

Transport (Scotland) Bill – Stage 2

After section 58

John Finnie

7 After section 58, insert—

<PART

WORKPLACE PARKING

Workplace parking licensing schemes

Workplace parking licensing schemes

- (1) A workplace parking licensing scheme is a scheme under which a local authority may—
 - (a) require a person to hold a licence in order to provide workplace parking places (see section (*Workplace parking places*)) at premises in the area to which the scheme relates, and
 - (b) charge for such a licence on the basis of the number of places specified in the licence.
- (2) A workplace parking licensing scheme must specify—
 - (a) the area of the local authority to which the scheme relates, which must be specified by reference to an area on a map, (the “licensing area”),
 - (b) the date on which the scheme comes into effect,
 - (c) the period during which the scheme is to remain in force (or that it is to continue indefinitely),
 - (d) the days on which, and hours during which, a licence is required,
 - (e) the charges payable on licences (expressed as a specified sum of money for each workplace parking place provided),
 - (f) any persons, premises or motor vehicles (or descriptions of such persons, premises or motor vehicles) that are exempt from the scheme or from paying charges under it (see sections (*Exemptions etc.*) and (*National exemptions*)), and
 - (g) arrangements for the periodic review of the operation and effectiveness of the scheme including, in particular, how the outcome of a review is to be communicated to persons affected by it.
- (3) A workplace parking licensing scheme may make different provision for different purposes or different areas within the licensing area.>

John Finnie

8 After section 58, insert—

<Workplace parking places

- (1) For the purposes of this Part, a workplace parking place is provided at any premises at any time if a parking place provided at the premises is at that time occupied by a motor vehicle used—
 - (a) by a relevant person,

- (b) by a worker, agent, supplier, business customer or business visitor of a relevant person,
- (c) by a person attending a course of education or training provided by a relevant person, or
- (d) where a body whose affairs are controlled by its members is a relevant person, by a member of the body engaged in the carrying on of any business of the body,

for the purpose of attending a place at which the relevant person carries on business at, or in the vicinity of, the premises.

(2) In this section “relevant person” means—

- (a) the person who provides the parking place in question (“the provider”),
- (b) any person with whom the provider has entered into arrangements to provide the parking place (whether or not for that person’s own use), or
- (c) any person who is associated with—
 - (i) the provider, or
 - (ii) a person within paragraph (b).

(3) For the purpose of subsection (2)(c), any two persons are associated if—

- (a) one is a company of which the other (directly or indirectly) has control, or
- (b) both are companies of which a third person (directly or indirectly) has control.

(4) For the purposes of this section—

“business” includes—

- (a) any trade, profession, vocation or undertaking,
- (b) the functions of any holder of a public office,
- (c) the provision of any course of education or training, and
- (d) the functions of, or any activities carried on by, the Scottish Administration, a Government department, a local authority or other statutory body,

“business customer”, in relation to a relevant person, means a client or customer of the relevant person who is attending at any premises occupied by the relevant person for the purposes of a business carried on by that client or customer,

“business visitor”, in relation to a relevant person, means an individual who—

- (a) in the course of the individual’s employment, or
- (b) in the course of carrying on a business or for the purposes of a business carried on by the individual,

is visiting the relevant person or any premises occupied by the relevant person,

“Government department” means a department of the Government of the United Kingdom,

“supplier”, in relation to a relevant person, means—

- (a) a person supplying, or seeking to supply, goods or services to the relevant person for the purposes of a business carried on by the relevant person, or
- (b) any agent or sub-contractor of such a person,

“worker” means an individual who has entered into, or works under—

- (a) a contract of employment, or
 - (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, under which the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.
- (5) The Scottish Ministers may by regulations amend subsections (1) to (4) for the purpose of adding, removing or varying circumstances in which, for the purposes of this Part, a workplace parking place is provided.>

John Finnie

9 After section 58, insert—

<Making and modifying schemes

Power to make and modify schemes

- (1) A local authority may (in accordance with this Part)—
 - (a) make a workplace parking licensing scheme for all or part of its area,
 - (b) amend or revoke a workplace parking licensing scheme made by it.
- (2) A workplace parking licensing scheme may be made only if—
 - (a) the local authority proposing to make the scheme has a local transport strategy, and
 - (b) it appears to the authority that the scheme will (directly or indirectly) facilitate the achievement of policies in its strategy.
- (3) Two or more local authorities may act jointly to make a workplace parking licensing scheme.
- (4) In those circumstances—
 - (a) they must continue to act jointly in relation to the scheme in all respects, and
 - (b) unless the context otherwise requires, a reference in this Part to—
 - (i) a local authority, in relation to a workplace parking licensing scheme or to a proposed scheme, is a reference to the authorities acting jointly,
 - (ii) the area of a local authority is a reference to the combined areas of those authorities, and
 - (iii) the local transport strategy of a local authority is a reference to the local transport strategy of each local authority.>

