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Transport (Scotland) Bill: Ticketing arrangements, Regional Transport Partnership finance and Scottish Canals

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This briefing provides an overview of the ticketing and miscellaneous provisions set out in the Transport (Scotland) Bill.



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Executive Summary

The key proposals relating to smart and integrated ticketing, Regional Transport Partnership finance and the membership of the Scottish Canals board are summarised below.

Smart and integrated ticketing: The Bill proposes a number of ticketing related proposals, which are summarised below.

- the definition of "ticketing arrangements" in the Transport (Scotland) Act 2001 would be extended to include connecting rail or ferry services
- A new definition of "smart ticketing arrangements" would be created
- Scottish Ministers would be able to alter the definition of ticketing arrangements by regulation
- Scottish Ministers would have the power to establish, vary and revoke a national technical standard for the implementation and operation of smart ticketing arrangements
- Scottish Ministers would have the power to establish a National Smart Ticketing Advisory Board - to advise Scottish Ministers on smart ticketing arrangements and the national technological standard for smart ticketing.
- The provisions governing the detailed operation of ticketing schemes set out in the Transport (Scotland) Act 2001 Act would be amended
- Local authorities would also be required to submit annual reports about the operation of a ticketing scheme to Scottish Ministers.

Regional Transport Partnership finance: The Bill would:

- require constituent councils to fund the balance of the RTPs estimated costs rather than actual costs
- amend the Local Government (Scotland) Act 1975 to allow RTPs to hold and operate capital funds, renewal and repair funds and insurance funds in a similar way to councils
- extend provisions in the Local Government etc. (Scotland) Act 1994 to cover RTPs. This would grant RTPs the power to borrow and lend money and to operate a loan fund.

Scottish Canals: The Bill would amend the Transport Act 1962 to increase the membership of the British Waterways Board from "a chairman, a vice chairman and between one and four other members" to "a chairman, a vice chairman and at least 4 but no more than 9 other members".

Introduction

The Transport (Scotland) Bill ("the Bill") was introduced to the Scottish Parliament by Derek Mackay MSP, Cabinet Secretary for Finance and the Constitution, on 8 June 2018. Part 3 of the Bill deals with ticketing arrangements. Part 6 deals with miscellaneous provisions, that is:

- Regional Transport Partnership (RTP) finance
- Membership arrangements of the British Waterways (known as Scottish Canals) board

This briefing summarises:

- Current arrangements for public transport ticketing, RTP finance and the Scottish Canals board
- The proposals set out in "Part 3: Ticketing Arrangements and Schemes" and "Part 6: Miscellaneous and General" of the Bill
- Financial implications of the Bill
- Consultation on these proposals undertaken by the Scottish Government prior to the introduction of the Bill

Ticketing arrangements and schemes

Current arrangements: The Transport (Scotland) Act 2001 ("the 2001 Act") requires local transport authorities to periodically assess what "ticketing arrangements" for local services should be made available in their area. A local service includes local bus services across Scotland and Edinburgh tram services. Any "ticketing arrangement" should allow a passenger to enter a single transaction (in effect, buy one ticket) which allows them to:

- make more than one journey on particular local services
- make a single journey on two or more local services; or
- choose between different operators providing the same journey

Local transport authorities are required to keep ticketing arrangements in their area under review and, if arrangements are not being made available which should be, work with local operators to make such ticketing arrangements available. If a local authority cannot reach voluntary agreement with operators for ticketing arrangements, they can make ticketing schemes that must be implemented by operators. However, this power can only be used if the authority considers that the proposed scheme:

- would be in the public interest
- would implement the authority's general policies; and
- meet the requirements of the competition test set out in section 37 of the 2001 Act

Prior to implementation, any ticketing scheme must be subject to public consultation and formal notification. Once made, the operators of local services must implement any ticketing arrangements required under a ticketing scheme.

Proposals in the Bill: The Bill proposes a number of ticketing related proposals, which are summarised below.

Ticketing arrangements: The definition of "ticketing arrangements" in the 2001 Act would be extended to include a journey or journeys which can be made on one or more local services and one or more connecting rail or ferry services. A new definition of "smart ticketing arrangements" would be created, defined as follows:

“ arrangements which include provision to the effect that evidence of a person’s entitlement to travel may be held or produced by the person in electronic form (whether or not it may also be held or produced in another form)”

Scottish Ministers would also gain the power to amend the definition of ticketing arrangements by regulation.

National technological standard for smart ticketing : Scottish Ministers would have the power to specify, vary and revoke a national technical standard for the implementation and operation of smart ticketing arrangements - which can include a standard published by another person. Scottish Ministers would be required to consult the National Smart Ticketing Advisory Board before specifying, varying or revoking any national standard. All future ticketing schemes made after the relevant provisions are in force and the standard

is set would be required to provide that the ticketing arrangements required by the scheme comply with the national technological standard.

