RURAL ECONOMY AND CONNECTIVITY COMMITTEE

AGENDA

25th Meeting, 2018 (Session 5)

Wednesday 3 October 2018

The Committee will meet at 8.50 am in the Mary Fairfax Somerville Room (CR2).

1. **Salmon farming in Scotland (in private):** The Committee will consider a draft report.

2. **European Union (Withdrawal) Act 2018:** The Committee will consider its approach to a proposal by the Scottish Government to consent to the UK Government legislating using the powers under the Act in relation to the following UK statutory instrument proposals—

   The Heavy Goods Vehicle (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) (EU Exit) Regulations 2018.


3. **Transport (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

   George Mair, Director - Scotland, Confederation of Passenger Transport;

   Simon Hulme, IT Director, CalMac Ltd;

   Robert Samson, Senior Stakeholder Manager, Transport Focus;

   and then from—

   George Mair, Director - Scotland, Confederation of Passenger Transport;

   Gavin Booth, Director for Scotland, Bus Users Scotland;

   Emma Cooper, Chief Executive, Scottish Rural Action;
Chris Day, Policy Advisor, Transform Scotland;

Professor David Gray, Professor of Transport Policy, Robert Gordon University.

Steve Farrell
Clerk to the Rural Economy and Connectivity Committee
Room T3.40
The Scottish Parliament
Edinburgh
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The papers for this meeting are as follows—

**Agenda Item 1**

PRIVATE PAPER

**Agenda Item 2**

UK SI paper cover note

**Agenda Item 3**

Cover note

PRIVATE PAPER
1. The Committee has received notification from the Scottish Government of its intent to consent to UK Ministers making regulations on its behalf in relation to the following UK Statutory Instruments:

   • Heavy Goods Vehicles (Charging for the use of certain infrastructure on the Trans-European road network (amendment) (EU exit) Regulations 2018; and the
   • Maritime Transport Access to Trade and Cabotage (Revocation) (EU Exit) regulations 2018

2. These regulations are being laid in relation to the European Union (Withdrawal) Act 2018 (‘the Act’). In order to assist in the consideration of such instruments, a new protocol has been put in place between the Scottish Government and Scottish Parliament. Further detail on this protocol is available in a letter from the Cabinet Secretary for Government Business and Constitutional Relations as well as in the annexe to this paper.

**Reporting**

3. Under the protocol referred to above, the Committee has the following two options following its consideration of the UK SIs—

   a. Write to the Scottish Government to confirm it is content for consent for a UK SI to be given.
   b. Consider the matter further, take evidence if appropriate and make a report to parliament.

4. If it chooses to report it may make one of the following three recommendations—

   a. it is content for consent to be given for a UK SI to be made in the UK Parliament only.
   b. it is not content with the Scottish Government granting its consent and that the proposals should be made by an SSI; or
   c. it is not content with the Scottish Government granting its consent and that the proposals should be included as a UK SI in both parliaments made under the joint procedure.
The Instruments

5. The notification letters and documentation for both instruments are included in an annexe to this paper. Under the categorisation proposals set out in the protocol, they have both been categorised by the Scottish Government as A – minor or technical amendment.

Heavy Goods Vehicles (Charging for the use of certain infrastructure on the Trans-European road network (amendment) (EU exit) Regulations 2018

6. The anticipated UK Regulations amend the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009. This is to ensure that the regulations continue to work as before following departure from the EU. They remove references that would no longer be appropriate outside of the EU such as, for example, removing obligations to report to and seek permission from the European Commission on tolls. It also converts various maximum amounts set for HGV charges and tolls from euros into pounds.

7. Since Scotland has no road user charging schemes or tolls there will be no immediate impacts.

8. The notification consent notice was submitted on 14 September 2018. The planned date for laying the UK SI in the UK Parliament is 30 October 2018.

Maritime Transport Access to Trade and Cabotage (Revocation) (EU Exit) regulations 2018

9. This SI deals with legislation related to market access for maritime transport services. It revokes legislation which would be redundant after the UK leaves the EU or which, if incorporated into UK law, would create express rights for the remaining Member States which would not necessarily be reciprocated. The redundant legislation includes regulations which provide for EU action when a Member State is subject to anti-competitive measures by a third country. Such remedies would no longer be available to the UK following its departure from the EU.

10. Legislation relating to reciprocal rights includes Council Regulation 3577/92, which gives rights to EU shipping companies to operate cabotage services (the provision of maritime transport services by one country between ports in another country) in other Member States. Since the UK operates a liberalised cabotage market, and has no intention currently of restricting cabotage in the future, revoking the legislation does not have any practical effect.