John Finnie

10 After section 58, insert—

<Prior consultation and impact assessment

- (1) Before making, amending or revoking a workplace parking licensing scheme, a local authority must—
 - (a) prepare and publish—

- (i) an outline of the proposed scheme, the scheme as it is proposed to be amended or (as the case may be) notice of the proposed revocation of the scheme (“the proposal”),
 - (ii) a statement about the objectives of the proposal, and
 - (iii) an assessment of the impacts of the proposal,
 - (b) consult such persons as the authority considers appropriate in relation to the proposal (including, in particular, persons that the authority has identified as likely to be affected by the proposal), and
 - (c) prepare and publish a report which—
 - (i) summarises the consultation responses received,
 - (ii) states whether or not the authority intends to proceed with the proposal (or the proposal as modified in light of the consultation), and
 - (iii) sets out the authority’s reasons for whether or not it intends to proceed.
- (2) For the purpose of subsection (1)(a)(i), an outline of the proposed scheme must include the proposed—
- (a) licensing area,
 - (b) period during which the scheme is to remain in force (or that it is to continue indefinitely),
 - (c) charges payable on licences (expressed as a specified sum of money for each workplace parking place provided),
 - (d) persons, premises or motor vehicles (or descriptions of such persons, premises or motor vehicles) that are to be exempt from the scheme or from paying charges under it (see sections (*Exemptions etc.*) and (*National exemptions*)).
- (3) For the purpose of subsection (1)(a)(ii), the statement must set out—
- (a) the objectives that the local authority intends the proposal to achieve,
 - (b) its assessment of how (or the extent to which) the proposal will—
 - (i) achieve those objectives, and
 - (ii) facilitate (directly or indirectly) the achievement of policies in its local transport strategy, and
 - (c) how it intends to apply any net proceeds of the scheme (see section (*Application of net proceeds of workplace parking schemes*)).
- (4) For the purpose of subsection (1)(a)(iii), the assessment must, in particular, set out what the local authority considers to be the likely effects of the proposal on—
- (a) persons who may have to pay charges under (or as a result of) the scheme, and
 - (b) the environment.
- (5) A local authority may not make, amend or (as the case may be) revoke the scheme in accordance with the proposal (or the proposal as modified) until a period of 8 weeks beginning with the date on which it published its report under subsection (1)(c) has elapsed.>

John Finnie

11 After section 58, insert—

<Scottish Ministers' power to regulate process

The Scottish Ministers may by regulations make provision about the procedures in relation to making, amending and revoking workplace parking licensing schemes including, in particular, provision—

- (a) specifying the form of a scheme, or any amendment or revocation of it,
- (b) about consultation on proposals (including the publication of proposals and the making and consideration of representations),
- (c) about the publication of notice of the making, amendment or revocation of a scheme and their effect,
- (d) about reviews of, and appeals against, decisions in relation to schemes.>

John Finnie

12 After section 58, insert—

<Local inquiries

- (1) Both—
 - (a) the local authority proposing to make, amend or revoke a workplace parking licensing scheme, and
 - (b) the Scottish Ministers,may cause an inquiry into the proposal to be held and appoint a person by whom it is to be held.
- (2) A local authority may not proceed with the proposal until the inquiry has been completed.
- (3) Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973 (provisions relating to local inquiries) apply in relation to an inquiry under subsection (1) as they apply in relation to an inquiry under that section.>

John Finnie

13 After section 58, insert—

<Workplace parking licences

Licence applications and processes

- (1) A workplace parking licensing scheme may include provision for or in connection with—
 - (a) applications for a workplace parking licence,
 - (b) granting, issuing and renewing a licence,
 - (c) imposing conditions on a licence,
 - (d) the standard duration of a licence,
 - (e) varying or revoking a licence,
 - (f) suspending the requirement to hold a licence for a period (and reimbursing charges for such a period).

