

*These notes refer to the Transport Act 2000 (c.38)
which received Royal Assent on 30 November 2000*

TRANSPORT ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Iii: Road User Charging and Workplace Parking Levy

143. The Road User Charging and Workplace Parking Levy provisions are in three Chapters. These are:

- Chapter I - Road User Charging
- Chapter II - Workplace Parking Levy
- Chapter III – General and Supplementary.

Chapter I: Road User Charging

Sections 163 to 167: Charging schemes

144. *Section 163* enables road user charging schemes to be introduced by:

- local traffic authorities outside London, acting either singly, or jointly with another local traffic authority or authorities, or with a London traffic authority or authorities (ie Transport for London, or London borough councils or the Common Council of the City of London) and;
- by the Secretary of State or the National Assembly for Wales (NAW).

Section 163 also provides that the registered keeper of a vehicle will be responsible for paying road user charges, but allows the Secretary of State or NAW to specify other persons in certain circumstances through regulations. This would, for example, provide for the transfer of liability to the hirer, where a vehicle is subject to a valid hiring agreement.

145. *Sections 164 and 165* provide that charging schemes made by local authorities may only apply to roads for which the charging authority or authorities are the traffic authority, and that charging schemes can be introduced only in support of a local transport plan (see paragraphs 83 to 88). *Section 166*, which relates to joint local authority – London charging schemes, also provides that charging can occur only on the roads for which the participating authorities are the relevant traffic authorities, and that the scheme must support both the local transport plan(s) of the non-metropolitan authority or authorities, and the London Mayor’s statutory transport strategy.

146. *Section 167* sets out the two cases where charging can be introduced on trunk roads by the Secretary of State or the NAW. The first of these is charging on trunk road bridges and tunnels of at least 600m in length. This is to allow for future cases where charging may be an option for making expensive new structures affordable, and for continued tolling on crossings when the current tolling powers are due for renewal. The Government has no plans to introduce charging on existing bridges and tunnels which are not already tolled. The second case is where a local traffic authority requests

the Secretary of State or the NAW to charge on a stretch of trunk road, in order to complement a local road user charging scheme.

Sections 168 to 170: Making of charging schemes

147. *Section 168* specifies that a traffic authority or authorities acting jointly, - including local, Transport for London or the Secretary of State/NAW - wanting to introduce a charging scheme must do it by making an Order. If an authority wants to change or revoke a scheme, this must also be done by Order. Where the Secretary of State or NAW has introduced a charging scheme on a trunk road at the request of a local authority, it cannot be changed or revoked unless the local traffic authority which requested it has been consulted.
148. *Sections 169 and 170* define the role of the two national authorities in relation to local authority orders setting up, changing or revoking charging schemes. *Section 169* requires that all non-London local authority orders must be approved by the Secretary of State or NAW, as appropriate. Where there is a joint scheme between an English and Welsh local authority, there must be approval from both national authorities (see section 198(1) for definitions of “appropriate national authority”). Where there is a scheme run jointly by an English local authority and a London authority, approval will be needed from the Secretary of State and the Greater London Authority. In all cases, the approving authority can make modifications to the order.
149. Under section 169(2) the Secretary of State or the NAW will be able, by regulations, to waive the requirement for his/its consent. This will allow, for example, local authorities to make minor changes to their schemes through more streamlined, simplified procedures, provided certain conditions are met. In the longer term, it may be possible to broaden the scope of the waiver given by regulations. Orders revoking charging schemes do not need the approval of the Secretary of State or NAW.
150. *Section 170* provides for charging authorities to consult and hold inquiries, and for the Secretary of State or the NAW to consult or hold an inquiry on their own schemes, or require additional consultation or an inquiry to be held before granting approval for a local authority scheme. It also sets out the arrangements for the allocation for costs for inquiries.