11. The planned date for laying the UK SI in the UK Parliament is 29 October 2018. The notification consent notice was submitted on 24 September 2018 which means that the Scottish Parliament will not have the 28 days which the protocol
states should normally be allowed to consider the notification (not including any
time in which the Parliament is dissolved or in recess for more than 14 days).

Recommendation

12. The Committee is asked to consider the instruments and determine whether to:

a. write to the Scottish Government to confirm it is content for consent for a UK SI to be given in each case; or
b. consider the matter further, take evidence if appropriate and make a report to parliament.

Clerking team
Rural Economy and Connectivity Committee
September 2018
ANNEXE – BACKGROUND TO PROTOCOL

13. The Scottish Parliament has power to legislate for matters within devolved competence (as defined in paragraphs 8 and 17 of Schedule 2 of the Act). However, where appropriate Scottish Ministers may consent to the UK exercising this power on Scotland’s behalf using a Statutory Instrument (SI).

14. Both the Scottish Parliament and the Scottish Government recognise that, as a matter of principle, the Scottish Parliament should have the opportunity to consider in advance whether it is content for the matter to be taken forward by a UK Statutory Instrument (SI) rather than a Scottish Statutory Instrument (SSI). This protocol is an agreement between the Scottish Parliament and the Scottish Government as the Act makes no provision for scrutiny by the Scottish Parliament.

Timing

15. The Scottish Parliament will normally have 28 days to consider the notification (not including any time in which the Parliament is dissolved or in recess for more than 14 days). The Scottish Government will seek to ensure that the UK Government is aware of Scottish Parliament recess periods and take them into account in its own legislative programming.

Categorisation

16. The protocol contains proposals for how to categorise the instruments. A, being minor or technical amendments and B being more significant policy decisions. C, covers matters which should be subject to the joint procedure (an SI laid in both the UK and Scottish Parliaments). Category C is included in the protocol for reference as it is an existing procedure which the Committee can choose to recommend while reporting. Further detail on what may constitute a category A or B instrument is contained in a letter from the Cabinet Secretary for Government Business and Constitutional Relations outlining this protocol.

Reporting

17. The Committee has two options.

   d. Write to the Scottish Government to confirm it is content for consent for a UK SI to be given.
   e. Consider the matter further, take evidence if appropriate and make a report to parliament.

18. If it chooses to report it may make one of three recommendations:

   f. That it is content for consent to be given for a UK SI to be made in the UK Parliament only.
g. That it’s not content with the Scottish Government granting its consent and that the proposals should be made by an SSI.

h. That it’s not content with the Scottish Government granting its consent and that the proposals should be included as a UK SI made under the joint procedure.

19. The Scottish Government will have 7 days to respond to a Committee report. If the Scottish Government does not agree with the recommendation of the Committee then a Parliamentary Bureau motion will be laid in the Chamber. The debate on the motion should take place within 14 days of the expiry of the 28 day period. If the motion is agreed to it is anticipated that the Scottish Government should normally follow the Committee’s recommendations.

20. Finally, if a consent notification is agreed to, the Scottish Government will track the relevant UK SI and advise the Scottish Parliament:

I. that the SI is consistent with the consent granted;

II. that the SI varies from the original proposals but not to the extent of needing additional parliamentary consent; or

III. that the SI varies significantly from the original proposals and that it is withdrawing consent (if such cases the Scottish Government will either use an SSI or the joint procedure).
Dear Edward,

THE HEAVY GOODS VEHICLES (CHARGING FOR THE USE OF CERTAIN INFRASTRUCTURE ON THE TRANS-EUROPEAN ROAD NETWORK) (AMENDMENT) (EU EXIT) REGULATIONS 2018

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, Mike Russell wrote to the Conveners of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government’s views on EU withdrawal. That letter also said that we must respond to the UK Government’s preparations for a No-Deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach a notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. This is one of the first in a series of such notifications that

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
myself and Ministerial colleagues will be sending to Parliamentary committees over the coming weeks.

This SI includes technical changes aimed at ensuring the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009 continue to work as intended in the event of leaving the EU without a deal. It removes references, such as to the European Commission, that would no longer be appropriate – for example, removing obligations to report to and seek permission from the European Commission on tolls. It also converts various maximum amounts set for HGV charges and tolls from euros into pounds.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you within 28 days from the date of this letter.

MICHAEL MATHESON
NOTIFICATION TEMPLATE FOR THE HEAVY GOODS VEHICLES (CHARGING FOR THE USE OF CERTAIN INFRASTRUCTURE ON THE TRANS-EUROPEAN ROAD NETWORK) (AMENDMENT) (EU EXIT) REGULATIONS 2018

Name of the SI (if known) or a title describing the policy area:

The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) (EU Exit) Regulations 2018

Brief explanation of law that the proposals amend:


They do not mandate road charging for HGVs, but set rules for charges and tolls where they exist, for example by prescribing the type of charging that can be used, and the maximum charge or toll levels. The 2018 Regulations also remove a redundant reference to the Directive in the County of Merseyside Act 1980.

