FOOTWAY PARKING AND DOUBLE PARKING (SCOTLAND) BILL

EXPLANATORY NOTES

(CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Footway Parking and Double Parking (Scotland) Bill introduced in the Scottish Parliament on 20 May 2015:

- Explanatory Notes;
- a Financial Memorandum;
- Sandra White’s statement on legislative competence; and
- the Presiding Officer’s statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 69–PM.
These documents relate to the Footway Parking and Double Parking Bill (SP Bill 69) as introduced in the Scottish Parliament on 20 May 2015

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by Sandra White MSP, with the assistance of Living Streets Scotland and Guide Dogs Scotland, 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.

2. 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

3. The Bill provides for new national prohibitions to tackle problems caused by vehicles parking on footways and at dropped footways etc. and by double parking of vehicles. (The legal term ‘footway’ is used throughout these Explanatory Notes rather than the more popular term ‘pavement’, but the latter is used for example where quoting from other documents.)

4. The Roads (Scotland) Act 1984 states that it is illegal to drive on footways but the position is less clear with regards to casual or occasional parking on footways. The police have powers under the Highways Act 1986, which makes it an offence to obstruct the free passage of the highway, but the police appear reluctant to take enforcement action on cars parked on footways. This lack of clarity in relation to parking on footways is unhelpful to pedestrians, drivers, the police and parking enforcement officials. (Driving on footways would remain illegal after passage of the Bill.)

5. The prohibitions on footway parking have been drawn up specifically for this Bill. There is as yet no provision for prohibition of footway parking in England (other than in London) and Wales. Footway parking is banned throughout the 32 London boroughs and the City of London under the Greater London Council (General Powers) Act 1974.

6. The prohibitions on parking at dropped footways etc. are based on the provisions of the Traffic Management Act 2004 (“the 2004 Act”) (UK Parliament legislation).

7. The prohibitions on double parking are based on the provisions of the 2004 Act.

8. The prohibitions of footway, dropped kerbs and double parking, would be enforceable as if imposed by a traffic regulation order (TRO) made under the Road Traffic Regulation Act 1984 (“the 1984 Act”).

9. The Bill is designed primarily to enable freedom of movement for all pedestrians, protecting their rights and safety, and also cutting down damage to footways, reducing the blockage of passage of ambulance, fire brigade or police vehicles, and providing clarity for road users, the police and parking enforcement officials.
Section 1 – Extent

10. The prohibitions apply to all public roads in Scotland other than “special roads”, the official classification for motorways in the United Kingdom. There are a small number of special roads that are not motorways, such as certain dual-carriageway A-roads.

11. The extent of the Bill is all public roads (except special roads) in "built-up areas". The location and extent of public roads is defined by the entry of roads on the register of public roads required to be maintained by each local authority. “Built up areas” is defined by reference to street lighting. This approach is already used in traffic regulation. For example, section 82 of the 1984 Act defines a restricted road as being a road where "there is provided on it a system of carriageway lighting furnished by means of lamps placed not more than 185 metres apart and the road is of a classification or type specified for the purposes of this subsection in regulations made by the Secretary of State." The associated regulations specify Class C and unclassified roads as being subject to the speed limit.

12. Generic exceptions to the prohibitions are set out within sections 2, 3 and 4, while the provision for “Exempt Areas” is set out in section 6.

Section 2 – Prohibition of parking on footways

13. Subsection (1) provides that a vehicle must not be parked on a footway.

14. Subsection (2) sets out the exceptions, which are (i) where the vehicle is being used for ambulance, fire brigade or police purposes, or (ii) where the vehicle is parked wholly within a designated disabled parking place which forms part of the footway where parking is specifically authorised.

15. Subsection (3) provides that parking includes waiting except in the case of (i) waiting to avoid obstructing the passage of a vehicle which is being used for fire brigade, ambulance or police purposes or (ii) where the driver of a vehicle parks or waits on a footway as a result of circumstances beyond the driver’s control or where it is necessary for the driver to stop to avoid an accident.

Section 3 – Prohibition of parking at dropped footways etc.

16. Subsection (1) provides that a vehicle must not be parked on the carriageway adjacent to a footway, cycle track or verge where these have been lowered to assist pedestrians or cyclists or to assist vehicles entering or leaving the carriageway across the footway, cycle track or verge. It also applies where the carriageway has been raised to meet the level of the footway, cycle track or verge.

