

RURAL ECONOMY AND CONNECTIVITY COMMITTEE

TRANSPORT (SCOTLAND) BILL

SUBMISSION FROM SOCIETY OF CHIEF OFFICERS OF TRANSPORTATION IN SCOTLAND

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Low Emission Zones

Low Emission Zones (LEZ) are to be used to improve air quality and have been introduced in cities throughout Europe over a number of years to meet EU regulations. In support of this approach, a number of initiatives to reduce emissions and improve air quality were referenced in the Programme for Government 2017:

- A proposal for a new Climate Change Bill to update Scotland's already pioneering climate change targets;
- Taking the lead in promoting the use of ultra-low emission vehicles (ULEVs) and phase out the need for new petrol & diesel cars by 2032;
- Making Scotland's towns and cities more attractive places in which to invest, work and protect health by introducing low emission zones (LEZs) in the four biggest cities by 2020 and all other Air Quality Management Areas by 2023.

The Bill would grant Scottish Ministers the power to approve all LEZs and to set national rules for their operation. It would also grant Councils the power to set the rules governing the operation of individual LEZs. The legislation allows local authorities to introduce a LEZ within a designated geographic area to prohibit drivers who are driving vehicles which fail to meet specific emission standards. Where a driver or person breaches this rule, a penalty charge will be payable unless the vehicle is exempt. Exemptions are likely to be for emergency vehicles although local authorities will be allowed to consider other local exemptions.

The Bill also makes provision about a number of other matters relating to the operation of low emission zone schemes: for example, the installation of signs and cameras, the potential creation of offences in connection with the enforcement of schemes, accounting requirements, and the ability to review the effectiveness of a scheme. In addition, it provides for a grace period in relation to a zone so that those wishing to drive within it have the opportunity to upgrade their vehicle to a less polluting model (either by replacing or having it modified) before penalty charges begin to apply.

The Scottish Government has committed to introduce Low Emission Zones in Glasgow, Edinburgh, Aberdeen and Dundee by the end of 2020. An LEZ in Glasgow city centre is being introduced on 31 December 2018. The Glasgow LEZ will only apply to buses and is not using powers contained within the new Bill. Instead bus movements will be controlled through a Traffic Regulation Condition granted by the Traffic Commissioner.

The implementation of the LEZ's will have a significant impact on bus operators in terms of the necessary capital investment and consequential changes to their operational and business plans. SCOTS member authorities are concerned at the potential for displacement with 'dirty buses' being moved out of the cities and becoming concentrated in other disadvantaged areas thus exacerbating air quality issues in these areas.

The changes in traffic management to support the implementation of LEZ's will also have a significant impact on the freight haulage industry potentially resulting in increased costs, it will be important to take on board the views of the freight industry in considering how these costs might be mitigated and whether this presents the opportunity for freight consolidation centres for the major cities to be considered.

Dundee has to introduce a LEZ by the end of 2020. It is considered that a 'Glasgow type' scheme will be the basis of developing a Dundee LEZ albeit with option of using some of the new Powers contained within the Bill. The Transport Minister has indicated that this would be acceptable and the new legislation should be used support implementation.

It is expected that according to the timetable those authorities with AQMA will need to follow suit by 2023.

Where the air quality issues relate mainly to the Trunk Road network, addressing the air quality issues and the possible introduction of a LEZ would need to be discussed closely with Transport for Scotland as the responsible authority.

The work being undertaken on the various Regional Traffic Models will include the provision of assessing any LEZ's that are implemented within the area and the wider impact on the various categories of traffic and potential diversion to alternative routes.

In conclusion, SCOTS is in support of the LEZ proposals within the Transport Bill with the caveat that it will be important that Councils are given the financial ability to implement a LEZ and that this financial support provides an underwriting for the first few years of operation with an allowable pay-back period once penalty charge income is generated.