- (2) Provision under subsection (1)(b) may include the granting of short-term workplace parking licences in special circumstances specified in, or determined in accordance with, the scheme.
- (3) In connection with the granting of a short-term workplace parking licence, a workplace parking licensing scheme may include provision conferring a discretion on any person.
- (4) The duration of a short-term workplace parking licence (or the total duration of a series of such licences) may not exceed 12 months.
- (5) The Scottish Ministers may by regulations make, or require or permit workplace parking schemes to include, provision about reviews of, and appeals against, decisions in relation to workplace parking licences.
- (6) A person commits an offence if the person intentionally provides false or misleading information in or in connection with an application in respect of a workplace parking licence.
- (7) A person guilty of an offence under subsection (6) is liable on—
 - (a) summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) conviction on indictment, to a fine.>

John Finnie

14 After section 58, insert—

<Content of licences

- (1) A workplace parking licence must—
 - (a) state the name of the person to whom it is granted,
 - (b) specify the duration of the licence,
 - (c) identify the premises to which it relates,
 - (d) specify the maximum number of motor vehicles which may be parked at those premises at any one time, and
 - (e) state the amount of the charge paid on the licence and set out the calculation of that amount.
- (2) A workplace parking licence may include such other information in relation to the workplace parking licensing scheme or licensing processes as the local authority considers appropriate.>

John Finnie

15 After section 58, insert—

<Exemptions

Exemptions etc.

- (1) A workplace parking licensing scheme must provide for the exemptions described in section (*National exemptions*).
- (2) A workplace parking licensing scheme may otherwise provide for—
 - (a) specific premises, or premises of a specified description,
 - (b) premises with a specified number of parking places (or fewer), or

- (c) descriptions of persons or motor vehicles (including descriptions by reference to any parking places provided for the exclusive use of such persons or motor vehicles),

to be exempt from the scheme or from paying charges under the scheme.

- (3) The same premises must not be subject to more than one workplace parking licensing scheme at the same time.
- (4) The Scottish Ministers may by regulations make further provision in relation to exemptions, including by—
 - (a) exempting from workplace parking licensing schemes (or requiring schemes to exempt) such premises, persons or vehicles (or descriptions of premises, persons or vehicles) as may be specified in the regulations, and
 - (b) prohibiting the exemption from schemes of premises, persons or vehicles of such descriptions as may be specified in the regulations.>

John Finnie

16 After section 58, insert—

<National exemptions

- (1) The following workplace parking places are to be exempt from charges under a workplace parking licensing scheme—
 - (a) places for the exclusive use of persons using motor vehicles displaying a badge issued—
 - (i) under section 21 of the Chronically Sick and Disabled Persons Act 1970,
 - (ii) under a provision of the law of Northern Ireland corresponding to that section, or
 - (iii) by a member state of the EU for purposes corresponding to the purposes of that section,
 - (b) subject to subsection (2)(b), places at qualifying NHS premises, and
 - (c) places at hospices (that is, premises used for the purpose of caring for the dying or incurably ill).
- (2) A workplace parking licensing scheme may—
 - (a) require premises with workplace parking places mentioned in subsection (1) to hold a workplace parking licence in respect of the places, and
 - (b) specify that workplace parking places at qualifying NHS premises that are provided for persons who do not provide services for the health service within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) are not to be exempt from charges under a workplace parking licensing scheme.
- (3) In this section, “qualifying NHS premises” means—
 - (a) a health service hospital within the meaning of section 108(1) of the 1978 Act or a state hospital within the meaning of section 102(2) of that Act,
 - (b) any other premises occupied by a Health Board or Special Health Board constituted under section 2(1) of the 1978 Act,

- (c) premises that are (or such part of premises as is) used wholly or mainly for the provision of primary medical services as construed in accordance with section 2C(5) of the 1978 Act, and
- (d) such other similar premises as the Scottish Ministers may specify under section (*Exemptions etc.*)(4).>

John Finnie

17 After section 58, insert—

<Financial provisions

Charges

- (1) The charges imposed in respect of any premises by a workplace parking licensing scheme must be paid—
 - (a) by the occupier of the premises, or
 - (b) in such circumstances as the Scottish Ministers may by regulations specify, by such other person as may be specified.
- (2) The charges that may be imposed by a workplace parking licensing scheme may include different charges (or no charge) for different cases, including (in particular)—
 - (a) different days,
 - (b) different times of day,
 - (c) different parts of the licensing area,
 - (d) different descriptions of persons,
 - (e) different descriptions of premises, including different numbers of workplace parking places provided at a licensed premises, and
 - (f) different classes of motor vehicles.
- (3) In setting the charges imposed by a workplace parking licensing scheme, a local authority must have regard to the purposes for which the authority is to apply any of the net proceeds of the scheme (see section (*Application of net proceeds of workplace parking licensing schemes*)).>

