

Partial Business and Regulatory Impact Assessment

Title of Proposal:

Workplace Parking Licensing (Scotland) Regulations 2022.

1. Purpose and Intended Effect

Background

- 1.1 The Transport (Scotland) Act 2019 includes provisions introducing a discretionary power to set up workplace parking licensing (WPL) schemes for local authorities. It will be for local authorities to decide whether they wish to use that power and, if so, to shape proposals to suit local circumstances.
- 1.2 Supporting regulations and guidance will be necessary to provide national consistency on key elements of the scheme but as much as possible it is intended to provide flexibility for local authorities to reflect their local circumstances.
- 1.3 Where a workplace parking licensing scheme is in place, persons may be required to obtain a licence from the local authority for each workplace parking place made available for use by employees and certain visitors. A charge may be levied for such a licence on the basis of the number of places specified in the licence. Obtaining a WPL and paying any levies would be the responsibility of the occupier of the premises, i.e. the employer or business. Individual employees or business visitors would not be liable for the licence or charge. However, there is nothing to stop individual businesses from charging employees or certain visitors a fee to park on their premises (by way of private contractual arrangements, as is currently possible).
- 1.4 Parking places provided for use by non-business customers would not be liable for the charge: for example, customer parking places at a supermarket or shopping centre would not need to be licenced.
- 1.5 The Transport (Scotland) Act 2019 provides for certain national exemptions from WPL levies, although these workplace parking places may still be required to be licenced. These exemptions include parking places reserved for Blue Badge holders, certain parking places at qualifying NHS premises, and parking places at hospices.
- 1.6 The intention of the Scottish Government is for local authorities to be empowered to create WPL schemes that reflect their local circumstances. For example, WPL schemes can be designed to apply only to certain parts of the local authority boundary or to apply only at certain times of day. Local authorities will have discretion to make local exemptions that support their local objectives and circumstances (beyond the fixed national exemptions), but are not required to do so. For example, a local authority could exempt premises with fewer than a specified number of parking places, parking places for use by certain types of vehicles or for specified uses, or specific types of premises. Two or more local authorities can choose to jointly implement a WPL scheme.
- 1.7 Local Authorities may use WPL revenues only to cover the costs of the scheme and to support the policies in their Local Transport Strategy.
- 1.8 This partial BRIA is for consultation and comments received during the public consultation period will help inform a final BRIA of WPL regulations and guidance proposals.

Objective

- 1.9 As a measure addressing demand management of travel, progressing the delivery of the WPL regulations and guidance supports existing Scottish Government policy commitments. WPL has the potential to encourage the use of more sustainable travel. As the net revenue generated by WPL schemes must be committed to support policies in Local Transport Strategies, this policy is also intended to raise revenue that will be used to improve public and sustainable transport in line with the sustainable travel hierarchy, making it more attractive and thus encouraging individuals to use public transport instead of driving.
- 1.10 Providing local authorities with discretionary powers to implement a Workplace Parking Licensing scheme supports National Transportation Strategy (NTS2) outcomes of reducing congestion and tackling climate/air emissions. These powers provide a tool for local authorities to influence travel behaviour in a way that disincentivises private car use and encourages use of public and sustainable transport. The [NTS2 Delivery Plan 2020-2022](#) commits to taking forward supporting regulations and guidance so that local authorities can choose to implement WPL schemes.
- 1.11 Implementing regulations and guidance so that local authorities can move forward with WPL schemes also progresses Scotland's commitment to reach net-zero by 2045. The Climate Change Plan update (CCPu) was laid in Parliament in December 2020. As part of our commitment to reduce car kilometres by 20% by 2030, the [CCPu committed](#) to take forward policy consultation in advance of drafting regulations and guidance to enable local authorities to implement WPL schemes that suit their local requirements.

Rationale for Government intervention

- 1.12 These regulations support the following National Performance Framework outcomes:
- value, enjoy, protect and enhance their environment
 - live in communities that are inclusive, empowered, resilient and safe
- 1.13 Implementing regulations will provide local authorities with a discretionary tool which can be used alongside other tools to address climate change. The [Carbon Account for Scotland](#) finds that transport continues to be Scotland's biggest emitting sector, accounting for 35.6% of emissions in 2018, and cars account for 40% of Scotland's transport emissions.
- 1.14 WPL regulations will support local authorities to reduce traffic congestion in targeted areas, which may support climate change outcomes though there has been limited research on WPL to date. Poor air quality disproportionately impacts socioeconomically disadvantaged communities and will also be addressed through measures such as low emission zones. Congestion makes public transport alternatives such as bus use less attractive and WPL may be a tool to reduce congestion during rush hours, which in combination with investment of revenue in local transport strategies, could encourage use of public/active travel in line with the sustainable travel hierarchy.
- 1.15 The Scottish Government is committed to delivering more powers, more funding, and more flexibility to local government. WPL regulations and guidance are part of a package of measures which will deliver the most significant empowerment of local authorities since devolution. We are carefully considering our duties under the European Charter of Local Self-Government Act in developing regulations and guidance

to ensure that local authorities will be meaningfully engaged and agree that the regulations and guidance support them to deliver schemes that reflect their local circumstances.