Summary of the proposals and how these correct deficiencies:

The 2018 Regulations include technical changes to ensure that the 2009 Regulations continue to work as before. They remove references, such as to the European Commission, that would no longer be appropriate outside of the EU – for example, removing obligations to report to and seek permission from the European Commission on tolls. They convert various maximum amounts set for HGV charges and tolls from euros into pounds.

The 2009 Regulations build on the general principles of EU Law, for example by ensuring that HGV charges do not discriminate on the basis of nationality. The 2018 Regulations make no changes in this regard, having no practical impact on road users.

An explanation of why the change is considered necessary:

It is being changed to ensure that the regulations continue to work as before, to remove references to the European Commission that would no longer be appropriate outside of the EU.

Scottish Government categorisation of significance of proposals:

Category A - Minor and technical in detail and aimed at ensuring continuity of law

Impact on devolved areas:

The SI maintains the status quo by correcting deficiencies that would otherwise arise as a result of the UK exit from the EU.
Since Scotland has no road user charging schemes or tolls there will be no immediate impacts.

The 2018 EU Exit Regulations will have the effect that there will be no further inflationary increases for an external-cost add-on to an HGV toll, or to the maximum amount of a time-based user charge, since these are carried out by the European Commission. If needed, Scottish Ministers would be able to legislate to provide for such an increase.

**Summary of stakeholder engagement/consultation:**

Transport Scotland officials have met with UK counterparts to discuss the impacts, and reviewed the draft of the SI.

No stakeholder engagement/consultation has been undertaken with wider stakeholders, either by the UK or Scottish governments, since this SI does not make any changes which has an impact on users.

**A note of other impact assessments, (if available):**

The Scottish Government has not undertaken an impact assessment for this SI.

The UK government has also not undertaken any impact assessments on the basis that the SI maintains the status quo, meaning no expected impacts or costs on UK businesses.

**Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation:**

Given the original 2009 Regulations being amended are made on a UK basis and the nature of the amendments are to provisions which deal with mixed competencies, it is more practical and efficient for the amendments which will cure the deficiencies to also be made on a UK wide basis.

**Intended laying date (if known) of SI/Sis:**

The SI has a planned laying date of 30th October.

**If the Scottish Parliament will not have 28 days to scrutinise Scottish Minister’s proposal to consent, why not?:**

The UK Government currently plan to lay this SI on 30 October, which should provide the Scottish Parliament with 28 days to scrutinise the proposal to consent.

**Information about any time dependency associated with the proposal:**

The UK Government believes that the deficiencies identified need to be fixed before EU exit day.
Any significant financial implications:

There are no financial implications.
Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
Dear Edward,

THE MARITIME TRANSPORT ACCESS TO TRADE AND CABOTAGE (REVOCATION) (EU EXIT) REGULATIONS 2018

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, Mike Russell wrote to the Conveners of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government’s views on EU withdrawal. That letter also said that we must respond to the UK Government’s preparations for a No-Deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach a notification which sets out the details of the Statutory Instrument (SI) which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in these SI. This is one in a series of such notifications that myself and Ministerial colleagues will be sending to Parliamentary committees over the coming weeks.

The proposals revoke EU laws which either deal with market access (e.g. Council Regulation 3577/92) or with action against anti-competitive practices (e.g. Council Regulation 4058/86). Council Regulation 3577/92 on maritime cabotage affects an area of devolved responsibility. This SI is believed to fall into Category A, as it is does not seek to make a policy change.
Please note that the date on which the UK Government proposes to lay these regulations is 29 October 2018. I realise that with the October recess this will leave less than the 28 days for consideration of the notification by the Scottish Parliament. However, I would appreciate it if you could consider this notification as soon as possible.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

MICHAEL MATHESON
NOTIFICATION TO THE SCOTTISH PARLIAMENT

The name of the instrument in question (if known) or a title describing the policy area

Brief explanation of law that the proposals amend
The proposals revoke EU laws which either deal with market access (e.g. Council Regulation 3577/92) or with action against anti-competitive practices (e.g. Council Regulation 4058/86).

Summary of the proposals and how these correct deficiencies
The SI will revoke a number of pieces of EU legislation including Council Regulation 3577/92 on maritime cabotage which affects an area of devolved responsibility.

