement) are liable.

Section 41: Charging schemes to be made, varied and revoked by order
63. This section sets out the means by which a road user charging scheme must be made. It states that a local authority (or two or more authorities acting jointly) wanting to introduce a charging scheme must do it by making an order. If an authority wants to change or revoke a scheme this must also be done by order.

64. The Scottish Ministers are given power to make regulations as to the form of such orders and the publication and consultation procedures relating to them.

Section 42: Confirmation of orders
65. This section sets out the means by which a road user charging scheme must be confirmed. A charging scheme order cannot come into force without the approval of the Scottish Ministers. If a charging authority (or authorities) wish to vary or revoke a scheme by order it too cannot come into force without the approval of the Scottish Ministers (subsection (1)).

66. The Scottish Ministers will have the power (subsection (2)) to define by means of regulations circumstances where subsection (1) might not apply. This will allow specified minor variations to a scheme, for example making slight alterations to the length of the charged period, to be made without ministerial confirmation.

67. The Scottish Ministers will be able to make modifications to the charging scheme order before they confirm it.

Section 43: Charging schemes: consultation and inquiries
68. This section defines the roles of charging authorities and the Scottish Ministers in relation to consulting on orders setting up, varying and revoking charging schemes.

69. Authorities will be able to consult others before deciding to introduce, vary or revoke an order. Regulations under section 41 will set out the consultation procedures for authorities and will include provision for authorities to hold an inquiry looking at the scheme as a whole.

70. The Scottish Ministers will similarly be able to consult others or to require authorities to consult others about a proposed charging scheme or the variation or revocation of an existing charging scheme.
71. The Scottish Ministers will also have the power to require an inquiry to be held on the making, variation or revocation of a scheme and to appoint any persons they so wish to adjudicate on such an inquiry. This is only likely to be used for consideration of specific issues, for example the extent of consultation in a neighbouring authority rather than for assessment of the scheme as a whole. The costs of any such inquiry will be met under section 210 (4) to (8) of the Local Government (Scotland) Act 1973.

Section 44: Matters to be dealt with in charging schemes
72. This section sets out the basic elements that must be included in an order establishing a charging scheme. It allows the authority to make detailed provision on how exactly a scheme will operate in their area. It is for the charging authority to determine what is included in the order under each of the basic elements.

73. In summary, an order will set out the roads which are to be charged, how the charges are to be defined, the classes of motor vehicle which will be charged, the levels of charge, and the duration of the scheme. It is for the charging authority to determine these matters.

74. Subsection (3) ensures that charging powers cannot be used purely as a charge on parked vehicles.

75. Some of the factors by reference to which different charges might be imposed are described in subsection (5), but this is not an exhaustive list. This gives local authorities a degree of flexibility as to how they may raise a charge so that the scheme might best meet their local policy aspirations. Thus they might, for example, decide to vary the charge to reflect the most congested times of the day. Alternatively, they might view the charging scheme as a device to reduce peak time commuting to work and simply not charge in the evenings or at the weekend.

76. Authorities will be required to set the level of the charge with regard to the purposes to which they intend to use the net proceeds. The Scottish Ministers do not intend to approve any charging scheme designed simply to be a revenue raiser and will expect authorities to have an estimate before introducing a scheme of how much the scheme will raise and what local transport improvements they intend to fund with the net proceeds.

77. A charging scheme may require documents or equipment to be carried in or fitted to a vehicle when it is on a charged road. This gives charging authorities power to ensure that everyone who enters a road covered by a scheme must have a permit or electronic payment unit in their vehicle or be liable to pay a penalty charge.

Section 45: Charging schemes: exemptions etc.
78. This section provides the power for the Scottish Ministers to make regulations to set national exemptions from charges. As a general principle, the Scottish
Ministers would expect few national exemptions to be made so as to maximise the impact of any charging scheme on congestion. The Scottish Executive has already indicated that it believes that national exemptions should be limited to the emergency services and those whose mobility is impaired. Subsection (2) allows local authorities to make further local exemptions as there may be instances where it makes sense to exempt certain users in particular localities. This section also ensures that no road will be subject to double charging either because it is covered by more than one charging scheme or where a toll is already charged on that road.