Sections 171 to 172: Contents of charging schemes

151. *Section 171* sets out the basic elements which must be included in the order establishing the charging scheme - the roads to be charged, and how the charges are defined, the classes of motor vehicles which will be charged, the levels of charge, and the duration of the scheme. These elements are for the charging authority to determine. *Section 171(3)* ensures that charging powers cannot be used purely as a charge on parked vehicles.
152. *Section 171(5)* describes some of the factors by which different charges might be imposed, but this is not an exhaustive list. *Section 171(7)* allows the charging scheme to require documents or equipment to be carried in or fitted to a vehicle when it is on a charged road. This gives charging authorities the power to ensure that everyone who enters a scheme must have a permit or electronic payment unit in their vehicle, or have to pay a penalty charge.

Section 172 provides the power for regulations to set exemptions from charges, reduced rates or limits on charges which will apply to all charging schemes. The Secretary of State will be able to set exemptions, reduced rates or charging limits applying to all local authority schemes in England (and has powers to set exemptions in London under the Greater London Authority Act 1999 (“the 1999 Act”). This could be used for an exemption, for example, for emergency vehicles or disabled persons. The NAW also has powers to set exemptions, reduced rates or limits applying to Welsh local charging schemes. Subject to these regulations, *section 172(2)* provides that any

charging scheme will be able to set additional exemptions, reductions or limits as the authority wishes, subject to approval.

Sections 173 to 175: Enforcement of charging schemes

153. *Sections 173 and 175* allow the appropriate national authority and Lord Chancellor to make regulations to provide for the fair and effective enforcement of road user charging schemes. This includes arrangements for adjudication. The Act provides that non-payment of a road user charge will be a civil matter rather than a criminal offence, and outstanding charges will be recoverable as a civil debt. Charges will not apply to vehicles that are not on the road. It is expected that the registered keeper of a vehicle will generally be liable to pay any penalty charges, but that there will be a defence where the vehicle has been stolen. Deliberate tampering with documents or any in-vehicle or roadside equipment with intent to avoid payment or being identified as having failed to pay a charge by obscuring a vehicle licence plate to avoid identification following non-payment. are more serious cases and will therefore be subject to criminal rather than civil law. *Sections 174 and 175* provides powers for the appropriate national authority to make regulations to allow enforcement actions such as the examination of vehicles and equipment, and immobilisation, removal, storage and disposal of vehicles. They also allow the seizure of evidence and provide for criminal offences where the exercise of enforcement powers are hindered or immobilisation devices and notices removed without authority.

Sections 176 to 177: Supplementary

154. *Section 176* allows charging authorities to install and maintain any equipment or buildings in connection with effective operation of a charging scheme. It also provides for the Secretary of State and NAW to prescribe in regulations the basic specifications for roadside equipment, so that all schemes will be technically interoperable.
155. *Section 177* allows the Secretary of State or the NAW to direct a charging authority to put up traffic signs on their land in relation to a charging scheme; and to direct any authority to put up traffic signs in connection with a trunk road charging scheme.

Chapter II: Workplace Parking Levy

Sections 178 to 182

156. *Section 178* defines the concept of licensing schemes, and enables licensing schemes to be introduced by a local traffic authority outside London, either singly or jointly with another local traffic authority or authorities or with a London traffic authority or authorities. A licensing scheme is the mechanism for collecting the workplace parking levy. It will be for local authorities to decide whether or not to bring forward a scheme. Section 178 also provides that the occupier of a premises will be responsible for paying charges, but allows the Secretary of State or NAW powers to specify other persons in certain circumstances through regulations.
157. The occupier of a premises will be required to apply to a local authority for a licence to park up to a stated maximum number of vehicles ("licensed units") at the premises, and pay the appropriate sum based on the charge per unit. Local authorities will be obliged to issue the licence for the number of units requested - they will not be able to use this mechanism as a means of directly controlling the number of parking places the person provides.
158. *Sections 180 to 181* allow licensing schemes to cover any part of the area of the authority or authorities making the scheme, and require that a scheme must be in support of the relevant local transport plan or plans (see paragraphs 108 to 113), or, in the case of a joint scheme involving a London authority the transport strategy prepared and published by the Mayor.