John Finnie

18 After section 58, insert—

<Application of net proceeds of workplace parking licensing schemes

- (1) A local authority (the authority) may apply the net proceeds of a workplace parking licensing scheme (or, in a case where the authority is acting jointly with another local authority or authorities, the authority's share of the net proceeds) only for purposes of facilitating the achievement of—
 - (a) policies in the authority's local transport strategy, or
 - (b) in the case of a joint scheme, the policies in the local transport strategy of a local authority with whom the authority is acting jointly.
- (2) Before applying any share of net proceeds under subsection (1)(b), the authority must be satisfied that doing so will benefit some part of its area.

- (3) In this Part, “net proceeds” means the amount of money (if any) by which the gross amount received under the workplace parking licensing scheme for a financial year exceeds the expenses of operating the scheme for the financial year.>

John Finnie

19 After section 58, insert—

<Accounts

- (1) The Scottish Ministers may by regulations make provision for or about the keeping of accounts by local authorities in connection with the exercise of functions under this Part.
- (2) Regulations under subsection (1) may, in particular—
- (a) specify the form and content of accounts,
 - (b) require the publication of accounts,
 - (c) make provision for how accounts are to be prepared and kept where two or more authorities are acting jointly in respect of a workplace parking licensing scheme.>

John Finnie

20 After section 58, insert—

<Enforcement

Penalty charges

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) the imposition of charges (“penalty charges”) in respect of acts, omissions, events or circumstances relating to, or connected with, workplace parking licensing schemes, and
 - (b) the notification, payment, adjudication and enforcement of penalty charges.
- (2) Penalty charges in respect of any premises must be paid by—
- (a) the occupier of the premises, or
 - (b) in such circumstances as may be specified, such other person as may be specified.
- (3) Without limit to the generality of subsection (1), regulations made under it—
- (a) may make, or may permit or require workplace parking licensing schemes to include, provision—
 - (i) about the imposition of penalty charges in specified circumstances,
 - (ii) about the timing and manner of payment of penalty charges,
 - (iii) specifying the amount of penalty charges, including any reduced penalty charges or increased penalty charges and the circumstances in which such reduced or increased penalty charges are payable,
 - (iv) about reviews of, and appeals against, decisions in relation to penalty charges,
 - (v) about the cancellation of penalty charges,
 - (b) may make provision—

- (i) requiring local authorities to serve a notice of a penalty charge on any person it believes to be liable to pay such a charge,
 - (ii) about the form and content of such a notice,
 - (iii) about the way that compliance with such a notice may be enforced.
- (4) In this section “specified” means specified in regulations made under subsection (1).>

John Finnie

21 After section 58, insert—

<Evidence from approved devices

The Scottish Ministers may by regulations make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Part, or proceedings in respect of a failure to comply with the provisions of a workplace parking licensing scheme, to be given by production of—

- (a) a record produced by a device specified in, or approved in accordance with, the regulations, and
- (b) a certificate (whether in the same or another document) as to the circumstances in which the record was produced authenticated in a manner specified in the regulations.>

John Finnie

22 After section 58, insert—

<Enforcement powers

- (1) An authorised person may—
 - (a) enter any premises in the licensing area of a workplace parking licensing scheme (other than any premises that is used as a dwelling),
 - (b) require the production of information relating to the requirement to hold a licence under a scheme, and specify the form in which the information is to be produced,
 - (c) take copies of, or take possession of, information (in whatever form) which relates to the requirement to hold a licence under a scheme and retain it for as long as the authorised person considers necessary.
- (2) The powers in subsection (1) may be exercised only for the purposes of—
 - (a) establishing if workplace parking places are being provided at the premises either—
 - (i) without a licence, or
 - (ii) without a licence in respect of all of the places being provided,
 - (b) establishing if there is, or has been, any contravention of the conditions of a licence in respect of the premises,
 - (c) serving notice of a penalty charge.
- (3) In this section and sections (*Enforcement powers: warrants*) and (*Enforcement powers: further provision*), “authorised person” means a person who is authorised by a local authority to exercise functions under this section in respect of a workplace parking licensing scheme made by it.>