An explanation of why the change is considered necessary
This SI deals with legislation related to market access for maritime transport services and is being made under powers in the European Union (Withdrawal) Act 2018, where the Protocol on EU Exit UK SIs applies. It revokes legislation which would be redundant after the UK leaves the EU or which, if incorporated into UK law, would create express rights for the remaining Member States which would not necessarily be reciprocated. The redundant legislation includes regulations which provide for EU action when a Member State is subject to anti-competitive measures by a third country. Such remedies would no longer be available to the UK after we leave the EU.

Legislation relating to reciprocal rights includes Council Regulation 3577/92, which gives rights to EU shipping companies to operate cabotage services (the provision of maritime transport services by one country between ports in another country) in other Member States. Since the UK operates a liberalised cabotage market, and has no intention currently of restricting cabotage in the future, revoking the legislation does not have any practical effect.

Scottish Government categorisation of significance of proposals
Category A – lowest level of scrutiny as there is no policy change being made but a simple revocation

Impact on devolved areas (If you have given any consideration of this so far)
Council Regulation 3577/92 deals with rights to offer maritime cabotage services in other Member States. The Regulation allows Member States to impose public sector obligations or agree public sector contracts with those that are exercising their rights under the Regulation. Policy on financial assistance to shipping services within Scotland is devolved.

The revocation of the Regulation is unlikely to have a practical effect in Scotland. It will not limit Ministers freedom of action in relation to financial assistance to shipping.

Summary of stakeholder engagement/consultation
The UK Government consulted stakeholders informally on EU exit maritime issues including those related to market access. This confirmed the view that market access generally was not a significant concern for stakeholders because the industry is regulated internationally and it is not generally in states’ interests to restrict shipping access to their ports. No additional stakeholder engagement/consultation has been carried out as the proposed changes should not affect users.
A note of other impact assessments, (if available)
The UK Government did not produce an impact assessment on this proposal because it is not expected to have an impact on business.

Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation
Scottish officials have been in contact with UK Government officials counterparts to discuss the legislative changes and any potential consequences. Given that there is no policy change being made but a simple revocation, which is an approach that we are content with in policy terms, it is more practical and a more efficient use of time for the revocation of this provision in Scotland to be included in this UK wide SI.

Given the minimal impact revoking the Maritime Cabotage Regulation would have, and the lack of rationale for Scottish legislation in this case, it was the opinion of officials that UK-wide legislation was the most appropriate course of action in this case.

Intended laying date (if known) of SI/Sis
29 October 2018

If the Scottish Parliament will not have 28 days to scrutinise Scottish Minister’s proposal to consent, why not?
In order for UK Govt to lay this SI as planned on 29 October, given Scottish Parliamentary Recess in October, less than 28 days are now available.

Information about any time dependency associated with the proposal
The deficiencies need to be fixed before EU exit day.

Any significant financial implications
None
Background

1. The Transport (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament by the Cabinet Secretary for Finance and Constitution, Derek Mackay MSP, on 8 June 2018. The Rural Economy and Connectivity Committee has been designated as the lead committee for Stage 1 consideration of the Bill.

2. The Committee has already taken evidence on the Bill from the Scottish Government’s Bill team, from local authorities, regional transport partnerships and their representatives.

3. On 3 October, the Committee will take evidence on smart ticketing and bus issues within the Bill. The Committee will hear from transport providers, experts and passenger and rural representatives. Annex A includes written submissions received from Transform Scotland and Transport Focus who are both due to give evidence at the meeting.

Purpose and content of the Bill

4. The Bill covers a wide range of different transport topics in six parts:

   1. Low Emissions Zones - Part 1 of the Bill enables the creation of low emission zones in Scotland which can be enforced, with the aim of improving air quality and reducing greenhouse gas emissions. This would restrict driving in certain areas by road vehicles which fail to meet emission standards.

   2. Bus services - Part 2 is intended to provide local transport authorities with options to improve bus services in their areas. This could include partnership working with operators, local franchising or running their own buses. Part 2 also aims to improve the information given to passengers.

   3. Smart ticketing - Part 3 would create a national technological standard for smart ticketing to assist the spread of smart ticketing across public transport in Scotland, and provide local transport authorities with further powers for smart ticketing arrangements and schemes.

   4. Responsible parking – Part 4 proposes to improve safety for roads users and pedestrians by prohibiting double parking and parking on pavements.

   5. Road works - Part 5 would strengthen the role of the Scottish Road Works Commissioner (SRWC) and improve the regulation of road works.

   6. Regional Transport Partnerships and Scotland’s canals - Part 6 gives Regional Transport Partnerships (Transport Partnerships) more
financial flexibility. It also allows Scottish Ministers to vary the membership and structure of the Scottish Canals Board.