Section 46: Penalties and liabilities for charges
79. Sections 46 and 47 allow the Scottish Ministers to make regulations to provide for the fair and effective enforcement of road user charging schemes. This includes arrangements for adjudication. The Bill provides that non-payment of a road user charge will be a civil matter rather than a criminal offence, and outstanding charges will be recoverable as a civil debt. Removing a charging penalty notice without good reason will however be a criminal offence. Deliberate tampering with any in-vehicle or roadside equipment with intent to avoid payment is identified as being of a more serious nature and will therefore be subject to greater maximum criminal penalties. The various subsections set out the power to make regulations covering each element.

80. Subsection (2) sets out the powers to make regulations covering penalties, including surcharges or discounts. This would allow the charging authority, for example, to increase the level of fines for persistent offenders or late payment, or offer a discount for the prompt payment of a fine.

81. Subsection (3) makes it clear that the registered keeper of the vehicle will generally be liable to pay any road user charge and any penalty notice. However, there will be instances where the keeper of the vehicle is not responsible, for example where the vehicle has been stolen or where the vehicle in question is owned by a hire company. Regulations will set out the detail.

82. The level of fines is in line with standard criminal offences and penalties.

Section 47: Examination and removal of vehicles etc.
83. This section enables the Scottish Ministers to make regulations to allow enforcement actions such as the examination or entering of vehicles in order to establish whether the correct documentation is displayed and whether the specified equipment is fitted in a correct manner, is in good working order or has been unlawfully tampered with. Such regulations will also allow for the immobilisation or removal, storage and disposal of vehicles. Subsection (2) allows the charging authority to authorise individuals to act as enforcement officers. Anyone who obstructs an authorised person acting in the exercise of these powers commits a criminal offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine. Subsection (5) provides
that these powers may be used only if a vehicle is on a road. Section 76(1) states that “road” has the meaning given by section 151 of the Roads (Scotland) Act 1984.

**Section 48: Equipment etc.**

84. This section allows charging authorities to install and maintain any equipment or building in connection with the effective operation of a charging scheme. The Scottish Ministers are given powers to make regulations setting out the basic specifications for, and type approval of, any equipment. Such regulations will ensure inter-operability of in-vehicle equipment across Scotland, the rest of the United Kingdom and Europe.

**Section 49: Traffic signs**

85. This section allows the Scottish Ministers to direct a charging authority to put up traffic signs on land in relation to a charging scheme.

**Section 50: Non-domestic rating exemption**

86. This section amends the Valuation and Rating (Scotland) Act 1956 to ensure that roads which are part of a charging scheme do not become liable for non-domestic rates. Further, it provides that buildings (apart from office buildings) that are solely used in connection with a charging scheme are exempt from non-domestic rates. This is required to exclude the necessary roadside equipment structures associated with a charging scheme, such as gantries, booths or buildings housing electronic equipment.

**Workplace Parking Licensing Schemes**

**Section 51: Licensing schemes**

87. This section sets out the meaning of a licensing scheme. It enables licensing schemes to be introduced by local authorities, as the local traffic authorities, acting either singly or jointly. A licensing scheme is the mechanism for collecting a workplace parking levy. It will be for authorities to decide whether or not they wish to bring forward a scheme.

88. Subsection (3) requires that licensing schemes should be introduced only where the licensing authority have a local transport strategy (as defined in section 76(1)) setting out the authority’s agreed policies for transport in their area. Section 73 provides that the Scottish Ministers may issue guidance relating to the preparation of strategies.

89. People will be able to apply to authorities for a licence to park up to a stated number of vehicles and pay the appropriate sum based on a charge per parking place. Authorities will be obliged to issue the licence for the number of parking places requested, and will not be able to use this mechanism as a means of directly controlling the number of places provided. However, this will not prevent the owners or occupiers of the premises from voluntarily reducing the number of parking places (and number of units they will have to pay for).
90. The charges imposed under a licensing scheme will generally be paid by the occupier of the premises but the Scottish Ministers are given power to make regulations setting out circumstances where someone else is liable.