17. Subsection (2) provides for exceptions in a variety of circumstances, including for example: vehicles parked outside residential premises by or with the consent of the occupier of the premises but not for reward; vehicles parked in designated parking places; vehicles being used for emergency purposes; vehicles delivering or collecting goods (in defined circumstances); vehicles collecting waste; and vehicles being used in connection with utility works.
These documents relate to the Footway Parking and Double Parking Bill (SP Bill 69) as introduced in the Scottish Parliament on 20 May 2015

18. Subsection (3) provides that parking includes waiting, but does not include stopping where, for example, the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

19. The section prohibiting parking at dropped footways etc. is based on the provision in section 86 of the 2004 Act covering England and Wales. That section imposes a prohibition on parking across lowered or raised kerbs and then specifies a series of exceptions to the prohibition.

Section 4 – Prohibition of double parking

20. Subsection (1) provides that a vehicle must not be parked on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

21. Subsection (2) provides for exceptions in a variety of circumstances, including for example: vehicles parked in designated parking places; vehicles being used for emergency purposes; vehicles delivering or collecting goods (in defined circumstances); vehicles collecting waste; and vehicles being used in connection with utility works.

22. Subsection (3) provides that parking includes waiting, but does not include stopping where, for example, the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

23. The section prohibiting double parking is based on the provision in section 85 of the 2004 Act. That section imposes a prohibition on double parking and then specifies a series of exceptions to the prohibition.

Section 5 – Enforcement of prohibitions

24. Section 5 of the Bill provides that the prohibition is enforceable as if imposed by a TRO made under section 1 of the 1984 Act. This is the approach adopted in the 2004 Act and in section 6 of the London Local Authorities Act 2000 (Parking outside designated parking places).

Section 6 – Powers to specify Exempt Areas

25. Section 6 provides for powers to specify ‘Exempt Areas’ by TRO under section 1 of the 1984 Act, whereby local authorities may designate roads or parts of roads where any or all of the prohibitions are not to apply.

26. Specification of Exempt Areas by local authorities would be undertaken by TROs, as made under the 1984 Act.

27. Before the new powers are in force the Scottish Government may choose to provide advice on issues such as exceptions, Exempt Areas and enforcement to aid consistency.
FOOTWAY PARKING AND DOUBLE PARKING (SCOTLAND) BILL

FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Footway Parking and Double Parking (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 20 May 2015 to satisfy Rule 9.3.2 of the Parliament’s Standing Orders, it has been prepared by Sandra White MSP, to set out best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates. The Financial Memorandum distinguish separately such costs as would fall upon—

   (a) the Scottish Administration;
   (b) local authorities;
   (c) Police Scotland; and
   (d) other bodies, individuals and businesses.

2. This document does not form part of the Bill and has not been endorsed by the Parliament.

BACKGROUND

3. The Bill provides for new legislation to tackle problems caused by vehicles parking on footways and at dropped footways and by double parking of vehicles. Currently it is illegal to drive on footways but the position is less clear with regards to parking on footways.

4. The Bill—
   • introduces new national parking prohibitions on public roads in built up areas (section 1);
   • introduces national prohibitions specifically on vehicles parking on footways and at dropped footways, and on double parking by vehicles, subject to defined exceptions (sections 2 to 4);
   • provides for these prohibitions to be enforceable as if imposed by a traffic regulation order (TRO) made under section 1 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) (section 5 of this Bill);
   • will provide for powers (i) to specify “Exempt Areas”, whereby local authorities may designate roads or parts of roads where any or all of the prohibitions are not to apply, and (ii) for the Scottish Ministers to make regulations for providing the procedure to be followed for the making of such orders by local authorities (section 6).
5. Costs are expected to arise as a result of the Bill, but there are also expected to be savings in costs as a result of reduction in damage to footways and in compensation claims resulting from falls on damaged footways. The ability to deploy enforcement measures as a deterrent will reduce the need for costly changes to streets such as installing bollards. Such savings will accrue to local authority capital and maintenance budgets allowing greater progress on tackling the backlog in footway repairs.

6. The Bill is not designed as a means of raising revenue for local authorities. However, it is highly likely that local authorities will benefit from increased penalty charge notices, which will offset any increased costs in enforcement.