5. Further information on the Bill can be found on the Parliament’s website:

   http://www.scottish.parliament.uk/parliamentarybusiness/Bills/108683.aspx

Committee’s evidence gathering

6. This is the Committee’s third formal evidence session on the Bill. Details of other evidence gathering activities can be found on the Committee’s website:


Clerking team
Rural Economy and Connectivity Committee
September 2018
RURAL ECONOMY AND CONNECTIVITY COMMITTEE
TRANSİPORT (SCOTLAND) BILL
SUBMISSION FROM TRANSFORM SCOTLAND

Transform Scotland

We are Scotland's alliance for sustainable transport. We campaign for walking, cycling and public transport to be the easiest and most affordable options for everyone. Our diverse membership brings together public, private and third sector organisations from across Scotland. We are a registered charity, politically independent and strictly science-based. We are a registered Scottish charity (SC041516).

Transform Scotland welcomes the opportunity to submit these comments and would be pleased to engage with the Rural Economy and Connectivity Committee further on this subject.

Introduction

Shortly prior to the Bill’s introduction to Parliament, Transform Scotland published a report on what we then understood to be the likely provisions of the Bill. The comments in this evidence paper represent an abbreviated version of our report, but updated in light of the contents of the Bill as introduced to Parliament.

We welcome much of the content of the Bill -- although one clear exception to this concerns the provisions on parking, as set out below.

Nevertheless, we would characterise the Bill as a missed opportunity, in particular as regards tackling the underlying causes of decline in bus patronage and in providing Local Authorities with suitable powers for implementing road traffic demand management. This is unfortunate as we envisage that there may not be time for further legislative measures on transport to be brought forward within the current Parliament.

Our submission focusses on our main areas of concern. We do not comment in detail on:

- Low Emission Zones. We strongly welcome the measures proposed.

- Smart Ticketing. The Bill’s provisions are largely technical and/or concern the governance of ticketing schemes. The key issue is whether they will deliver a

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national smart ticketing scheme at an early date, providing value for money and seamless travel on public transport; fully integrated with all public transport modes, including cycle hire; ensuring transport centres are able to sell tickets across Scotland; a national network of agents able to sell tickets, and online purchase; ensuring users can easily choose the best value option.

- Regional Transport Partnership Finance and Scottish Canals. These appear to be largely ‘tidying up’ measures.

We consider the Road Works provisions of the Bill to be critical. We would urge the REC Committee to consider whether they will deliver the improvements sought by the Scottish Government, and enhance sustainable and active travel modes, which are often disadvantaged by road works, as set out in our previous papers.²

**Bus Services**

The provisions regarding bus services are a missed opportunity. In focussing on the ownership and control of bus services, they miss the major challenges affecting the stated objectives of the Bill -- that is, declining patronage.

We have no objection to Local Authorities gaining greater powers over bus services in their areas, if they wish. We suspect, nevertheless, that few Local Authorities will make much use of these proposed powers, because:

- The demands placed on them in deploying the powers are extensive. Few, if any, LAs have the resources (notably staff) to fulfill them. The Bill underestimates the loss of transport planning and management experience which has taken place over the past two decades. Theoretically the expertise (staff) could be transferred from operators to Local Authorities, but the complexity, challenges and risks of doing so are substantial.

- Our understanding is that at least the larger Local Authorities do not wish to operate services directly.³ They would need to consider how to ensure any interventions do not squeeze small operators in their area, who may be under pressure from other requirements of the Bill. The risk is that only the large operators will survive, which neither proponents of nationalisation nor privatisation appear to seek.

² Ibid.
³ See, for example, Glasgow City Council Environmental, Sustainability & Carbon Reduction City Policy Committee report ‘Transport (Scotland) Bill 2018 Call for evidence’ section 3.2.
Conversely, Bus Services Improvement Partnerships do not require Local Authorities to invest in infrastructure (unlike the legislation it replaces), but invite them to introduce supportive measures (e.g. reducing parking).

The Bill allows Local Authorities to set bus service standards if they adopt some of the proposed powers. Transform Scotland strongly supports this in any case, as an alternative to the national targets which we advocated in our previous report. The key point is that bus services should be subject to some kind of published user-oriented standards. We believe the Scottish Government should establish a public database of standards across Scotland.

Transform Scotland’s main concern is that the Bill completely overlooks the critical factors in declining bus patronage. These were set out in research by KPMG:4

- Congestion and its impact on journey times, reliability and costs.
- The impact of parking.
- Lifestyle changes e.g. online & out-of-town shopping, and potential future disruptive technologies.
- The relative low cost of car use.
- Declining revenue from government, against a background of rising costs.