From its previous research on SULPs (Sustainable Urban Logistics Plans) RTPs will also support the work will on the impact of business deliveries and collections through Green City Logistics and will include consideration of Freight Consolidation / Last Mile Logistics with low and zero emission vehicles. This will be a medium to longer term component of LEZ development.

Delivery of Bus Services

The Bill provides local transport authorities with powers to improve local bus service provision through statutory partnership working with bus operators, the creation of local bus service franchises and the ability to operate services themselves, where these are not in competition with commercially operated services.

The Bill also addresses a perceived powerlessness of local authorities to intervene when there is market failure and commercial bus networks do not meet the aspirations of local communities. There is a widespread view that in many respects the Bill could be regarded as a missed opportunity to provide a stimulus to bus services across Scotland and reverse the drastic loss in patronage over recent years.

Without strong complementary support and significant capital and revenue funding from Scottish Government, which appears to have been underestimated, key provisions of the Bill are likely to prove ineffective or unworkable. For example the ability for local authorities to operate services themselves, but only where these are not in competition with commercially operated services, places a high financial risk upon them. Such a service could, theoretically, become commercially attractive. A private operator may then decide to provide a rival service, requiring the authority to cease direct operations despite the financial and material investment in vehicles, depot infrastructure, staff and the like.

The Bill also addresses partnership working and tries to counter some of the failings of the previous Transport Acts (2001 and 2005) that sought to introduce partnerships. The complexities of establishing Statutory Quality Partnerships and Statutory Quality Contracts meant powers given in the 2001 Act were not used in Dundee and rarely used elsewhere in Scotland. The new proposals seek to promote Bus Service Improvement Partnerships (BSIPs) and allows local authorities to offer a suite of policies that support bus (e.g. higher parking charges or improved road works management) rather than simply focusing on installation of hard infrastructure (bus lanes / bus shelters). The route to establishing a BSIP is long and protracted and it is again possible that without support these powers will be left unused. RTPs could conceivably have a role in supporting or leading on a BSIP where there are cross-boundary and/or inter-city routes covered.

Where the local transport authority has determined that there is a requirement for change that cannot be delivered through partnership, the Bill will allow it to consider bus franchising. In effect, route planning, frequencies and fares for a city/locality will all be determined by the local authority and then put out to tender. This approach resembles the London model where TfL (Transport for London) agrees the network and operators bid to run it. Given that this is such a radical departure from the current market approach, the prospect of franchising has been resisted by bus operators. As a result, the Bill requires local authorities wishing to adopt franchising to undertake viability modelling, market testing and independent assessment of any franchising proposals and will require ministerial approval.

The introduction of franchising could have a transformative effect on the bus market but only if the ability to allow cross-subsidy between commercial and non-commercial routes is facilitated. Similarly, with the proposal for municipal bus operations, it is unreasonable to expect local authorities to run bus operations that will be loss-making from the outset. This would be untenable in the current financial climate. SCOTS would advocate for the ability for both franchising and municipal operations to be operated on a cost-neutral basis as a minimum and for appropriate financial support to be made available to allow that to happen.

While the role of an independent audit on franchising proposals is an important check and challenge, the suggested 'Independent Panel' that would make the final decision is not conducive to supporting local democratic control, would undermine the consultation process and should be rescinded from the Bill.

The Bill would require bus operators to share information on routes, timetables and actual running times with third parties in order to make it easier for passengers to know when their bus will arrive and how much it will cost.

Councils have been asked how best they or bus operators could improve the ways information on timetables and routes is provided. Five options are suggested which are bus operator apps, paper timetables on bus stops, bus operator web sites, portable paper timetables and real-time displays at bus stops. SCOTS considers them all to be relevant, but with different ones more appropriate in different circumstances, for example in an urban environment as opposed to a rural one. Clearly, there is a shift to on-line, real-time information to support advance and in-transit journey planning and Tactran, amongst other RTPs and LAs, has been proactive in this regard with the Go Too web site and associated applications.

The final section of the Bill relating to buses places greater onus on bus operators to share data – such as passenger numbers, fares and bus operations and specifically where services have been withdrawn, in order to allow local Transport authorities to consider whether to replace those services.