91. Subsection (6) defines a licensing scheme. It allows a licensing scheme made by one authority to cover all or any of the part of the area of the authority, and for a licensing scheme made by more than one authority to cover the whole or any part of the combined area of the authorities.

Section 52: Workplace parking places
92. This section defines a workplace parking place.

93. The definition is designed to include most forms of parking by those attending their places of work. The parking can be at or in the vicinity of the workplace. This is intended to catch, for example, parking at a site adjacent to the workplace, but to exclude parking at a park and ride site or station car park, where the worker makes a further journey to reach the workplace. It is also designed to include parking provided by arrangement with a third party – for example where an employer has a contract with a car park company to provide a number of spaces for its employees.

94. The employer, employees, suppliers, business customers or business visitors and students at educational establishments are all included in the definition. It also includes members of organisations such as a partnership, Chamber of Commerce and a recreational club, but only if they are engaged in the business of the body. It does not therefore cover any parking for leisure, retail or social purposes.

95. Subsection (5) allows the Scottish Ministers to add to, remove or vary the definitions in this section by regulations. This power is designed to allow the prompt closure of any loopholes that the definition of a workplace parking place may contain. The Scottish Ministers do not intend to use this power to extend the scope of the levy beyond workplace parking to, for example, customer, leisure or retail parking.

Sections 53-55: Making of licensing schemes
96. Sections 53 to 55 closely follow sections 41 to 43 of the Bill on road user charging. They set out the order-making process, including confirmation of schemes and consultation.

Section 56: Matters to be dealt with in licensing schemes
97. This section sets out the basic elements that must be included in a licensing scheme. It allows the authority to make detailed provision on how exactly a scheme will operate in their area. It is for the licensing authority to establish what is included in their order under each of the basic elements.
98. In summary, an order will set out the area to be covered, the hours and days that a licence is needed for, the charges payable for each parking space and the duration of the scheme. All these matters are for the licensing authority to determine.

99. Some of the factors by reference to which different charges might be imposed are described in subsection (3), but this is not an exhaustive list. This gives authorities a degree of flexibility as to how they will apply workplace parking charges so that a scheme might best meet their local needs and aspirations. For example, an authority will be able to choose to apply the levy to normal working hours or weekdays only; or to set a sliding scale so that the charge per vehicle increases or decreases above a certain level.

100. Authorities will be required to set the charges with regard to the purposes for which they intend to use the net proceeds. The Scottish Ministers will not approve any licensing scheme designed to be a simple revenue raiser; before introducing a scheme, authorities must have an estimate of how much the scheme will raise and what local transport improvements they intend to fund with the net proceeds.

101. A licensing scheme can contain provision for licence applications, and the granting, issue, variation or revocation of a licence.

Section 57: Licensing schemes: exemptions etc.
102. This section enables the Scottish Ministers to make regulations to set national exemptions from charges. As with a road user charging scheme, Ministers would expect few national exemptions to be made so as to maximise the impact of any licensing scheme on congestion. The Scottish Executive has already indicated that again it believes that national exemptions should be limited to the emergency services and those whose mobility is impaired. Authorities will also be able to make further local exemptions in their licensing scheme. This section also ensures that no premises will be subject to double charging.

Section 58: Licences
103. This section sets out the essential elements that must be included in a licence under a licensing scheme. These include the name of the person who is granted the licence, the premises it relates to, the maximum number of vehicles that may be parked and the amount of the charge paid on the licence. A licence may be granted for any period of time. This will allow the licensing authority to make a judgement as to the most administratively effective and cost efficient way of managing any scheme.

104. Provision is also made for the granting of licences in special circumstances (subsection (3)). These might be used, for example, when an employer needs to increase the number of spaces when there are temporary staff covering busy periods such as the run up to Christmas. Such a special licence will only be granted for a period of less than one year.
105. Anyone who deliberately uses false or misleading information in applying for a licence commits a criminal offence (subsection (5)) and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine (subsection (6)).