John Finnie

23 After section 58, insert—

<Enforcement powers: warrants

- (1) This section applies to the powers conferred by section (*Enforcement powers*)(1).
- (2) A sheriff may grant a warrant under this subsection only if the sheriff is satisfied, by evidence on oath—
 - (a) that there are reasonable grounds for entering premises for a purpose specified in section (*Enforcement powers*)(2), and
 - (b) that—
 - (i) entry to the premises has been refused,
 - (ii) such a refusal is reasonably expected,
 - (iii) the premises are unoccupied, or
 - (iv) the occupier is temporarily absent.
- (3) A warrant authorises an authorised person—
 - (a) to enter the premises,
 - (b) to exercise any other power conferred by section (*Enforcement powers*)(1), and
 - (c) if necessary, to use reasonable force in doing so.
- (4) A warrant expires—
 - (a) when it is no longer needed for the purpose for which it was granted, or
 - (b) if earlier, when any period as is specified in it for that purpose expires.>

John Finnie

24 After section 58, insert—

<Enforcement powers: further provision

- (1) This section applies to the powers conferred by section (*Enforcement powers*)(1) (whether exercised by virtue of that section or under a warrant granted under section (*Enforcement powers: warrants*)).
- (2) The power of entry may be exercised only at a reasonable time of day.
- (3) An authorised person seeking to exercise a power must, on request, produce evidence of the person's identity and authorisation before exercising the power.
- (4) An authorised person may take on to the premises such other persons, and such materials and equipment, as the authorised person considers necessary.
- (5) If an authorised person enters the premises by virtue of a warrant, the authorised person must, if taking possession of anything under section (*Enforcement powers*)(1)(c), leave a statement on the premises giving particulars of what has been taken and by whom.
- (6) On leaving any premises which an authorised person is authorised to enter under a warrant, the person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against entry as the person found them.
- (7) A person commits an offence if the person—

- (a) without reasonable excuse, fails to comply with a requirement of an authorised person, or
 - (b) intentionally obstructs an authorised person in the exercise of a power conferred by section (*Enforcement powers*)(1).
- (8) A person who commits an offence under subsection (7) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to a fine.>

John Finnie

25 After section 58, insert—

<Power of entry: Crown land

- (1) The power of entry conferred under section (*Enforcement powers*)(1)(a) is exercisable in relation to Crown land specified in column 1 of the following table only with the consent of the person specified in the corresponding entry in column 2 of the table (the “appropriate authority”).

Crown land	Appropriate authority
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Crown Estate (that is, the property, rights and interests under the management of the Crown Estate Commissioners)	The Crown Estate Commissioners
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Scottish Crown Estate	The person managing the land
Land an interest in which belongs to Her Majesty in right of the Crown other than land forming part of the Crown Estate or the Scottish Crown Estate	The office-holder in the Scottish Administration or, as the case may be, the Government department managing the land
Land an interest in which belongs to Her Majesty in right of Her private estates	The person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers
Land an interest in which belongs to an office-holder in the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which belongs to a Government department	The Government department
Land an interest in which is held in trust for Her Majesty by an office-holder in the Scottish Administration for the purposes of the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which is held in trust for Her Majesty for the purposes of a Government department	The Government department

- (2) In subsection (1)—

- (a) the reference to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862,
 - (b) “Government department” means a department of the Government of the United Kingdom,
 - (c) “Scottish Crown Estate” means the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies.
- (3) It is for the Scottish Ministers to determine any question that arises as to who in accordance with subsection (1) is the appropriate authority in relation to any land, and their decision is final.>

John Finnie

26 After section 58, insert—

<Interpretation of Part

In this Part—

“licence” means a licence under a workplace parking licensing scheme,

“licensing area” is to be construed in accordance with section (*Workplace parking licensing schemes*)(2),

“local transport strategy”, in relation to a local authority, means a strategy prepared by a local transport authority or a local traffic authority, that relates to transport in the local authority’s area,

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

“net proceeds” has the meaning given in section (*Application of net proceeds of workplace parking schemes*),

“penalty charge” is to be construed in accordance with section (*Penalty charges*)(1),

“workplace parking licensing scheme” is to be construed in accordance with section (*Workplace parking licensing schemes*)(1),

“workplace parking place” is to be construed in accordance with section (*Workplace parking places*).>

Section 72

John Finnie

27 In section 72, page 83, line 1, after <47(11)> insert <and (*Exemptions etc.*)(4)>