It is well established that bus patronage has been declining since at least 1960; this was unaffected by deregulation in the 1980s.5 Of approximately 15 publicly-owned operators in the UK which operate multiple routes, only 3 appear to have stabilised or grown patronage. Equally, some privately-owned operators have grown their market. Insofar as common factors have been identified, they appear to be:

- Local highway policies
- High quality management (examples cited in both public and private sectors).

Appropriate local highway policies can be addressed by placing Local Transport Strategies on a firmer footing; many Local Authorities appear to have let them fall into abeyance. Whilst ideally the Bill would make them a statutory requirement, we understand that the issue will now be dealt with by the National Transport Strategy Review.

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5 See Appendix.
The Bill includes no measures to simplify and facilitate Traffic Regulation or Redetermination Orders. As well as encouraging Local Authorities to establish bus priority measures, this would have cost-saving benefits, and make engagement in the process easier for the public.

The Bill should facilitate enforcement of traffic regulations. We have previously suggested a range of measures, such as streamlining the process for certifying bus model/camera combinations, and extending decriminalised regimes to allow traffic attendants to enforce a range of bus lane and cycle lane parking offences. In the pavement and double parking sections of the Bill, the Scottish Government recognises the need for more decriminalised parking regimes. Therefore it would not, in principle, be difficult to consider measures to widen traffic attendants’ powers.

Parking

Whilst we take no issue with much of the Bill, a significant exception is the provisions on parking. Here it is worth going back to first principles. The stated objectives of the Bill include addressing parking on pavements. It reflects previous Private Bills, including those drafted by Ross Finnie MSP and Sandra White MSP, which sought to eliminate the problems caused to pedestrians, and to address the ambiguities and inadequacies of existing legislation. We believe that these objectives gained significant support, and were widely supported in Transport Scotland’s pre-Bill consultation.6

The Bill largely does so in respect of parking in residential areas. However, in busy urban areas, the Bill achieves the remarkable feat of neutering itself, if not actually making the problem worse.

It sets out to prohibit parking on pavements, with a number of exemptions (many of which are pragmatic), and allowing highways authorities to make others.7 However, the blanket exemptions include allowing motor vehicles to park on pavements when loading or unloading for up to 20 minutes. This gives carte blanche to pavement parking in areas of commercial activity. We understand that Transport Scotland intends to ‘clarify’ this by publishing guidance.8 This begs the question of why the Bill was not adequately clarified in the first place; specifically, it bypasses the opportunity for democratic scrutiny of a critical part of the Bill.

Responses to Transport Scotland’s consultation9 highlighted the wide range of reasons why drivers currently park on pavements. The Bill, which apparently assumes that allowing

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7 Transport (Scotland) Bill, clauses 43 and 46.
8 Transport Scotland seminar, Victoria Quay, Edinburgh, 6 August 2018.
loading on pavements for 20 minutes will not normalise the practice, is either naive or inept. We expect that the Bill’s provisions, as currently drafted, would have the significant negative unintended consequence of legitimising pavement parking. The proposals here are effectively enforceable -- for example, it is unrealistic to expect traffic attendants to wait for up to 20 minutes to ensure that a vehicle has not exceeded the time limit.

If there is a location where there might be a case for permitting pavement parking in some circumstances, the Bill already allows Local Authorities to apply local exemptions (although the Bill should require an Equality Impact Assessment in such cases, which it currently does not).

This all flies in the face of the consultation. Only 15% of respondents supported any exemption for delivery vehicles. Only 18% favoured such an exemption even on grounds of safety. This is fewer than the proportion of respondents who supported no exemptions of any kind.

The Government claimed that this Bill would address the issues identified in Sandra White MSP’s Bill in the previous Parliament. That Bill included no provision for loading/unloading on pavements. Neither, as far as we are aware, did the Local Government and Regeneration Committee, which scrutinised that Bill, raise it as an omission.

Interestingly, the Bill allows the same exemptions for double parking as for pavement parking (thereby undermining these provisions as well). This raises the question whether double parking is a ‘reasonable’ alternative to the pavement.

**Managing demand**

A key component of any set of policies which aim to reduce emissions, discourage inconsiderate parking, and encourage bus use, is, or should be, limiting demand for travel by modes which pull against these aims. The Bill fails to bring forward any measures to assist Local Authorities in this task, and as such represents another significant missed opportunity in the Bill.

Transform Scotland has previously presented the case for permitting Private Non-Residential Parking Levies in the Bill. This would bring the legislation in line with that which exists in England and Wales. The best known of these is the Workplace Parking Levy (WPL).

WPLs have been proven to reduce the use of private cars in urban areas, whilst increasing the use of public transport and active travel. The charge is levied on premises, not

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individuals. Nottingham Council’s WPL has resulted in a significant increase in modal shift to public transport, walking and cycling; a 33% reduction in carbon emissions; and has raised over £25 million of revenue which has been reinvested in the city’s transport infrastructure.

