

TRANSPORT (SCOTLAND) ACT 2019

EXPLANATORY NOTES

THE ACT

Part 4 – Ticketing Arrangements and Schemes

Introduction

280. Part 4 of the Act makes changes to the existing law in the Transport (Scotland) Act 2001 (“the 2001 Act”) about ticketing arrangements and ticketing schemes for bus travel. In particular it—

- extends these arrangements and schemes to include certain connecting rail and ferry services;
- gives the Scottish Ministers the power to set a national technological standard for the implementation and operation of smart ticketing arrangements;
- sets up a National Smart Ticketing Advisory Board;
- makes changes to what a ticketing scheme can include and the process for making one;
- requires local transport authorities to produce annual reports on ticketing arrangements and schemes; and
- gives the Scottish Ministers the power to direct a local transport authority to make or vary a ticketing scheme.

General Background

281. Sections 28 to 32 of the 2001 Act contain existing provision on ticketing arrangements and ticketing schemes in relation to local services. They require local transport authorities to keep under consideration what ticketing arrangements are needed in their area and give authorities a power to make ticketing schemes requiring such arrangements to be put in place if they are not able to arrange for them voluntarily.

282. “Ticketing arrangements” are defined in section 28(5) to mean arrangements where a single transaction (e.g. buying a ticket) gives a person the right to make more than one journey on particular bus services or to make a single journey on two or more services or to choose between different operators providing the same journey.

283. By virtue of sections 54(2) of both the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006, the tram services provided under those Acts are treated as “local services” and so are covered by the definition of ticketing arrangements despite not being bus services.

284. Section 28 requires local transport authorities to keep under review what ticketing arrangements should be made available for their area. If an authority thinks that some arrangements are not being made available which should be, they are to work with the operators of local services to make the ticketing arrangements available.

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(asp 17) which received Royal Assent on 15 November 2019*

285. Section 29 gives local transport authorities the power to make ticketing schemes requiring operators of local services to implement ticketing arrangements. The power can only be exercised if the authority considers the proposed scheme would be in the interest of the public and would implement the authority's general policies and if the competition test set out in section 37 is met.
286. Sections 30 and 31 set out the process for making a ticketing scheme including consultation and notification.
287. Section 32 provides that operators of local services must implement any ticketing arrangements required under a ticketing scheme.

Ticketing arrangements – section 41

288. Section 41(2) of the Act inserts a new section 27A into the 2001 Act which defines “ticketing arrangements” and other terms. It also inserts a new Chapter heading to group together the existing provisions on ticketing arrangements and schemes.
289. Section 27A(1) defines “ticketing arrangements”. Paragraphs (a) to (c) are the same as the existing definition in section 28(5). Paragraph (d) is a new part of the definition and extends ticketing arrangements to include arrangements where a person can travel on a local bus service and on a connecting rail or ferry service.
290. Section 27A(2) defines “smart ticketing arrangements”. These are ticketing arrangements where the proof of a person's right to travel can be held or produced by the person in electronic form. For example, arrangements where a person's ticket can be stored on a smartcard or an app on a mobile phone would be smart ticketing arrangements. Ticket arrangements that are put in place by operators can still be smart ticketing arrangements even if they allow for paper tickets as well as electronic ones.
291. Section 27A(3) and (4) set out the meaning of “connecting rail or ferry service” which is used in the definition of “ticketing arrangements” and elsewhere.
292. Section 27A(5) and (6) give the Scottish Ministers the power to add new types of arrangements to the definition of “ticketing arrangements”. These arrangements must involve travel on a local service and on a service of another kind specified in the regulations.
293. Subsection (3) of section 35 repeals the existing definition of “ticketing arrangements” in section 28(5) of the 2001 Act as it has been superseded by the new definition in section 27A(1).
294. Subsection (5) provides that the regulation-making power in section 27A(5) is subject to the affirmative procedure.