Pavement Parking and Double Parking

It is commendable that the Scottish Government has realised the inconvenience and problems that inconsiderate and poor parking has on pedestrians, the disabled and elderly groups that are presently 'let down' by current regulations. The Scottish Government have therefore have brought forward legislation to tackle it.

The Transport Bill will prohibit parking on pavements which is footways and footpaths and double parking which is defined in the Bill at parking more than 50cm away from the edge of carriageway. The Bill will introduce a national ban on parking on pavements and double parking in Scotland. This will negate the need for each local authority to introduce pavement parking restrictions via TROs. The new duties will require local authorities to assess if necessary, what footways should be exempt from the national prohibition on

pavement parking in accordance with directions to be given by the Scottish ministers to local authorities.

Pavement parking prohibits all vehicles excluding emergency vehicles, bikes, electric bikes, grass cutting machinery and shop mobility scooters for disabled people.

The Bill does not apply to vehicles:

- collecting waste
- postal vehicles,
- road works vehicles,
- medical professionals undertaking urgent /emergency health care,
- delivery or collection of goods (no more than 20 minutes),
- parked within an authorised bay / parking place,
- permission of the police,
- saving a life or responding to an emergency,
- providing accident / breakdown assistance,

The Bill defines that if a vehicle is stationary and one or more of its wheels are on the pavement then it would be in contravention of the legislation. The bill also states that a stationary vehicle is parked even though the driver is present and the engine is running.

The Bill is going to create very significant issues and challenges as there are many roads across Scotland and particularly in the cities where pavement parking is tolerated by the Council as footways are wide and this is deemed preferable to parking in a way that blocks passage of vehicle on the carriageway. Partner Councils will have to undertake a major review of all footways / footpaths to identify locations where exemption orders (authorised footway parking) may be required or are deemed desirable. The Bill indicates that exemption orders will apply to all or part of the footway and at all times. This will likely require additional resources for implementing these orders and the creation of authorised bays.

However there are a number of streets where the practice of footway parking has become established, even where the footways are not wide enough for both parking and pedestrian flow. This presents a significant challenge as under the proposed Bill the council will likely have to restrict parking in areas where there are already limited parking opportunities for residents and businesses. It is likely that car-owning residents will be displaced from these on-footway parking locations leading to on-street parking supply in such areas becomes increasingly restricted.

The legislation could also assist in addressing parking issues surrounding schools when children are going to and coming from school. This Bill will make inappropriate parking around schools more restrictive and should result in fewer parents taking their children by car if they know that they can get a PCN for say bumping on to the kerb and double parking.

The Bill also makes provisions for installing approved cameras, exemption orders, and removal/disposal of vehicles, accounting and enforcement of the regulations.

Enforcement is going to be a very significant issue as the new Bill places an additional burden on the Councils already stretched enforcement teams. The pressures coming from this Bill will likely require additional resources although there should be an uplift of PCNs issued which over time would be expected to reduce as driver behaviour adjusts to the new regulations. Where exemption orders are promoted additional signage will be required and the cost of cameras and a back office system will need to be met. The four cities introducing the first tranche of LEZs are discussing means of creating shared service back office operations to simplify the technology investments, there is an opportunity for greater adoption of 'automated' enforcement systems through this new legislation.

There will have to be a national PR campaign to inform motorists of the new regulations as many people will be unaware of the proposed new Bill. There will also need to be specific guidance within the proposed 'Parking Standard' as to how parking in front of 'dropped kerbs' and on shared surfaces are to be treated under the legislation given the current UK wide moratorium on the development of further shared space with town/city centres and residential area.

SCOTS is of the view that the potential resources and costs associated with assessing large parts of residential areas for potential exemptions have not been fully appreciated. We believe the "Order" process for defining exemptions is bureaucratic, expensive and potentially unworkable. We also note additional resources will be required to enforce the legislation. Therefore the resources required to implement the pavement parking proposals should be made available up-front and not be assumed to be covered by future income.