Summary

We recommend the following amendments to the Bill:

1. Include a requirement, possibly in clauses 36 (and 37 in the remit of the National Smart Ticketing Advisory Board) setting out the aim of delivering a national smart ticketing scheme that provides value for money and seamless travel on public transport; is fully integrated with all public transport modes; ensures transport centres are able to sell tickets across Scotland with a national network of agents able to sell tickets and online purchase; and ensures users can easily choose the best value option.

2. Require the Scottish Government to establish a public database of bus service standards across Scotland.

3. Require Local Authorities to adopt, and update regularly, Local Transport Strategies.

4. Introduce measures to simplify and facilitate Traffic Regulation or Redetermination Orders, in order to encourage bus priorities, and make engagement in the process easier for the public.

5. Facilitate the enforcement of traffic regulations, e.g. by streamlining certification of bus model/camera combinations, and allowing traffic attendants to enforce a range of bus lane and cycle lane offences.

6. Delete clause 47(6) from the Bill (parking exemptions referred to above)

7. Add provisions to allow Local Authorities to introduce Private Non-Residential Parking Levies.
Appendix

Bus patronage since 1960, Scotland

![Bus patronage chart]

Source: Scottish Transport Statistics 2016

Correlation between bus lanes and patronage, Edinburgh

![Correlation chart]

Source: original City of Edinburgh Council, updated by Transform Scotland.
RURAL ECONOMY AND CONNECTIVITY COMMITTEE

TRANSPORT (SCOTLAND) BILL

SUBMISSION FROM TRANSPORT FOCUS

Introduction
Transport Focus is the independent public body set up by Government to protect the interests of Britain's rail passengers, England’s bus and tram passengers outside London, and coach passengers in England on scheduled domestic services. Since March 2015 we have also represented the interests of users of the strategic road network in England. We are an independent body funded by the Department for Transport (DfT). We have developed working relationships with Transport Scotland, Regional Transport Partnerships (RTPs) and transport operators that has allowed us to extend our reach to bus, tram and ferry passengers in Scotland.

Our mission for rail is to get the best deal for passengers. With a strong emphasis on evidence based campaigning and research, we ensure we know what is happening on the ground. We use our knowledge to influence decisions on behalf of passengers and we work with the industry, passenger groups, governments and devolved transport authorities to secure journey improvements.

Bus Services
The Bill proposes to replace Bus Quality Partnerships with Bus Service Improvement Partnerships, replace Bus Quality Contracts with Local Service Franchises and in certain circumstances allow a local authority to provide local bus services.

The Bill sets out new and improved options for local authorities to improve the framework for delivering bus services. The framework must also deliver for the passenger and here we set out what should be included in franchise conditions (specifications and targets) and as points to implement in partnerships and local authority provided services

Improving punctuality and reliability - Bus passengers rank punctuality and running on time highly as priorities for improvement. Lateness of a bus arriving at a stop to start the journey causes more anxiety than a bus arriving late at the destination. Passengers can tolerate the arrival at the bus stop of departure up to five minutes late. After that satisfaction with punctuality decreases markedly, and again after 10 minutes. The new framework should:
  - Have clear punctuality targets
  - Have targets for improving average bus journey speeds
  - Include a statement on monitoring performance and publishing data

Ensuring frequency and stability of bus times - Alongside punctuality, passengers want to know that the timetable doesn’t change too frequently. Our research found that passengers did not think it was acceptable to make changes to services more than twice a year and more than six out of ten wanted to be given at least four weeks’ notice of a major change. The new framework should ensure that:
• There are minimal changes to timetables
• There is a clear process for consulting and informing passengers of changes.

Building trust: engagement and consultation - Buses need to run on time, be reliable, deal well with disruption and offer value for money. Our research shows that building a relationship with passengers helps build loyalty and repeated use of services. Passengers should feel that the company really cares about what happens to them, especially during disruption, and is not remote and aloof. Drivers have an important role in showing empathy and care. The new framework should require operators to produce a passenger engagement strategy.

Monitoring passenger satisfaction to make improvements - It is important for operators and authorities to research (quantitatively and qualitatively) how satisfied passengers are with services both on the bus and at the stop. Transport Focus’s Bus Passenger Survey provides such an independent assessment which could be used providing vital feedback on vital factors such as punctuality and cleanliness. A similar measure is used in rail to assess the passenger experience during both the ScotRail and Caledonian Sleeper franchise. Each framework should establish targets for service quality, how they will be measured and results published.