159. *Section 182* provides the detailed definition of workplace parking. The definition is designed to include all forms of parking by those attending premises where they will carry out their work. The parking can be at or in the vicinity of the workplace - this is intended to catch, for example, parking at a car park adjacent to the workplace, but to exclude parking at a park and ride site or station car park, where the worker makes a further journey to reach the workplace. It also is designed to include parking provided by arrangement with a third party - for example where an employer has a contract with a nearby car park company to provide a certain number of spaces for its workforce.
160. Included in the definition is parking by the employer himself, his employees, suppliers, business customers or visitors, and pupils or students at an educational establishment. Suppliers can mean, for example, a photocopier engineer called out to make repairs, or an external consultant providing advice on site. The definition also includes members of organisations such as a recreational club or Chamber of Commerce, but only when they are engaged in the carrying on of any business of the body.

Section 182 also includes a power for the Secretary of State or NAW to change this definition by regulations. This power is designed to allow the prompt closure of any loopholes which the definition may contain. It does not provide for the extension of the scope of the levy beyond workplace parking to, for example, customer leisure or retail parking.

Sections 183 to 185: Making of licensing schemes

161. *Sections 183 to 185* closely follow section 168 to 170 in Chapter I on road user charging, setting out the order-making process for introducing a licensing scheme.

Sections 186 to 188: Contents of licensing schemes and licences

162. *Section 186* sets out the basic elements which a licensing scheme must contain, and allows for variations in the charges according to different days or times of day, different parts of the licensing area, different classes of motor vehicles or different numbers of licensed units. For example, an authority will be able to choose to apply the levy only to parking during normal office hours on weekdays, to charge different rates for two-wheeled vehicles, or to set a sliding scale so that the charge per vehicle increases or decreases above certain thresholds.
163. *Section 187* mirrors section 172 in Chapter I in granting powers to set exemptions, reduced rates or limits on workplace parking charges by regulations.
164. *Section 188* sets out the essential elements that must be included in a licence under a licensing scheme. Licences may not be granted for a period of greater than one year.

Sections 189 and 190: Enforcement of licensing schemes

165. *Section 189* largely follows section 173(1) to (3) in Chapter I, in providing for regulations to set out the enforcement requirements for licensing schemes. *Subsection (3)* makes the occupier of a premises liable to pay parking levy penalty charges but allows the Secretary of State or NAW to specify other persons in certain circumstances. *Subsection (4)* enables the regulations to specify arrangements for adjudication and enforcement of licensing schemes. *Section 190* allows for a right of entry to premises by an authorised official to check that workplace parking is appropriately covered by a licence. It also creates an offence of intentionally obstructing an authorised official in the exercise of these powers.

Chapter III: General and Supplementary

166. The following sections are common to both road user charging (Chapter I) and the workplace parking levy (Chapter II).

167. *Section 191* introduces the financial provisions in Schedule 12. *Section 192* allows charging/licensing authorities to spend money on operating a charging or licensing scheme, and to enter into contracts with third parties for the implementation and operation of a scheme. *Section 193* allows for guidance to be issued. *Section 194* allows various bodies carrying out statutory functions to share information in relation to charging schemes or licensing schemes. This will allow, for example, information needed for enforcement purposes to be given by the Driver and Vehicle Licensing Agency (“DVLA”) to the charging authority, but ensures that such information must only be used in connection with charging or licensing schemes. *Section 195* gives a regulation-making power to the Lord Chancellor to provide for appeals in respect of schemes. *Section 196* ensures that this Part applies to the Crown and its agents.
168. *Section 197* establishes that regulations are exercisable by statutory instrument; most will be subject to the negative resolution procedure in England, the power to amend the definition of workplace parking in section 182(5), and the powers to change hypothecation provisions in *Schedule 12* will be subject to affirmative resolution procedure in the House of Commons, and such regulations will be subject to approval by the Treasury.
169. *Section 198* provides definitions, *section 199* invokes *Schedule 13* which makes amendments to the equivalent provisions to the GLA Act 1999, and *section 200* exempts roads included in the road user charging scheme from local non-domestic rates.