National Smart Ticketing Advisory Board: The Bill would require Scottish Ministers to establish a National Smart Ticketing Advisory Board. The Board's functions would be to advise Scottish Ministers on smart ticketing arrangements and the national technological standard for smart ticketing.

Ticketing schemes: The provisions relating to ticketing schemes set out in the 2001 Act would be amended to require that, in making a ticketing scheme, local transport authorities must:

- provide that the ticketing arrangements to be provided under the scheme must be smart ticketing arrangements that meet the national technological standard for smart ticketing
- co-operate with neighbouring authorities and have regard to the desirability of making cross-boundary schemes or schemes which are similar to those in other authority areas
- engage with additional named consultees while developing a ticketing scheme
- obtain the consent of relevant connecting rail and ferry operators before making a scheme that would include arrangements involving such connecting services

In addition, the provisions of the 2001 Act would also be amended to allow local transport authorities making a scheme to require the ticketing arrangements to make provisions covering issues including payment methods, who receives payment, publicity, information on services and the appearance of tickets.

A local authority could vary or revoke a scheme, subject to the same notification and consultation provisions as apply to the creation of a scheme. Local transport authorities would also be required to submit annual reports to Scottish Ministers about the ticketing arrangements and schemes they have made, varied or revoked in each operating year.

Scottish Ministers would have the power to issue:

- a direction requiring one or more local transport authorities to exercise their powers to make or vary a ticketing scheme.
- guidance on ticketing schemes and arrangements, which local transport authorities must have regard to

Consultation on the proposals in the Bill: Transport Scotland ran a consultation on The Future of Smart Ticketing in Scotland ¹, which was open for comment between 13 September 2017 and 5 December 2017. The consultation posed 20 questions, on matters including:

- The potential for smart ticketing to promote use of public transport in Scotland
- A national e-purse scheme
- Multi-modal, multi operator regional smart ticketing schemes

- A governance group to control the implementation of smart ticketing schemes
- The potential wider impacts of smart ticketing

Transport Scotland published *The Future Of Smart Ticketing In Scotland Analysis of Responses to the Consultation*² in March 2018. A total of 148 responses were received, of which 98 from individuals, 14 from local authorities, nine each from transport operators and other public bodies, and the remainder from other transport stakeholders. The analysis of responses concluded that:

“ The majority of respondents thought that a consistent smart payment option available across Scotland and on all main public transport modes would promote use of public transport in Scotland. Many respondents highlighted the potential benefits of this scheme, including the convenience of not having to use cash and the ability to seamlessly switch between modes using the same payment method. Some respondents referred to existing successful smart ticketing schemes around the world including the London Oyster Card. Several respondents provided caveats for their support of the proposals, including that smart ticketing would only promote use of public transport if implemented alongside other measures such as fare capping or integrated travel networks. A smaller number of respondents were concerned about the proposals, highlighting issues such as those who can only pay in cash and the difficulty to implement such a scheme nationally. Another point that respondents raised was that contactless credit or debit card payments should either be added to or replace the e-purse in order to future proof it. ”

Financial implications: The financial memorandum which accompanies the Bill concludes that:

“ the Bill is considered to have no significant cost implications upon commencement of relevant provisions on smart ticketing.”

This is due to Transport Scotland, local authorities, regional transport partnerships and bus operators already having hardware, software and procedures in place for the provision of the national concessionary fares scheme for older and disabled people. Assuming the first national technological standard for smart ticketing adopted is the standard used for this scheme (known as ITSO 2.1.4), then additional costs would be kept to a minimum.

Regional Transport Partnership finance

Current arrangements: Regional Transport Partnerships (RTPs) were established on 1 December 2005 under the provisions of the Transport (Scotland) Act 2005. The seven RTPs, which cover the whole of Scotland, are:

- [Shetland Transport Partnership](#) (ZetTrans)
- [Highlands and Islands Transport Partnership](#) (HITRANS)
- [North-East of Scotland Transport Partnership](#) (NESTRANS)
- [Tayside and Central Scotland Transport Partnership](#) (TACTRAN)
- [South-East of Scotland Transport Partnership](#) (SESTRAN)
- [Strathclyde Partnership for Transport](#) (SPT)
- [South-West of Scotland Transport Partnership](#) (Swestrans)

The primary function of each RTP is to produce a regional transport strategy. RTPs are independent bodies corporate, similar to local authority joint boards, that bring together local authorities to perform functions collectively over a large area. All local authorities in Scotland are members of one or more RTP.

RTPs can take three forms:

- Model 1: Produce a Regional Transport Strategy with very limited transport powers transferred from constituent local authorities
- Model 2: Produce a Regional Transport Strategy with some transport powers transferred from constituent authorities
- Model 3: Produce a Regional Transport Strategy with significant transport powers transferred from constituent authorities

Currently, there are four Model 1 and three Model 3 RTPs in Scotland. The model 3 RTPs being SPT, Swestrans and ZetTrans. It is worth noting that Swestrans and ZetTrans have only one constituent local authority and that the current SPT was preceded by a Passenger Transport Authority and Executive (PTAs/PTEs) covering most of the same area.