**Section 59: Penalties and liability for charges payable on a licence**

106. This section enables the Scottish Minister to make regulations to provide for the fair and effective enforcement of licensing schemes. This includes arrangements for adjudication. The Bill provides that non-payment of the parking levy will be a civil matter rather than a criminal offence, and outstanding balances will be recoverable as a civil debt. The Scottish Ministers are able to make regulations making the occupier of premises (or, in specified circumstances, other persons) liable to pay the parking levy. The regulations can specify who is to be regarded as the occupier of premises for this purpose.

**Section 60: Rights of entry**

107. This section sets out the powers of entry that may be exercised in connection with the enforcement of the workplace parking levy.

108. An authorised person is allowed to enter premises within the licensing area at any reasonable time to establish whether workplace parking is being provided there without a licence (or without a licence covering the full number of spaces being provided) or whether parking is being provided in contravention of the terms of the licence. An authorised person may also enter premises for the purpose of issuing a penalty notice. That person will have to show evidence of his or her authority to enter the premises if requested. Anyone who obstructs an authorised person acting in exercise of this power of entry commits a criminal offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine. Compensation can be recovered if any land is damaged in exercising the powers of entry.

**General provisions**

109. Sections 61 to 67 are common to both road user charging and the workplace parking levy.

**Section 62: Powers of authorities**

110. This section allows charging/licensing authorities to spend money setting up and operating a charging or licensing scheme and to enter into contracts with third parties in connection with the setting up and operation of a scheme. This will allow authorities, for example, to enter into a contract with a private company for the installation and maintenance of electronic equipment at the roadside.
Section 63: Information
111. This section allows various bodies carrying out statutory functions to share information in relation to charging schemes or licensing schemes. This will allow, for example, information needed for enforcement purposes to be given by the Driver and Vehicle Licensing Agency to the charging/licensing authority.

Section 64: Determination of disputes, appeals and evidence
112. This section gives the Scottish Ministers power to make regulations to provide for appeals and adjudication in respect of schemes.

Section 65: Offences by bodies corporate and partnerships
113. This section sets out the circumstances in which an officer of a body corporate or a partner of a Scottish partnership is also guilty of an offence committed by the body or partnership. This would be relevant, for example, where a company had intentionally provided false information to an authority in applying for a workplace parking licence (an offence under section 58(5)), and this was done with the agreement of a director.

PART 4: MISCELLANEOUS

Travel Concession Schemes

Section 68: Travel concession schemes
114. This section gives the Scottish Ministers the power, by order, to require local authorities, either acting alone or jointly with other local authorities, to provide a minimum level of travel concession for pensioners and disabled people.

115. The Scottish Ministers may by order require local transport authorities (as defined in section 76(1)) to provide a minimum level of travel concession for eligible persons (i.e. elderly and disabled people), on eligible services (which are defined in subsection (6) as including bus services, ferry services and others services which the Scottish Ministers may by order specify). Subsection (2) enables the area of any travel concession scheme to be specified by order. Subsection (3) confers power on the Scottish Ministers to make provision by order in relation to any schemes already established under the Transport Act 1985. For example, to include a provision requiring a concession under any such scheme to be upgraded by authorities to any national minimum level of concession set under subsection (1). Subsection (4) makes provision for detailed aspects of the scheme such as the rate of concession, when the concession is applicable, the requirement to reimburse operators and enforcement of the scheme. Subsection (5) makes more detailed provision for the reimbursement of operators by local authorities.
Bridges

Section 69: Joint boards for management, maintenance etc. of certain bridges
116. This section gives the Scottish Ministers powers to dissolve by order any body (in practice, the only two bodies are the Forth Road Bridge Joint Board and the Tay Road Bridge Joint Board) which has responsibility for the management and maintenance of a bridge in Scotland and to transfer the property, rights and liabilities of that body to a new joint board. Subsection (2) sets out details of the issues that an order dissolving an existing relevant body may include to ensure an efficient and effective transfer of functions.