In summary, SCOTS believes the required resources have been substantially underestimated and elements of the proposal are potentially unworkable. As a consequence, SCOTS would question whether local transport authorities have the appetite, capacity and resource to address the proposed new powers adequately.

Road Works and the Scottish Road Works Commissioner

The Bill will amend the functions of the Scottish Road Works Commissioner although this is not regarded as making any significant change to the status of the Commissioner.

At present there are two, substantially, legislative powers under which permission may be granted to a person to carry out works involving apparatus. This is Section 61 of the Roads

(Scotland) Act 1984 and Section 109 of the New Roads and Street Works Act 1991. The Bill will remove the power contained in Section 61 of the 1984 Act and therefore requires all permissions which relate to apparatus to be sought and granted under Section 109 of the 1991 Act. This may have an impact on permissions for works carried out across Scotland area where Section 109 is not currently used.

There was a previous Advice Note 22 from Roads Authorities & Utilities Committee (Scotland) RAUC(S). The purpose of the guidance was to set out the advantages of Section 109 so that a voluntary transition occurs and it becomes the default position for road works authorities when issuing permissions to execute road works.

By amending the relevant sections of the 1991 Act, the Bill will place an additional duty on the person carrying out the works to enter the date that the works actually starts (and not just the proposed start date) in the Scottish Road Works Register.

SCOTS considers that any powers and measures that will strengthen the existing powers of the Commissioner, in order to help drive compliance across the sector and improve health and safety, are to be supported. However, it will be important to make clear in the legislation that the imposition of a Quality Plan will only be required where performance falls below an acceptable standard.

Smart Ticketing

SCOTS supports, in principle, the provisions of the Bill in relation to smart ticketing, however, it feels elements are unnecessary or over-prescriptive. It is considered that a national technological standard for smart ticketing already exists in the form of ITSO, a UK national standard which is widely used in Scotland for most bus operators as well as ScotRail and the Glasgow Subway.

Also, we cannot see any significant benefits from a National Smart Ticketing Advisory Board or the requirement for local authorities to produce annual reports on the use of ticketing powers.

The bus industry has largely pre-empted this and, as an example, the voluntary introduction of the multi-operator ABC (All Bus Company) ticket locally has been a success.

The Bill seeks to give Scottish Ministers the power to direct local authorities to implement ticketing schemes. Given that local transport authorities already have this power from the Transport (Scotland) Act 2001 the prerogative given to Ministers could be regarded as excessive given the current and foreseeable budget constraints.

Regional Transport Partnership finances

The provisions in the Bill will make it easier for the Regional Transport Partnerships (RTPs) to manage their year-end finances by enabling them to hold a balance of funds. There is also an intention to avoid any additional financial burden on the local authorities that contribute towards the RTP running costs. This will assist the RTPs with larger capital

investment projects which cover more than one financial year and will provide for the flexibility for an RTP to hold project funding beyond a single year, for example in support of the delivery of City Deal projects. SCOTS supports the proposals for financial flexibility in relation to RTPs.

Scottish Canals Board

SCOTS would support the proposed changes to the governance and representation on the Scottish Canals Board for the reasons identified in the Bill narrative.

Conclusion

In conclusion, SCOTS are of the view that the approach to the Bill demonstrates a differing approach in how each of the topic areas has been dealt with. It is quite obvious that the Roadworks proposals section is well developed and includes new duties to ensure that the objectives of the legislation will be achieved. The application of these duties is then reflected in the Financial Memorandum that should then see additional funding within grants to Roads Authorities.

However a number of the other proposals within the Bill are not supported by the appropriate duties and the associated funding but seek to grant powers that would then most likely incur unfunded costs if applied by Authorities.

This is an inconsistency and it is unclear why, if the SG wants to see changes they have set out in the policy memorandum they didn't take the same approach across the Bill and so ensure that Authorities are given fully funded duties.