- 1.16** As the Covid-19 pandemic continues to evolve, travel and working patterns have changed. The effects will not be clear for some time, but there may be an impact on WPL because the number of parking places requiring to be licenced is the maximum number of parking places in use at any one time. For example, if employees travel to their workplace for only part of the week and one parking place was used by different employees on different days of the week, then only one parking place would be licensed and charged.

2. Consultation

Within Government

- 2.1** As outlined above, WPL sits alongside a number of other transport and climate change policies in the NTS2 and CCPu. Policy officials within Transport Scotland have been consulted on similar or intersecting policies such as Low Emission Zones (LEZs), 20 minute communities, and parking prohibition regulations under the Act.
- 2.2** Wider Scottish Government officials within Local Government and Local Government Accounting have provided expertise on best practice in accounting and Scottish Ministers' obligations under the EU Charter of Local Self-Government Bill.
- 2.3** The Department of Planning and Environmental Appeals (DPEA) has been consulted on the proposed provisions on "examinations" within the regulations.
- 2.4** Early engagement with the Information Commissioners Office (ICO) has also commenced to support this policy's Data Protection Impact Assessment (DPIA).

Public Consultation

- 2.5** As a matter of practice, a public consultation will be held in advance of drafting of regulations to ensure that the final regulations and guidance have been informed by a wide range of relevant views. The consultation will be published on Citizen Space. Transport Scotland will actively seek responses from relevant stakeholders with interests in accessibility, business/industry, environment/climate change, and transport, as well as local authorities, public bodies, regional transport partnerships, and trade unions.
- 2.6** To support effective and meaningful engagement, a technical working group has been convened with representatives of local authorities who are considering implementing a scheme and businesses who may be liable for WPL and therefore directly impacted by future local schemes.

Business

- 2.7** Further engagement with business including virtual face to face discussions will be undertaken during the consultation period, to feed into the development of this proposal.

Options

Option 1: Do nothing

Sectors and groups affected:

2.8 If WPL regulations are not introduced, then local authorities will be unable to take forward local WPL schemes that support their local transport strategies. Local authorities who may have included WPL in their local transport strategies may consider alternative measures to achieve their objectives. Businesses and other liable organisations would not be affected.

Benefits

2.9 The Do Nothing approach would maintain the status quo. The policy benefits outlined above would not be realised. Businesses and other liable organisations would not be prompted to reconsider their parking arrangements. Commitments given by Scottish Ministers in the NTS2 and CCPu to bring forward this legislation would not be fulfilled.

Costs

2.10 Local authorities would not undertake development of new WPL schemes, avoiding implementation costs, but would not realise any revenue from WPL charges to support their local transport strategies. The costs to business and employers associated with parking at workplaces would not change.

Option 2: Implement WPL regulations and guidance

The detail of the regulatory framework and guidance is to be consulted on.

Sectors and groups affected

2.11 Local authorities would be able to implement WPL schemes. Businesses and other organisations would be required to license any parking places they provide for employees and certain other visitors, and may be liable for a charge on those spaces.

Benefits

2.12 Local authorities would be able to implement WPL schemes that suit their local circumstances and support the objectives in their local transport strategies. We expect these schemes to support national commitments in the NTS2 and CCPu.

Costs

2.13 Local authorities choosing to implement a WPL scheme would pay for the set up and ongoing operating costs. Revenue from the scheme may only be used to support costs associated with operating the scheme and objectives set out in the local transport strategy. Businesses and other liable occupiers would be liable for WPL charges, which would be dependent on the form of the local scheme. The charge per parking place, any exemptions, and the number of spaces below which a licence was not required would all impact the cost to business. Occupiers could reduce or eliminate their WPL cost by reducing their workplace parking provision.

3. Scottish Firms Impact Test

3.1 Further engagement with business including virtual face to face discussions will be undertaken during the consultation period, to feed into the development of this proposal.

Competition Assessment

3.2 The answers to the Competition and Markets Authority Filter questions indicate that these regulations could have an impact on competition as WPL could present a cost to some businesses and not others depending on implementation in different areas. We

will seek further evidence on this indication through the public consultation and further engagement with stakeholders as outlined above.