117. Any new joint board shall be deemed for all purposes to be a joint board within the meaning of the Local Government (Scotland) Act 1973 (c.65) constituted under that Act; and shall be the local traffic authority in relation to any road carried by the bridge. Subsections (2)(c) and (3)(b) will enable any new joint board to plan for all modes of transport relating to travel across the relevant river, and where appropriate, bring forward a charging scheme under Part 3 of the Bill (with the associated guarantees on hypothecation, additionality, transparency and consultation) in order to address congestion on the relevant bridge.

Motor vehicles used by disabled persons

Section 70: Power to inspect Blue/orange Badges
118. This section amends section 21 of the Chronically Sick and Disabled Persons Act 1970 which established the Orange Badge Scheme of Parking Concessions for Disabled and Blind People and was replaced from 1 April 2000 by the European Blue Badge Parking Scheme for Disabled People. (The new blue badge will be phased in over a 3 year period as existing orange badges come up for renewal or as new applications are processed). The addition of section 21(4BA) provides the police, traffic wardens and local authority parking attendants with the powers to inspect blue/orange badges issued under the schemes. The addition of section 21 (4BB) creates an offence of refusing to produce a badge when requested to do so by any of these authorised persons.

School crossing patrols

Section 71: Patrolling school crossings
119. Sections 26 to 28 of the Road Traffic Regulation Act 1984 make provision enabling local authorities to make arrangements for patrolling places where children cross roads on their way to or from school, or from one part of a school to another between the hours of 8 a.m. and 5.30 p.m. School crossing patrols have power to stop traffic to enable children to cross the road.

120. Subsection (2) amends section 26(1) of the 1984 Act by removing the restriction on the times when school crossing patrols may operate. Subsection (3)
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in the Scottish Parliament on 5 June 2000

adds a new subsection after section 26(1) of the 1984 Act. The new subsection (1A) gives local authorities the power to determine the times when school crossings are patrolled.

121. Subsection (4) amends section 28(1) of the 1984 Act by removing the restriction on the times when school crossing patrols have power to stop traffic. In addition, it gives school crossing patrols the power to stop traffic for any person who is crossing or seeking to cross the road.

122. Subsection (5) amends section 28(2)(a) of the 1984 Act so as to require a driver of a vehicle to stop, when required to do so by a school crossing patrol, for any person to cross the road.

**Bicycle and motor cycle stands**

**Section 72: Stands etc. for bicycles and motor cycles**

123. Section 72 amends section 63 of the Road Traffic Regulation Act 1984 so as to give powers to local authorities to provide devices for securing bicycles and motorcycles. As well as stands or racks, these devices could be in the form of a bar to which a motorcycle or bicycle could be fastened.

**SCHEDULES**

**Schedule 1: Road user charging and workplace parking levy: financial provisions**

124. This schedule contains the financial provisions for road user charging and workplace parking levy schemes. The Local Authority (Scotland) Accounts Advisory Committee (LASAAC) will be consulted on the detail of the proposed accounts over the summer.

125. Paragraph 2 deals with “net proceeds” (as defined in paragraph 1). Once the gross proceeds have been received under a scheme, the charging authority or a third party working for the charging authority will subtract the expenses of establishing or operating the scheme to give net proceeds.

126. Paragraphs 3 and 4 deal with the apportionment of the net proceeds of a scheme between the relevant local authorities.

127. Paragraph 5 cover the accounts and funds charging or licensing authorities are required to keep. Sub-paragraph (4) provides the Scottish Ministers with the powers to make regulations specifying the form of those accounts.

128. Paragraph 6 sets out how the net proceeds can be spent. It requires the net proceeds to be “hypothesised”, that is, to be spent only in support of the authority or
authorities’ local transport strategy. Sub-paragraph (2) requires that local authorities must spend net proceeds on transport related investment that offers value for money.