Passenger information in real-time - Real-time information displays are valuable in indicating to passengers when their bus will arrive, so reducing stress and anxiety and enabling them to make alternative plans when things go wrong. The Bill should make more data available for public use, so new frameworks set out, through an action plan, how they can provide real-time customer information – especially at bus stops and through developing apps.

Improving fares and ticketing - Better value for money is passengers’ highest priority for improvement. It is also linked to getting a punctual, reliable serve and a seat in return for payment. Our research has found that passengers often have poor information on fares and ticketing and types of tickets, often relying on word or mouth or the bus driver. Younger passengers have distinct needs relying heavily on bus travel. They require service flexibility but also resent paying adult fares. Smart ticketing can help with some of these issues and the new arrangements should:
- Provide a central source of pre-journey information on fares, ticket types (including smart ticket availability) and bus routes
- Identify specific policies for 16-18 year olds, such as the range of tickets and price

Boosting the role of bus drivers - They are the face of the company providing the main contact with passengers. For a good passenger experience, they should provide a pleasant and professional service whether by providing information on disruption, delays, or ticket types, or settling disputes. Their role is essential. The new framework should therefore:
- Set standards of behaviour for drivers
- Provide training courses programmes that include customer service
Customer care and satisfaction - Despite the best intentions, things will go wrong from time to time. An effective complaints system makes it easy for passengers to know who to contact and a range of ways to do so; has efficient handling systems; and uses the resulting data to make improvements. The new framework should set out:

- Clear complaint handling processes and lines of responsibility
- How contact details will be publicised
- What response times will be and how they will be reported upon
- Clear guidance on where, when and how compensation will be offered.

Improving personal security - This features in our research both on the bus and at the stop, particularly for those with disabilities. The new framework should ensure that partners work together to deal with anti-social behaviour and that security is included in design guidelines for buses and stops.

Encouraging non and infrequent users - A key aim of the Bill is to increase bus use. Our research shows why current non-users don’t use the bus: poor punctuality, failure to provide services when people want to travel (such as for work or a night out), length of journey and not knowing ‘the system’. We found that 28 per cent of non-users would support a bus service. Therefore, operators should produce a strategy for boosting bus use.

Smart Ticketing
Passengers are increasingly coming to expect services to be delivered to them in smarter ways as technology becomes a bigger part of everyday life. We believe that the introduction of smarter ticketing in public transport could make life easier and cheaper for passengers. For this to happen though, it is essential that any smarter ticketing schemes are well designed and properly implemented.

In order to make sure that the passenger is at the heart of the development – that products are designed for ease of use rather than what is convenient to administer – we are working on a wide-ranging smart-ticketing research programme. The research is on-going, however, there are seven key factors that influence passengers’ attitudes and views, that should be embedded in all smart ticketing initiatives.

Value for money - Value for money was a key influence on ticket choice at the moment, and remain as important when considering smart ticketing. Passengers expect that smart ticketing would involve some kind of cost saving either via cheaper fares or new cost-effective tickets and products.

Convenient - Smart ticketing needs to be a convenient option that is easy to use. Passengers want a ticketing system that made life easier, rather than complicating their journey. When thinking about convenience, passengers note that they would like a system where it is easy to purchase tickets, manage their smart ticket account and use their ticket.

Simple - Simplicity is important, especially for those unfamiliar with smart technology or smart ticketing. These people are most likely to need education
regarding how smart ticketing would work, and a simple system is likely to support them in moving to smart ticketing.

Secure – Passengers are concerned about the security of smart ticketing. When thinking about smartcards, concerns include the security of personal data – especially any details that will be printed and visible on the card. When thinking about mobile ticketing and Wave and Pay, many express concerns around the safety and security of their mobile phone or credit card, and the potential risk of theft when using these.

Flexible - Alongside a convenient and easy-to-use system, passengers want smart ticketing to be flexible. They want the ability to choose and purchase new products and tickets that offer flexible travel options. They also want flexibility with managing their smart ticketing account including being able to buy and load tickets onto their smartcard at a range of stations in advance and at the last minute.

Tailored - In addition to new products enabling passengers to tailor their smart ticket products to their needs, tailoring in managing their smart-ticket account is also desired. It is clear that many seek the ability to manage online, and via an app. Passengers noted that they would like to choose how they prefer to manage their account (online, app, text message), and would look for reassurances that this will be tailored to be compatible with the technology they own, for example Apple and Android compliant).

Leading edge: Passengers are clear that the introduction of smart ticketing is a shift into a more technology-focused way of ticketing. So they are keen that the technology used is forward-thinking. This is particularly important for those who are familiar with smart technology and smart ticketing, and who saw this as an opportunity for transport operators to lead the way in ticketing technology rather than replicate existing systems.