Schedule 12

170. *Schedule 12* contains the financial provisions for road user charging and workplace parking levy schemes.
171. *Paragraph 2* defines net proceeds. In broad terms, once the gross proceeds have been received under a scheme, the charging authority will subtract the expenses of establishing or operating the scheme to give the net proceeds. *Paragraph 2(2)* allows the Secretary of State or the NAW to make regulations determining how net proceeds for local schemes are to be arrived at, and by regulations to treat certain wider expenses as deductible from gross proceeds in the case of a trunk road charging scheme. These relate to the costs of constructing, improving or maintaining the charged road. This will particularly apply to private finance contracts where a private operator may be contracted to build or maintain a road or structure as well as operating the charging scheme on it.
172. *Paragraph 2(4)* allows a complementary trunk road charging scheme and the local authority scheme which it complements to include the expenses of either scheme within its own expenses. This will allow flexibility for local authorities and the Secretary of State/NAW to agree to apportion costs between the complementary schemes as is most appropriate.
173. *Paragraphs 3 and 4* deal with the apportionment of the net proceeds of a joint scheme or of a complementary trunk road charging scheme and the local authority scheme it is supporting.
174. *Paragraphs 5 and 6* cover the accounts and funds charging or licensing authorities are required to keep and the treatment of deficits and surpluses between financial years. *Paragraph 5* allows the Secretary of State or NAW to make regulations governing the keeping and publication of accounts.
175. *Paragraph 7* sets out how net proceeds can be spent for schemes starting in the 10 years after commencement of the charging powers in the Act. It requires that net proceeds will be “hypothecated” and can only be spent in support of the authority’s local transport plan for the first ten years of a scheme’s life. It also makes provision for joint schemes, including ones involving a London charging authority where their share of proceeds must be spent in line with the Mayor’s transport strategy.

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176. *Paragraph 7* also allows periods of hypothecation that are longer than 10 years to be agreed by the Secretary of State or NAW at the outset for individual schemes. It also allows regulations to make provision, where a scheme is revoked and restarted, or modified, to judge whether the same or a different scheme can be regarded as being in force for deciding when the period of hypothecation starts or ends.
177. *Paragraph 8* provides that after the period of hypothecation local authorities must spend net proceeds in accordance with regulations made by the Secretary of State. It would also allow the Secretary of State or NAW to provide that schemes starting later than 10 years after the commencement of the charging powers could be included in *paragraph 7*'s hypothecation requirements. *Paragraph 8* requires that local authorities must spend net proceeds only on things that offer value for money, and allows the NAW and the Secretary of State to issue guidance.
178. *Paragraphs 9 and 10* require local authorities outside London to prepare a 10 year general plan for spending proceeds, and more detailed plans linked to the timetable for preparing local transport plans. These have to be agreed by the Secretary of State or the NAW. *Paragraph 12* allows the Secretary of State, in consultation with the Greater London Authority, to make regulations about the application of revenues from joint schemes involving a London charging authority.
179. *Paragraph 13* covers the application of revenues from trunk road charging schemes. Schemes that are complementary to local authority charging schemes have parallel arrangements; the Secretary of State or the NAW will keep the revenue for 10 years from the start of a scheme where that scheme is started within 10 years of the legislation coming into force. The revenue must be spent on transport purposes. *Paragraph 13(2)* allows that 10 year period to be extended by regulations. The proceeds of trunk road bridge and tunnel charging schemes will be available for use of the Secretary of State or NAW for 10 years from the start of the scheme, whenever that is.

Schedule 13

180. *Schedule 13* contains amendments to Schedules 23 and 24 to the 1999 Act. In particular it extends a number of the provisions referring to the operation of charging and licensing schemes contained in this Act to London.