**Schedule 2: Minor and consequential amendments and repeals**

129. Paragraph 2 amends the Road Traffic Regulation Act 1984 to empower local traffic authorities to make traffic regulation orders affecting trunk roads if necessary to give effect to QP schemes, if the Scottish Ministers consent.

130. Paragraph 3 amends section 82 of the Transport Act 1985 to ensure that nothing done in relation to a QP scheme shall be taken to be discrimination prohibited by subsection (1) or (3) of that section (bus stations: restrictions on discriminatory practices).

---

**FINANCIAL MEMORANDUM**

**INTRODUCTION**

131. The Bill will have wide-ranging implications for central government, local authorities, business and the travelling public more generally.

132. It is, however, not possible in advance to be specific about the costs and benefits of these proposals. First, many of the provisions are enabling and it is not known how many local authorities will wish to take advantage of the bus provisions and the road user charging or workplace parking levy powers, or to what extent. Second, most of the elements that will determine the costs and benefits will be decided locally, in the light of local circumstances.

133. This Financial Memorandum therefore summarises the broad effect of the Scottish Executive’s proposals only. Further, more detailed, assessments of the costs and benefits of specific schemes will be prepared by local authorities in the context of bringing forward these schemes. In addition the proposed legislation requires them to consult publicly on their proposals.

**COSTS ON THE SCOTTISH ADMINISTRATION**

134. The Scottish Executive will continue to make available support to local authorities through the Public Transport Fund, the Rural Transport Funds and other funding. Local authorities will be able to bid for support for infrastructure spending from the Public Transport Fund for bus Quality Partnerships and other public transport improvements in advance of charging schemes coming into operation.
Decisions on future levels of funding will be announced in the autumn as part of the Scottish Executive’s 2000 Spending Review which will set the Scottish Executive’s spending priorities for the medium and longer term.

135. The Scottish Executive will take powers to set a basic level of travel concession for pensioners and disabled people. Information about the potential costs of various levels of concession will be available once the outcome of the research now underway is known. Provision for the cost of reimbursing local authorities for any additional payments to transport operators will be fully considered in the 2000 Spending Review.

136. It is intended that the costs falling to the Scottish Executive in respect of scrutinising any proposals for joint strategies, quality contract schemes, charging schemes and licensing schemes and preparing regulations, orders and guidance will be met from within existing budgets.

COSTS ON LOCAL AUTHORITIES

137. The Bill makes available wide-ranging new powers for local authorities, some involving additional tasks, others involving new ways of performing existing tasks. There will be implications for both local authority administrative and capital/revenue expenditure, though the financial implications for any individual local authority will depend on the mix of measures employed in their local transport strategy.

138. The enabling powers for joint transport strategies should not impose significant extra administrative costs in addition to those already incurred by local authorities in preparing local transport strategies and working with other local authorities in the existing voluntary partnerships.

139. The administrative cost of establishing and monitoring quality partnership schemes will fall on local authorities’ existing public transport functions. In practice most authorities already work closely with their local bus operators, the new statutory framework for quality partnerships will allow them to do so more effectively. The pursuit of quality partnerships may involve a reallocation of budgets towards transport or perhaps a reprioritisation of transport budgets.

140. The duty on authorities to ensure appropriate bus passenger information is coupled with a power to recover from operators reasonable costs incurred.

141. Moving to Quality Contracts would require considerable additional effort in the design, tendering and monitoring of the new contracts, as authorities would take on greater responsibility for the design and development of the detailed route network. Any local authorities considering seeking the Scottish Ministers’ approval to establish
a quality contract, would need to consider how to accommodate such costs. This additional regulatory cost burden would have to form part of the overall appraisal of the cost/benefits of introducing a quality contract scheme.

142. There will be administrative costs for local authorities in developing and making an application to the Scottish Ministers for approval for road user charging and workplace parking levy schemes. The costs of introducing and operating road user charging schemes will be scheme specific. Costs are likely to vary considerably, depending on the geographical area covered, the complexity of the road network and the number of road users. Paper-based schemes are likely to be significantly cheaper than electronic schemes, particularly as regards start-up costs. Costs are also likely to decline over time as operational experience accumulates.