- 3.3 As local authorities will be empowered to create WPL schemes that reflect their local circumstances, much of the impact on competition will depend on the local design of WPL schemes. For example, the area in which a WPL scheme applies, variation in days the scheme is in force, and the premises which are liable will affect the impact of WPL schemes on competition.
- 3.4 The impact on liable occupiers will also depend on their response to implementation of a WPL scheme. Organisations can reduce or eliminate their liability for charges under WPL schemes by reducing their parking provision and encouraging employees to use alternative, more sustainable forms of transport to commute to work.
- 3.5 Depending on the form of local schemes, certain businesses and organisations could find it more difficult to reduce their liability for WPL charges. Additionally, the number of parking places may not necessarily correlate to the revenue of the business so some small and medium enterprises could face disproportionately larger WPL costs. Local authorities will have a duty to consult and undertake impact assessments on the impact of their locally designed scheme, including consulting those who are likely to be directly impacted by the proposed scheme.
- 3.6 We expect that WPL schemes will primarily be implemented in urban areas. The evidence for how this could impact the overall competitiveness of firms is mixed: while WPL could result in increased costs for occupiers, it could also have positive impacts on the competitiveness of firms located in the scheme boundaries by making the local area more pleasant to visit. This was the conclusion of the independent Review of the Town Centre Action plan, which was commissioned by the Cabinet Secretary for Communities and Local Government and published on 3 February 2021. The report noted that “the operating costs in town centres are higher than in competing channels such as out-of-town sites and the internet. [...] Town centres are often choked by an over-reliance on car-borne traffic and an under-emphasis on people access and movement.”
- 3.7 The Scottish Government Consumer and Competition Policy Unit have confirmed that the competition and consumer angles have been more than considered and they have nothing further to add to this assessment.

Consumer Assessment

- 3.8 These regulations may have an indirect impact on consumers. Non-business customer parking does not fall under these regulations and will not be licensed under WPL. The regulations may affect the quality, availability or price of any goods or services in a market if businesses passed on WPL cost to consumers or if WPL was a factor in their decision making about location. As outlined above under the competition assessment, this will largely depend on the details of local authorities' individual schemes. We will seek further evidence on this through the public consultation and further engagement with stakeholders as outlined above

Test run of business forms

- 3.9 Local authorities who implement WPL schemes will introduce application forms for liable businesses, which will be assessed as part of their consultation and impact assessments before implementing a scheme.

Digital Impact Test

3.10 At this stage we do not anticipate these regulations having an impact on digital technologies, markets and has no applicability in either an offline or online context. This will be tested during public consultation and engagement with stakeholders.

4. Legal Aid Impact Test

4.1 The Access to Justice team have confirmed they are content that there will be little to no impact on the level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund.

5. Enforcement, sanctions and monitoring

5.1 Local authorities will be responsible for the enforcement of licences within their local WPL schemes. These regulations will provide a level of consistency and tools for enforcement including the process to issue and appeal penalty charges and the use of cameras to support enforcement.

5.2 Enforcement will be supported via evidence from 'approved devices' provided for in the regulations, which are expected to be cameras that local authorities can use to identify cases where a contravention may be taking place. Failure to apply for a licence or failure to license the correct number of spaces would result in the occupier of a liable premises being issued with a penalty charge. The regulations will establish a clear process for reviews and appeals in connection with the issuing of penalty charge notices which are contested by recipients.

6. Implementation and delivery plan

6.1 Following public consultation, regulations will be laid in Parliament and expected to come into force by the end of financial year 2021/22.

Post-implementation review

6.2 New WPL schemes implemented by local authorities may be examined by an independent reporter, who is expected to be appointed from within the Department of Environmental and Planning Appeals (DPEA). Examination may be initiated by Scottish Ministers or by the local authority making the proposal .

6.3 A post-implementation review should take place 10 years after these regulations come into force. This will assess the extent to which the regulations support local authorities to implement WPL schemes that support the objectives in their local transport strategies.

7. Summary and recommendation

7.1 We recommend option 2: implement WPL regulations and guidance.

8. Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	<ul style="list-style-type: none"> No realisation of policy benefits. Businesses and other liable organisations not prompted to reconsider their parking arrangements. Commitments given by Scottish Ministers in the NTS2 to bring forward this legislation would not be fulfilled. 	<ul style="list-style-type: none"> Local authorities would not undertake the development of new WPL schemes, avoiding implementation costs, but would not realise any revenue from WPL charges to support their local transport strategies. Costs to business associated with parking at workplaces would not change.
2	<ul style="list-style-type: none"> Local authorities would be able to implement WPL schemes that suit their local circumstances and support the objectives in their local transport strategies Support national commitments in the NTS2 and CCPu. 	<ul style="list-style-type: none"> Set up and ongoing operating costs for local authorities, which could then be paid for by the revenue from the scheme. Revenue from the scheme to support objectives set out in the local transport strategy. Businesses and other liable occupiers would be liable for WPL charges, which would vary based on the form of the local scheme.

9. Declaration and publication

- Sign-off for Partial BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Graeme Dey

Date: 8 June 2021

Graeme Dey
Minister for Transport

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