7. The Bill will, by providing for greater freedom of movement for pedestrians, encourage higher levels of walking, which is a cost-effective means of boosting public health. Alongside reductions in trips and falls, any boost to physical activity will result in financial benefits to the NHS.

8. As little quantifiable data is available relating to the extent and costs of footway parking, it is not possible to precisely identify the costs to local authorities. The Bill’s provisions could be implemented in different ways by different local authorities, based on local needs and the costs of delivery in specific localities. All figures are therefore broad estimates, subject to many variables. The evidence that is available suggests that set-up costs will be relatively low and that the long-term direct and indirect benefits will be high.

COSTS ON THE SCOTTISH ADMINISTRATION

9. Costs are expected to arise for the Scottish Administration as a result of the Bill insofar as initial publicity and promotion of the new legislation is required.

10. The Scottish Government has access to paid media platforms for communicating a series of messages at local level which, if utilised, offer economies of scale. Estimates for a national road safety campaign1 utilising these types of syndicated media offer a reasonable benchmark. A week-long platform allowing for a combination of live presenter reads and pre-recorded case studies with the potential to reach circa 1,200,000 adults using local radio can cost circa £6,000. Meanwhile, targeting local newspapers to reach circa 1.7m readership is estimated to cost circa £12,000. The actual cost would vary in relation to the length and sophistication of the campaign. A short focused campaign could therefore cost less than £20,000. Costs of publicity would increase if other channels were used, or content for TV produced. An allowance of £50,000-£100,000 would allow scope for an adequate campaign across a variety of media types.

11. The Scottish Government may choose to prepare and consult on regulations relating to the preparation of TROs allowing for certain areas to be exempt from the Bill’s provisions. This would be a short document, updating existing circulars.

12. It is possible, but unlikely, that TROs will be required on trunk roads to exempt certain footways from the Bill provisions.

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1 Scottish Road Safety Week 2015 generic estimates discussed with campaign partners
13. The measures in the Bill could result in direct savings to NHS Scotland by avoiding treatment costs associated with trips and falls where these are caused by irresponsible parking breaking pavement surfaces. A poor pedestrian environment also significantly reduces levels of walking. Alongside other factors streets that are perceived as unsafe discourage walking. Low rates of walking result in significant avoidable costs to NHS Scotland due to the prevalence of preventable diseases stemming from inactivity. The National Walking Strategy aims to make a significantly contribution to reducing the £91m costs to the NHS as a result of inactivity\(^2\). By making streets safer the Bill will support the National Walking Strategy. Depending on its contribution to the National Walking Strategy the benefits of the Bill could arguably range in the very high hundreds of thousands (£100,000s) to millions of pounds (£ms).

**COSTS ON LOCAL AUTHORITIES**

*Background*

14. The provisions of the Bill need not have an immediate impact on local authorities. However, most local authorities are likely to want to consult on TROs for Exempt Areas, exempting a small number of wide footways or narrow streets where footway parking would not be prohibited.

15. Without the Bill’s provisions the only available alternative approach is for individual local authorities to take out area-based TROs which could cover the whole road network. This would be more expensive because additional signage would be required at the exit or entry point to specific areas. Consultation would need to be more extensive and signs and lines related to Exempt Areas would still be required.

16. Some large local authorities (e.g. The City of Edinburgh Council) are likely to want to undertake an authority-wide survey and consultation on “Exempt Areas” where the need to park on footways outweighs any negative consequences. For example, a carriageway may be too narrow to allow parking without use of the footway and there may be no alternatives available within a reasonable distance of the properties concerned. A process is required to assess these areas, via survey and public consultation, so that Exempt Areas can be designated by TRO.

17. The day-to-day costs would relate to the workload of local authority parking attendants where parking enforcement has been decriminalised. At present, 14 local authorities in Scotland have implemented Decriminalised Parking Enforcement.

18. Local authority areas where decriminalised parking enforcement has not been implemented would incur no enforcement costs.

*Initial costs to local authorities*

19. The specific set-up costs to local authorities would be dependent on the number of exemptions required and the type of survey and public consultation deployed. In many authorities, where footway parking is not seen as a pressing issue and there are no calls for enforcement, there would be no costs.