143. The Minister for Transport and the Environment announced in launching the proposals for the Bill in February 2000 that support would be available for those authorities that are committed to developing a charging scheme, with matching financial support being available on a case by case basis towards research and development costs.

144. The Scottish Executive has funded the development of the Central Scotland Traffic Model as a tool for local authorities to use in developing local and regional transport strategies and has provided further in-kind modelling support on a case by case basis.

145. The national minimum concessionary fares scheme will give rise to additional costs for at least some local authorities in the form of extra payments to transport operators. The size of these will depend on the decisions on the level and timing of any minimum concession. The Scottish Executive will consider, as part of the Spending Review, the need to reimburse individual local authorities through the Local Government finance system for the cost of enhancing schemes in excess of the level prevailing in February 2000.

146. In delivering their local transport strategies, supporting quality partnerships and bringing forward public transport improvements as part of charging schemes, local authorities will have access to funding from the Public Transport Fund, the Rural Transport Fund, other central government funds, their own unhypothecated capital resources and any funds generated from use of the new charging powers. The new charging powers would be likely to generate substantial revenue for transport expenditure, depending on local circumstances.
COSTS ON INDIVIDUALS AND BUSINESSES

147. Utilised as part of a complementary and integrated package of measures, the powers in the Bill offer a means of tackling some of the significant transport problems confronting local communities and the business sector across Scotland.

148. Traffic congestion imposes considerable direct costs on road users through longer journey times, journey time unreliability and increased fuel consumption. Estimates of the costs to business vary, but always amount to several billion pounds per year at the UK level.

149. Traffic is a contributor to air pollution, which affects health, and generates noise and nuisance, all of which have a significant impact on the quality of life. Air pollution has been linked with a number of health effects, including increased mortality and the worsening of respiratory and cardiovascular conditions, resulting in increased hospital admissions, distress and discomfort for the sufferers. Traffic growth also adds to emissions of greenhouse gases, with implications for climate change and increasing insurance and mitigation costs.

150. Growth in dependence on the private car has also led to the exclusion of some of the poorest sections of our community. For example, some 75% of households on Scotland's most deprived estates do not have access to a car and as a result find their access to increasingly centralised services curtailed.

151. If current trends are allowed to continue, they will further adversely affect congestion, journey times and reliability, and social exclusion. This will in turn impact on our future competitiveness and quality of life.

152. Of the provisions in the Bill, buses, concessionary fares and charging are likely to have the most significant impact on both individuals and businesses. These are discussed in more detail below.

Bus services

153. The bus provisions aim to benefit all bus passengers, and make public transport a realistic and attractive alternative to the car for many trips. Improved public transport is likely especially to benefit those on lowest incomes who do not have access to private vehicles.

154. The scale of the benefits will depend on the take-up of powers by local authorities. Effective voluntary quality partnerships have helped to increase bus patronage. Research commissioned by the Scottish Executive on the Edinburgh Greenways (Bus Quality Partnership) corridors for example has revealed an increase in passenger numbers of 12% and 15% in one direction during the morning and
evening peak periods. These are significant patronage increases given the high frequency of services upon this Greenway route against a background of decreasing passenger numbers generally. Evidence from other voluntary partnership schemes confirms that passenger growth figures in the range 5%-20% are achievable. Improved public transport will in turn help pave the way for successful policies to tackle congestion and pollution.

155. The implications for individual bus operators will depend on how far, and in what way, local authorities decide to use the powers. While operators may face additional costs for better quality buses, improved information and through ticketing, they will in turn benefit from the opportunity to grow the bus passenger market in partnership with local authorities thus increasing revenue streams. In addition, if operators enter into quality partnerships with local authorities bus-operating costs might be expected to fall if improved infrastructure gives buses more priority.

Concessionary fares

156. The aim of the concessionary fares provisions is to enable pensioners and disabled people, especially those on low incomes, to continue to use public transport, and to use it more often. The concessionary fares provisions will be cost-neutral for transport operators as they will be reimbursed for the additional revenue foregone in the usual way.

