

Transport (Scotland) Bill – Workplace Parking Levy Amendments

**Submission to the Scottish Parliament's Rural
Economy and Connectivity Committee**

June 2019

Transport (Scotland) Bill

Submission from FSB Scotland

Overview

The Federation of Small Businesses (FSB) is Scotland's leading business organisation and aims to help smaller businesses achieve their ambitions. These micro and small businesses comprise the majority of all enterprises in Scotland (98%), employ around one million people and contribute £68bn to the economy.

We welcome the opportunity to contribute views on the proposed amendments to enable the introduction of workplace parking levies (WPL) in Scotland. Our submission to the committee at Stage 1 of the Bill welcomed the commitment to improve air quality in Scotland. Small businesses are ready and willing to play their part in tackling air pollution but homes, businesses and workplaces in our town and city centres rely upon the goods and services provided by smaller firms. While we are keen to support small businesses in the transition to low emission vehicles, it seems likely that because of their vehicle use, a broad range of businesses are likely to have parking spaces available at their premises and may therefore be affected by the measures proposed in the amendments to the Bill.

Key Comments

We understand that a flexible approach to the legislation enabling WPLs allows for place-appropriate schemes. Nevertheless, we believe that local flexibility should be underpinned by a stronger national framework to ensure a degree of consistency in approach.

The powers that the amendments seek to grant to local authorities are wide ranging. To the extent that, provided that they stay within the small number of parameters laid down in the amendments, local authorities could introduce any number of licensing schemes, applying to almost any type of workplace parking facilities. It is therefore not possible to predict with any accuracy the likely impact of this legislation on businesses, their customers and employees.

However, looking purely at the amendments, a number of points and themes emerge. Perhaps most importantly, given the broad enabling powers proposed, we are keen to ensure that the key regulatory steps of good consultation and impact assessment are baked into the process at local level. Further, we are keen for further clarification regarding definitions of scope, as well as exploring the purpose, practicality and fairness associated with exemptions. These points are discussed in more detail below.

1) The need for proper consultation and impact assessment

The limited framework in the primary legislation setting out the rules and operation of WPL schemes, means that robust local scrutiny and accountability will be especially important when individual schemes are put forward.

It is therefore concerning that there are so few objective requirements, or opportunities for external scrutiny, in the suggested approval process. It is worth noting that FSB has consistently

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highlighted the poor practice of local authorities in this area, where there has been a consistent failure to adopt processes such as the Business and Regulatory Impact Assessment (BRIA) developed by the Scottish Government.

Section 10(1)(a)(iii) requires that, prior to introducing any scheme, the local authority must prepare and publish “an assessment of the impacts of the proposal”, with **10(4)** further stipulating that this assessment must “set out what the local authority considers to be the likely effects of the proposal on” those who will have to pay charges under the scheme and the environment.

We believe this section, or at the very least any subsequent guidance, needs to place more detailed requirements upon local authorities in relation to a specific business impact assessment, including a small business assessment.

Further, **section 10(1)(b)** also requires that, prior to introducing any scheme, the local authority must “consult such persons” that they themselves consider “appropriate in relation to the proposal (including, in particular, persons that the authority has identified as likely to be affected by the proposal)”.

Even with the qualification in parenthesis, this is too weak. In the interests of local accountability and transparency, the Bill should set out a list of statutory consultees, including the local business community, who must be consulted directly. Notwithstanding such a requirement, it

should be made clear that business consultation requires not just engagement with business representative organisations but demonstrable consultation with local businesses to ensure the wide ranging size, sector and type of local businesses are given an opportunity contribute. Some of the very smallest workplaces, whether small firms, social enterprises or third sector bodies could potentially be severely (and disproportionately) impacted by any change; thus it’s important to ensure their ability to be involved in the development of any scheme is a fundamental part of the process.

The importance of this step is further underlined by the fact that there seems to be, with the exception of the provisions in **section 12** allowing for the holding of a local inquiry, no routine, objective, external check that the necessary conditions have been met before the local authority can proceed with its own scheme.