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20. Based on discussions with one large Scottish city local authority, preparatory field work surveys, publicity, events and advertising might cost up to £50,000 based on similar exercises to promote changes in parking controls through promoting a new TRO. This would be for a local authority wide survey and consultation that might not be deemed necessary, especially by authorities where pavement parking is viewed of less of a problem or where few Exempt Areas would be needed. This approach is unlikely to be required for smaller authorities or would be substituted by a much reduced process targeting specific areas or streets. For instance, it might be clear from the outset that only a very small number of Exempt Areas merited consultations, requiring letters to households in only a few streets. It will be important that effective consultation with affected groups is built into costs – e.g. involving access panels or other disability groups.

21. Slough Borough Council in England is estimated to have incurred costs of £1,500 per street for an experimental TRO using existing power to roll out restrictions on a ward by ward basis. This required entry/exit and repeater signs for each new area. Less signage would be required if the Bill came into force on a national basis. For example, The City of Edinburgh Council estimates that, using a strategic approach, specific costs related to conventional TROs can be as little as £500 (per street), including advertising and signing and lining. Costs will vary by local authority, but it is reasonable to assume that economies of scale obtained in Edinburgh represent costs at the low end of the spectrum, whilst the costs in Slough represent an upper ceiling.

22. Without survey or consultation, it is hard to determine the total costs of TRO Exempt Areas. It is argued that, to avoid damage to footways, the number of Exempt Areas should be kept to a minimum. Exempt Areas are only likely to be acceptable on non-standard footways, where parked vehicles are not causing an obstruction or damage to the pavement structure. The following table is provided as a guide, to illustrate the potential range of total costs across all local authorities, based on high and low scenarios. These are more likely to be around £500,000, spread across several local authorities. Overall costs would be higher if multiple local authorities across Scotland deemed it necessary to designate many Exempt Areas. However, if a high number of Exempt Areas were to be required, the opportunities to achieve economies of scale for advertising, signing and lining contracts would increase.

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3 Research by Living Streets, November 2014
Table 1: Initial costs to local authorities (illustration)

<table>
<thead>
<tr>
<th>Low Cost scenario (1)</th>
<th>High Cost scenario (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exempt Areas</td>
<td>TRO &amp; signage costs</td>
</tr>
<tr>
<td></td>
<td>achieving no economies of scale</td>
</tr>
<tr>
<td>250</td>
<td>£1,500</td>
</tr>
<tr>
<td>Total £375,000</td>
<td></td>
</tr>
</tbody>
</table>

(1) 250 Exempt Areas designated across Scotland, centred mainly on the seven cities and larger towns. This assumes local authorities only designate in exceptional circumstances e.g. streets where no other suitable parking is in the vicinity. The £1,500 unit cost figure is based on that incurred by Slough Borough Council.

(2) 1,000 Exempt Areas based on a high return from survey work or public demand after consultation. The £500 unit cost figure is based on estimates from The City of Edinburgh Council, where economies of scale where achieved.

**Ongoing costs to local authorities**

23. Aside from requests for new or additional Exempt Areas requiring a TRO, the main costs will relate to renewal of signs and lines for Exempt Areas and enforcement. Enforcement would be via existing arrangements. It is assumed that this would not result in substantially higher workloads, although this will be related to the number of offenders that are dealt with each year. Any increase in workload would, however, result in increased revenue from penalty charge notices. Workload and income from penalty charge notices will be influenced by the success of initial publicity. Enforcement needs and related income would be anticipated to decline as public awareness grows.

24. Reactive enforcement outwith current Controlled Parking Areas could result in higher costs and less efficiency (e.g. travel time). However, if this is targeted it could be offset by additional revenue from penalty charge notices. One-off training would be required for all staff, but could potentially be wrapped up in existing professional development programmes.

**Increased income for local authorities**

25. Local authorities’ costs will be wholly or partially offset through income from penalty charge notices. The level of any penalty charge notice is set by the local authority concerned, examples of the charges levied including The City of Edinburgh, Glasgow City, Perth and Kinross and South Lanarkshire Councils charging £60, reducing to £30 if paid within 14 days. The Scottish Government, through Police Scotland, benefits from fines in areas where parking offences remain criminalised. Again the actual income generated will be dependent on the effectiveness of both publicity and the level of enforcement deployed. This is difficult to estimate but could be extremely high, given that footway parking is common. For context, in Edinburgh alone over 181,000 parking fines were issued in 2013-14⁴ and footway parking could