The road user charging and workplace parking provisions

157. It will be for local authorities to decide whether the charging powers are relevant to their circumstances. Each local scheme should reflect the priorities identified in the local transport strategy and the specific local circumstances. There is likely, therefore, to be considerable variation from scheme to scheme. The approval of Scottish Ministers will not be forthcoming unless and until it has been shown to be justified in terms of costs and benefits, with reference to the specific proposals for charge levels, scheme design and the overall package of transport improvements.

158. Potential benefits would include:

- saved time and increased reliability in travel, leading to cost savings for business;
- reduction in polluting emissions, noise and nuisance, with consequent benefits for health and for the quality of life;
- increased revenue to public transport operators;
improvements to transport provision and the transport environment, funded by the revenues raised – this is likely to be crucial in determining the overall impact on businesses and individuals.

159. The aim of any road user charging scheme is to produce an overall net benefit to transport users and the community, through reducing congestion and pollution, and providing increased transport infrastructure.

160. The effects of a charging scheme on particular groups in society will need to be examined as each scheme is designed to ensure that all material impacts are taken into account. The resulting improvements to public transport are likely to benefit those on the lowest incomes who do not have access to private vehicles. Those switching from car to public transport will need to be compensated by significantly improved public transport services. Those continuing to drive will face higher costs but benefit from more reliable and less congested journeys. Local authorities will have the flexibility to provide exemptions from their schemes as they see fit.

161. Road user charging schemes will impose direct costs on all businesses operating in those areas covered by such schemes, subject to any national or local exemptions. This will include the road haulage sector; the retail sector; manufacturing industries, including all those with travelling sales representatives; postal/parcel delivery services; maintenance and repair services; and, of course, any business with premises in the charged areas. Public transport and public sector vehicles would also be liable to the charges.

162. The actual cost of a road user charging scheme will depend first on the number of trips company vehicles make within a controlled area or across charging boundaries (depending on the scheme) at the times when charges operate and second on the level of the charge.

163. The workplace parking levy will apply to building owners or occupiers who provide parking facilities for those travelling to work, subject to any national or local exemptions. This does not include fleet vehicles (e.g. buses, postal delivery vehicles) parked at a base depot. The levy could affect all business sectors and the public sector in those areas where such schemes are introduced. The cost of the workplace parking levy will depend on the number of vehicles parked at the work premises, above any threshold that is introduced, and the levy. Business might respond to the economic price signal by, for example, developing green commuter plans, reducing parking provision, absorbing the costs or passing the costs on to employees (particularly those who use the parking facility) or to customers.

164. In all these cases, cost savings will result from improvement in travel conditions as congestion is reduced and transport provision is improved.
165. Studies looking at the possible effects of road user charging schemes have concluded that where revenues are recycled back into the local communities concerned, whether for transport or other purposes, charging schemes are likely to produce net economic benefits. This takes account of travel time and reliability benefits to cars and commercial vehicles, time savings to bus passengers, road accident savings; and potential disbenefits for those switching from the car to public transport. The net economic benefit in any particular case will, amongst other things, depend on local circumstances and the size of any charge.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

166. On 30 May 2000, the Minister for Transport and the Environment (Sarah Boyack) made the following statement:

“In my view, the provisions of the Transport (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

167. On 2 June 2000, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Transport (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
This document relates to the Transport (Scotland) Bill (SP Bill 18) as introduced in the Scottish Parliament on 5 June 2000

TRANSPORT (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

© Copyright The Scottish Parliamentary Corporate Body 2000

EDINBURGH: THE STATIONERY OFFICE

Printed in the United Kingdom by The Stationery Office Limited

£4.00

Applications for reproduction should be made in writing to the Copyright Unit, Her Majesty’s Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax 01603 723000.

Produced and published in Scotland on behalf of the Scottish Parliament by The Stationery Office Ltd.

Her Majesty’s Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliament publications.