2) The need for proper consultation and impact assessment

From the way in which **section 8** is worded, it appears that it is not the intention to apply charges to spaces offered for private customer parking, if those customers are at a particular premises as personal consumers. This may require some additional clarification.

Section 8(4) defines the “business customer”, as referred to in **8(1)(b)**, as “a client or customer of the relevant person who is attending at any

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premises occupied by the relevant person for the purposes of a business carried on by that client or customer”.

As neat as this distinction might seem, there are practical issues around defining when a customer is in pursuit of that customer’s business, especially in premises which both business visitors and the general public will visit. For example, a sales rep visiting a purchasing manager is clearly there on business. When, however, s/he checks into a hotel that night before going his/her next round of appointments the following day, is that in pursuance of their business or not?

Equally, one would assume that the self-employed tradesperson visiting a DIY retail store to buy materials for a job would be there in pursuit of their business, whereas the home DIY enthusiast would not. But how would that be reflected, charged for or organised in the car park?

Given the questions about how this would operate in practice – and the questions this raises about enforcement – we would suggest that the “occasional business visitor” exemption in the Nottingham City Council (NCC) scheme provides a very useful definition which should be adopted as a national exemption.

3) The balance between national and local exemptions

On the subject of exemptions, it is positive that **section 15(2)(b)** specifically provides that there may be local exemptions for “premises with a

specified number of parking places (or fewer)”. We are concerned about the potential administrative and financial challenges WPLs may present to the smallest workplaces, as highlighted above. A de minimis exemption in the national framework, similar to that applied in Nottingham (with a lower-end threshold of 10 spaces), would reduce the disproportionate burden facing micro businesses, as well as being easier and more cost efficient to administer.

Staying with national exemptions, one of the more controversial aspects of these proposals has been the idea, as detailed at **section 16(1)(b)** that NHS staff car parks should be specifically exempt from the charge. In particular, **section 16(3)** makes it clear that “qualifying NHS premises” includes “any other premises occupied by a Health Board or Special Health Board” – thus exempting administrative staff, managers and executives.

There are likely to be a number of circumstances in which there are strong grounds to exempt certain parking spaces, staff and workplaces. One such circumstance would be in relation to workers who deliver critical services on a 24 hr basis, particularly in relation to health and other public services. However it is worth noting that such a definition would potentially include staff working from premises other than those run by the NHS, given the number of functions delivered by other companies or organisations.

Similarly, there are particular concerns around the wide range of businesses and organisations which operate

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beyond 9-5, from hospitality and care, to retail and cleaning, where driving to work is the safest – and often only – way for staff to travel to work. Lastly, considering the air quality imperative, there may also be a compelling case to exempt low emission or electrical vehicles.

While the amendments enable the consideration of such exemptions at local level, the blanket national exemption of all NHS premises – irrespective of worker role (e.g. clinical, level of pay), hours worked or type of vehicle – seems oddly wide ranging, particularly as these may be some of the largest workplaces in a local area.

More generally, we are concerned about the potential precedent created by such an organisational exemption. Under **section 17**, local authorities may introduce discounted charging rates to different types of organisations, such as other parts of the public sector, the voluntary sector, or indeed themselves. We would caution against any course of action that would make workplace parking charges, in effect, an exclusive tax levied only on private sector employer or workers. Not only would such an approach be divisive, the exclusion of such large workplaces would reduce revenues and environmental gains. Thus, we recommend that it is worth considering whether provisions to prevent pitting private sector against public should be included on the face of the Bill.

Further Information

For further information please contact Susan Love, Policy Manager
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The FSB campaigns for a better social, political and economic environment in which to work and do business. With a strong grassroots structure and dedicated Scottish staff to deal with Scottish institutions, media and politicians, the FSB makes its members' voices heard at the heart of the decision-making process. It is therefore recognised as one of Scotland's most influential business organisations. The FSB also provides a suite of services to help our members reduce the cost and risk of doing good business – from legal and tax protection to business banking.

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