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⁴ [http://www.edinburgh.gov.uk/info/20084/parking_tickets/994/parking_income](http://www.edinburgh.gov.uk/info/20084/parking_tickets/994/parking_income)}
supplement this number substantially. Even as little as a 1% rise in offences due to footway or dropped kerb parking in Edinburgh could result in an extra £54,000 of income. Consultation on this Bill demonstrated that pavement parking is a widespread and prevalent issue across urban Scotland so income from penalty charge notices could be considerable. Therefore, even small levels of detection of offences could more than pay for the year 1 set-up costs, providing recurring annual income thereafter. Income might tail off in later years as public awareness increases and levels of compliance with the new law improve. It is not possible to anticipate levels of compliance and detection with any certainty, but Table 2 provides an indication of the potential increase in penalty charge income under possible high and low scenarios.

Table 2: Income from penalty charge notices (1) (Scenarios)

<table>
<thead>
<tr>
<th>High Compliance / Low enforcement Scenario</th>
<th>Low compliance / high enforcement Scenario</th>
</tr>
</thead>
<tbody>
<tr>
<td>2500 offences</td>
<td>10,000</td>
</tr>
<tr>
<td>£75,000</td>
<td>£300,000</td>
</tr>
</tbody>
</table>

(1) Assumes £30 per PCN, comparable with other parking offences

26. Evidence from Hastings Borough Council (population 87,000), which has civil (decriminalised) parking enforcement, suggests there are few difficulties in upholding penalty charge notices issued for footway parking in the areas in which they have enacted a prohibiting TRO; around 400 such PCNs were issued in 2008/09. This again indicates 100s of notices in typical urban authorities and much higher numbers in larger cities. This level of non-compliance would point towards the midpoint of the scenarios, if pavement parking was banned across Scotland. It should be noted the Bill would result in additional PCNs for dropped kerb and double parking not included in the Hasting figures.

27. The intention of the Bill is not to generate revenue, but to prevent obstructions on footways. High levels of non-compliance would illustrate greater education and publicity is needed. Local authorities should, therefore, be encouraged to collect specific data on pavement parking offences.

Reduced maintenance costs

28. As part of the Guide Dogs “Streets Ahead” campaign, a freedom of information request was made in 2011 to every council in Britain asking for information on (i) their expenditure on kerbs, pavements and public walkways and (ii) compensation payments made to pedestrians. Based on 384 responses out of 429 to question (i), the Guide Dogs report\(^5\) identified that over £1bn was spent repairing kerbs, pavements and public walkways in a five-year period. It was thought that the total figure could be substantially higher, as many councils were not able to say how much they spent repairing pavements.

\(^5\) Cracking under pressure, J White and J Gerlis for Guide Dogs, 2011
29. The 10 councils who spent the most money on repairs over five years spent £202m between them. The third highest level of spending was by The City of Edinburgh Council (£40m). The compensation by the 10 councils resulting from falls and trips on poor paving in the same time period was over £16m, representing 5% of the spend on repairs.

30. The total figure for the 10 councils who spent the least money on repairs over five years was £778,000. Between them, the compensation paid resulting from falls and trips on poor paving in the same time period was £1.5m, representing over 190% of the spend on repairs.

31. The Guide Dogs report concluded that: “There is a clear correlation between those local authorities who spent the most money on repairs reaping the rewards through having to pay less compensation versus those who spent the least on repairs but comparatively more in compensation.” This conclusion therefore suggests that the reduction in damage to footways resulting from the implementation of the Bill will result in reduced local authority expenditure on (i) footway repairs, and (ii) compensation payments made to pedestrians.

32. In certain cases, local authorities may already deploy yellow lines as a means of controlling footway parking. Others may deploy steel or concrete bollards or planters at considerable cost. By banning all pavement parking the need for these interventions would be greatly reduced. It is anticipated that utilising the Bill’s alternative approach of only signing and lining a small number of Exempt Areas, would result in fewer and cheaper interventions at street level.

33. The annual savings are therefore estimated in the hundreds of thousands if not millions, but cannot be precisely identified based on the data available. Local authorities do not consistently allocate specific costs to footways, and few local authorities specifically identify footway parking as a cause of damage. These benefits may not be seen as a cash saving, but rather as a reduction in the maintenance backlog as footways last longer before renewal.

