

LOCAL GOVERNMENT AND REGENERATION COMMITTEE - CALL FOR EVIDENCE: FOOTWAY PARKING AND DOUBLE PARKING (SCOTLAND) BILL

A MEMORANDUM FROM THE SCOTTISH MINISTER FOR TRANSPORT AND ISLANDS

Introduction

1. On 21 May 2015, Sandra White MSP introduced the Footway Parking and Double Parking (Scotland) Bill to the Scottish Parliament. The aim of the Bill is to prohibit parking on pavements, parking at dropped kerbs and double parking. The Bill primarily aims to enhance freedom of movement for pedestrians, and would be particularly beneficial for those with disabilities and their carers, older people, and people with pushchairs.

2. The Scottish Government recognises that the legal position on parking can sometimes cause confusion. Parking is regulated by various Acts and regulations, as well as by traffic regulation orders made for local purposes. Some of the statutory provisions, for example those that prohibit obstructive parking, attract a degree of subjectivity in their application. The Member's Bill seeks to introduce certain clear prohibitions, subject to various qualifications and exceptions.

Legislative Competence

3. The Presiding Officer has issued a statement that, in her view, the Bill is outwith the legislative competence of the Scottish Parliament. The statement will give rise to significant doubt as to whether any Act flowing from the Bill would be fully within the legislative competence of the Parliament. It would therefore be undesirable for the Bill to be passed against that background, not least because it proposes criminal penalties and sanctions.

4. The Scottish Government and the UK Government are working closely together to take forward amendments to the Scotland Act 1998 to address the legislative competence concerns that have arisen over the Bill, but it is not expected that any legislative competence alterations will be in force before the dissolution of the Scottish Parliament in March 2016 in advance of the parliamentary elections.

General transport policy

5. The Member's Bill aligns with our key transport strategic objective of "improving quality, accessibility and affordability of transport" as set out in the National Transport Strategy. Furthermore, transport policy supports a sustainable transport hierarchy of walking, cycling and public transport.

Enforcement

6. An issue that has been raised by some of the stakeholders during oral evidence sessions on 25 November is potential for inconsistent effect and enforcement across the country. At present **14** local authorities already have decriminalised parking enforcement (DPE) powers would be expected to enforce the new contraventions as part of their existing responsibilities. In the **18** local authorities without DPE, Police Scotland would be responsible as part of their wider traffic offences enforcement.

7. It is worth noting that the Member's proposal for commencement provision aims to give local authorities 12 months from Royal Assent to consider and prepare for the introduction of a DPE regime, if desired. Generally, we anticipate that some more authorities will take up DPE in future.

8. The timescales for delivering DPE can range between 18 to 24 months. A lot of the time must be spent on preparatory work to ensure that the enforcement regime operates effectively, including feasibility studies, consultation at local level and developing their application. For each local authority the work required may differ as they explore collaborative ways to deliver their parking management services, as such lead in times may vary accordingly.

Public acceptability

9. Although the majority of responses to the Committee's written evidence session were supportive of the Bill, some were unclear of how the general public will react to the introduction of the proposed prohibitions in practical terms. It has been suggested that local authorities would require to apply many exemptions in such areas to avoid a significant adverse public reaction to the proposals and to deal with challenging traffic management issues. There is also likely be a need to sensitively take account of town regeneration policies so as not to discourage people from shopping in their local towns through undue parking restrictions.

10. In addition, Police Scotland made it clear in their consultation response that the development of a robust education strategy and guidance for road users would be a vital component prior to a Bill being passed.

Summary

11. The Member has undertaken commendable work to develop a Bill that begins to turn the underlying principles into reality. Indeed, the aims of the Bill align with our key transport strategic objective of "*improving quality, accessibility and affordability of transport*" as set out in the National Transport Strategy. Having considered matters further the Scottish Government supports the general principles of the Member's Bill.

Conclusion

12. The Scottish Government will support the general principles of the Member's Bill at Stage 1, but will also make clear its view that no further action should be taken

by the Parliament on the Bill until the issue of legislative competence is resolved. The Scottish Government and UK Government are working together to progress this matter as quickly as possible but it is considered unlikely it will be resolved before the Scottish Parliament is dissolved. Should that anticipated timeline materially change I will provide an update to Ms White and the committee.

13. The Government believes that the focus should now shift to enabling a Bill to be progressed in the next parliamentary session and to undertaking more detailed policy work and engagement in order to develop a Bill that is fit for purpose and will command public confidence and support. Subject to the outcome of the Scottish Parliamentary elections, it is the Government's intention to bring forward the necessary primary legislation on responsible parking in the next parliamentary session.

Scottish Government
December 2015