Proposals in the Bill: Currently the constituent council(s) that make up an RTP must fund the balance of its costs after grant and other income is taken into account.

The Bill would change this, to require constituent councils to fund the balance of the RTPs estimated costs rather than actual costs. In practice this means that an RTP would be able to carry surplus funds from one year to the next where its actual costs for a year are less than its estimated costs.

The Bill would also amend the Local Government (Scotland) Act 1975 to allow RTPs to hold and operate capital funds, renewal and repair funds and insurance funds in a similar way to councils. The Bill would also extend provisions in the Local Government etc.

(Scotland) Act 1994 to cover RTPs. This would grant RTPs the power to borrow and lend money and to operate a loan fund and provide for further regulation of RTP financial powers.

Consultation on the proposals in the Bill: Transport Scotland ran a Consultation on the financial accounting arrangements for Regional Transport Partnerships³, which was open for comment between 20 October 2017 and 12 January 2018. The consultation posed four substantive questions:

1. Is it necessary to clarify whether an RTP is able to build up, and carry over, a financial reserve from one year to the next?
2. Should there be a limit to the amount of surplus that an RTP may carry forward into the next financial year?
3. Should safeguards be provided to limit the financial liability of local authorities towards RTP expenses?
4. Are there any local government finance provisions which could usefully be applied to the RTPs?

Transport Scotland published an analysis of consultation responses⁴ in July 2018. A total of 16 responses were received, six from RTPs, four from local authorities and six from individuals. The majority of respondents thought that:

- there was a need to clarify whether an RTP is able to build up, and carry over, a financial reserve from one year to the next
- there should not be a limit on the surplus that could be carried over
- there should be safeguards to limit the liability of local authorities

Respondents were evenly split on whether RTPs should have the same range of powers that are available to other public sector bodies such as local authorities, although most RTPs that responded were in favour of this proposal.

Financial implications: The Financial Memorandum which accompanies the Bill states that:

“ There are no costs associated with the proposals to create greater financial accounting flexibility for Transport Partnerships.”

Scottish Canals board

Current arrangements: Scottish Canals is the operating name of the British Waterways Board. The British Waterways Board was established by the Transport Act 1962 to manage and maintain Britain's inland waterways. Responsibility for the inland waterways in Scotland was devolved to the Scottish Parliament by the Scotland Act 1998, with the British Waterways Board designated as a cross-border public authority under the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999.

In October 2010 the UK Government decided that the British Waterways Board's functions and assets in England and Wales would transfer to a new waterways charity, the Canal & River Trust. Scottish Ministers decided that Scotland's canals, and the British Waterways Board in Scotland, would remain in public ownership.

The UK Government secured power to transfer the British Waterways Board functions in England and Wales under the Public Bodies Act 2011. The transfer was made under British Waterways Board (Transfer of Functions) Order 2012 ("the BW Order"). The BW Order allowed the British Waterways Board to continue to operate in Scotland, without involvement from UK Ministers. The BW Order also removed the British Waterways Board's status as a cross-border public authority.

Section 1 of the Transport Act 1962, as amended, states that "The British Waterways Board shall consist of a chairman, a vice chairman and between one and four other members". The current limit on the size of the British Waterways Board was inserted into the Transport Act 1962 by the BW Order in 2012.

Proposals in the Bill: The Bill would amend the Transport Act 1962 to increase the membership of the British Waterways Board from "a chairman, a vice chairman and between one and four other members" to "a chairman, a vice chairman and at least 4 but no more than 9 other members".

The policy memorandum which accompanies the Bill explains that:

“ The changing nature of the Board's functions (as with the focus on regeneration, housing and tourism) requires additional flexibility to appoint more members who have relevant experience in relation to the wider role which Scottish Canals has in the public sector. The Bill allows the Scottish Ministers flexibility in the make-up of the Scottish Canals Board, enabling them to expand the experience and knowledge on the Board should this be required. This expanded size is likely to allow the Scottish Ministers to appoint the executive team to the Board which will enable the expansion of the skills, accountability and transparency of the Board.”

Consultation on the proposals in the Bill: These proposals have not been subject to any detailed public consultation. The policy memorandum which accompanies the Bill indicates that:

“ The Scottish Canals Board and executive team have been consulted and are content with the proposals.”

Transport Scotland officials have advised SPICe that

“ ... we did discuss the proposals with the Keep Canals Alive campaign group during a meeting with them. The group contains representatives from canal societies and other charitable and voluntary organisations with an interest in the canal network.”

Financial implications: The financial memorandum which accompanies the Bill states that:

“ The measures to alter the structure of the Board of Scottish Canals are not considered to generate any financial consequences.”

Bibliography

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