34. All local authorities would benefit from reduced footway parking as a result of a national publicity campaign. Some local authorities are likely to come under greater pressure to pro-actively deal with the issue, which may require additional investment. This Bill provides them with the tools to do so cost-effectively. As awareness of the new law grows, authorities may face more calls to take enforcement action and in some case specify more Exempt Areas.

**COSTS FOR POLICE SCOTLAND**

35. Outwith the 14 decriminalised parking enforcement areas, parking offences are still enforced by the police, although the enforcement is normally carried out by traffic wardens employed by the police. In areas without decriminalised parking enforcement, police officers normally deal with parking offences through the issue of fixed penalty notices. These can be enforced through the courts, normally only after an offender chooses not to pay a fixed penalty notice. Income collected by the police accrues to the UK treasury, whereas penalty charge income collected by local authorities is retained locally.

36. Costs will be subsumed within the current budget for parking enforcement. Any increased costs would relate to reactive enforcement beyond where enforcement currently takes place.
Organisations such as Living Streets note that the time and resources that Police Scotland dedicates to parking offences is low. Unless priorities change, it seems likely that officers would only take enforcement action whilst undertaking other duties. There might also be a small number of time-limited enforcement actions targeting problem streets. Targeted action is only likely to occur as a result of local demands and consultation on priorities at a community level.

37. It should be noted that there has been a move to decriminalising parking offences in larger local authority areas, with responsibility for enforcement moving from Police Scotland to local authorities. For this reason, any overall costs to Police Scotland will be low and likely to reduce over time. Whilst some increased penalty charge income from pavement parking enforcement action is anticipated, it seems unlikely this would be sufficient to alter the business case for individual local authorities seeking to adopt parking enforcement powers from Police Scotland.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

38. There will be no costs to other bodies, individuals or businesses where they comply with the Bills provisions. However, individuals who choose to park on the footway will face penalty charge notices in decriminalised parking enforcement areas or fixed penalty notices where parking enforcement remains criminalised. Some businesses may lose patronage by car users, but this will be countered by better access for pedestrians who may have been deterred by poor conditions. Deliveries may take longer, where vehicles make alternative parking arrangements. These costs might be avoided where specific and appropriate Exempt Areas are applied. These local costs are difficult to quantify, but cumulatively are unlikely to be of national significance.

NET COSTS ON PUBLIC AUTHORITIES

39. The main specific and identifiable costs are a national publicity campaign and local consultation and implementation. Some or all these costs could be recouped, via penalty charge notices in the short-term and significant maintenance savings in the longer-term. The only certain fact is that footway and dropped kerb parking is highly prevalent, in some areas at levels comparable to other parking problems where penalty notices are applicable. On this basis, it is reasonable to assume that the Bill could have a net economic benefit to public authorities, although this cannot be quantified and would need to be monitored.

40. Key local factors which are difficult to quantify include the existing enforcement regime for parking offences and how pro-actively the new legislation is used. For example, there would be no costs to a local authority which felt it was not necessary to designate any Exempt Areas or provide training to staff. Other local authorities where footway parking is a known problem could face higher set-up costs (e.g. surveying and designating TROs for Exempt Areas, prior to authority-wide enforcement) but would benefit from additional penalty charge notices and reduced maintenance costs.

41. Savings to the NHS through reducing accidents resulting from damaged pavements should also be considered, but this cannot be accurately quantified. Generally, any measure that improves the pedestrian environment will boost levels of walking and reduce inactivity boosting public health. Isolating and accurately quantifying cost savings to the NHS is challenging.
without in-depth research. What is clear is the Bill could make a significant contribution to the National Walking Strategy which aims to tackle the high costs of inactivity.

**Table 3: summary assessment of the scale of financial costs and benefits**

<table>
<thead>
<tr>
<th>Cost factor</th>
<th>Public authority</th>
<th>Net cost or saving</th>
<th>Timescale</th>
<th>Factors influencing costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publicity &amp; Education</td>
<td>Scottish Government</td>
<td><strong>Net cost</strong></td>
<td>One-off cost in Year 1</td>
<td>Scale and duration of campaign</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Below £100,000</td>
<td>&amp; 2</td>
<td></td>
</tr>
<tr>
<td>Local survey and consultation to identify Exempt Area streets and parking places</td>
<td>Local authorities</td>
<td><strong>Net cost</strong></td>
<td>One-off cost in Year 1</td>
<td>Number of local authorities and scale of survey and consultation commissioned</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In the region of £500,000</td>
<td></td>
<td>Based on 10 surveys at £50,000</td>
</tr>
<tr>
<td>TROs for Exempt Areas</td>
<td>Local authorities</td>
<td><strong>Net cost</strong></td>
<td>One-off cost in Year 1 &amp; 2</td>
<td>Costs of TROs, lines and signs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In the region of £500,000 but difficult to accurately estimate without surveys and consultation at a local authority level</td>
<td></td>
<td>Number of Exempt Areas</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Economies of scale achieved</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Local authorities / Police Scotland</td>
<td><strong>Net saving</strong></td>
<td>Recurring from Year 2 onwards</td>
<td>Compliance levels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Net income (PCN/FPC income minus any additional enforcement costs) in the mid hundreds of thousand pound range (£100,000s)</td>
<td></td>
<td>Effectiveness of enforcement</td>
</tr>
<tr>
<td>Maintenance</td>
<td>Local authorities</td>
<td><strong>Net saving</strong></td>
<td>Recurring from Year 2</td>
<td>Current expenditure on</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Range in the</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
These documents relate to the Footway Parking and Double Parking (Scotland) Bill (SP Bill 69) as introduced in the Scottish Parliament on 20 May 2015

<table>
<thead>
<tr>
<th>Category</th>
<th>Recipients</th>
<th>Description</th>
</tr>
</thead>
</table>
| Reduced compensation from trips on damaged pavements                    | Local authorities | **Net saving**
  Range in the high the tens of thousands of pounds (£10,000s) |
|                                                                         | NHS        | **Net savings** 
  Could range in the high hundreds of thousands of pounds (£100,000s) to millions of pounds (£m) but difficult to measure |

42. The table demonstrates that, despite high degrees of uncertainty, it is difficult to envisage a scenario where the initial costs are not outweighed by long-term savings, accruing to individual local authorities and the NHS.
MEMBER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 19 May 2015, the member who introduced the Bill (Sandra White MSP) made the following statement:

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

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 20 May 2015, the Presiding Officer (Rt. Hon Tricia Marwick MSP) made the following statement:

“In terms of section 31(2) of the Scotland Act 1998, I am required, prior to the introduction of the Footway Parking and Double Parking (Scotland) Bill, to make a statement on whether the provisions of that Bill would, in my view, be within the legislative competence of the Parliament.

In my view, the Footway Parking and Double Parking (Scotland) Bill would not be within the legislative competence of the Parliament. The reason for this view is that I consider that the Bill makes provision which relates to a reserved matter, namely the subject matter of Part 1 of the Road Traffic Act 1988 (insofar as not excepted).

The statutory test for determining whether a provision is within legislative competence is set out in section 29(2) of the 1998 Act. Section 29(2)(b) states that a provision is outside the legislative competence of the Parliament if it relates to reserved matters. The reserved matters are set out in Schedule 5 to the 1998 Act. The subject matter of the Road Traffic Act 1988 is a reserved matter by virtue of paragraph (d) of section E1 of Schedule 5.

Section 29(3) of the 1998 Act provides that the question of whether a provision in an Act of the Scottish Parliament relates to a reserved matter is to be determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

The effect of the Bill is as follows. Section 2 of the Bill prohibits parking a vehicle on a footway. Section 3 of the Bill prohibits parking a vehicle adjacent to a footway, cycle track or verge where the footway, cycle track or verge has been lowered to meet the level of the carriageway or where the carriageway has been raised to meet the level of the footway, cycle track or verge. Section 4 of the Bill prohibits ‘double parking’, that is,
parking on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

Having had regard to section 29(3), in my view, the purpose of the prohibitions in sections 2, 3 and 4 of the Bill is to improve road safety through national rules intended to protect pedestrians and other road users from danger caused by vehicles which are parked in a manner that obstructs or impedes access to the footway, or which prohibits particular groups of pedestrians and users of the footway who rely on lowered kerbs to cross the road safely from doing so. I view section 4 of the Bill as a provision aiming principally to improve road safety for all road users including motorists by prohibiting a particular activity which poses a safety hazard.

In my view, these purposes relate to the subject matter of Part 1 of the Road Traffic Act 1988 (insofar as not excepted) which sets out national rules regulating road transport for the purpose of ensuring road safety and, at a more detailed level, to the subject matter of sections 19-22 of that Act relating to stopping on verges or in dangerous positions.”