National technological standard for smart ticketing – section 42

295. Section 42(2) inserts a new section 27B into the 2001 Act which confers on the Scottish Ministers the power to specify and publish a technological standard for the implementation and operation of smart ticketing arrangements.
296. The standard specified is particularly relevant to ticketing schemes made under section 29 of the 2001 Act. Future ticketing schemes must require any arrangements made under those schemes to comply with the national technological standard (see section 44(2)(a)).
297. Rather than setting out the full details of the standard, Ministers may choose to specify a standard that already exists and has been published elsewhere – see section 27B(2).

National Smart Ticketing Advisory Board – section 43

298. Section 43(2) inserts a new section 27C into the 2001 Act which establishes the National Smart Ticketing Advisory Board.
299. The Board’s functions are to advise the Scottish Ministers in relation to their functions insofar as they relate to smart ticketing arrangements and the national technological standard for smart ticketing. The Board is also given the function of providing the Scottish Ministers with advice and recommendations in relation to the strategic development of smart ticketing in Scotland. In relation to the national technological standard, section 27B(4) (inserted by section 42(2)) provides that Scottish Ministers must consult the Board before specifying a standard (or varying or revoking an existing specification).
300. The Board is an advisory committee of individuals – it does not have separate legal personality. The process for appointing and remunerating members is to be set out in regulations made by the Scottish Ministers (section 27C(3) and (4)). Those regulations may also specify the decision-making process that the Board must follow, e.g. by making provision about voting. Before making the regulations, the Scottish Ministers must consult the organisations set out in section 27C(4).

Ticketing schemes – section 44

301. Section 44 makes a number of changes to sections 29 to 31 of the 2001 Act. Section 29 provides for local transport authorities to make ticketing schemes which require operators of local services to implement ticketing arrangements. Section 30 sets out the consultation requirements before a ticketing scheme can be made and section 31 sets out the procedure for making the scheme after consultation.
302. Subsection (2)(a) inserts new subsections (3A), (3B) and (3C) into section 29. The effect of subsection (3A) is that a ticketing scheme must require that any arrangements made under it are smart ticketing arrangements and that they comply with the national technological standard for smart ticketing.
303. Subsections (3B) and (3C) elaborate on the kinds of things that a local transport authority may specify in a ticketing scheme.
304. Subsection (2)(b) is a consequential change resulting from the definition of “ticketing arrangements” being moved from section 28(5) to new section 27A(1).
305. Subsection (2)(c) inserts new subsections (7) and (8) into section 29 requiring local transport authorities to co-operate with one another and to consider making ticketing schemes that will facilitate travel to adjoining areas or the adoption of similar ticketing arrangements in adjoining areas. In consequence, subsection (5) of section 44 of the Act removes ticketing schemes from the existing duty to co-operate in section 47 of the 2001 Act.
306. Subsection (3) makes two changes to section 30. The effect of the change in paragraph (a) is that notice of a proposed ticket scheme no longer needs to be given in a local newspaper; instead local transport authorities can give notice of it in the way they think appropriate to bring it to the attention of people in the scheme area. The list of persons and bodies that are to be consulted is extended to include everyone mentioned in subsection (3)(b).
307. Subsection (4)(a) inserts new subsection (1A) into section 31 of the 2001 Act. Given the definition of “ticketing arrangements” in section 27A (see section 41 above), ticketing schemes can include ticketing arrangements involving travel on connecting rail or ferry services. Subsection (1A) means that a ticketing scheme that includes such ticketing arrangements cannot be made unless the operator on the rail or ferry service in question consents.

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308. Subsection (4)(b) makes changes to the notice requirements in section 31(3) of the 2001 Act. As with the consultation requirements above, it substitutes the requirement to publish a notice in a local newspaper with discretion on behalf of the local transport authority to determine the best way to publicise the scheme in the scheme's area. It also extends the requirements to include notifying operators of connecting rail and ferry services where appropriate and notifying anyone who was consulted under section 30 but not already listed in section 31(3).
309. Subsection (4)(c) changes section 31(4)(b) to ensure that the notice identifies the connecting rail or ferry services that are affected by a ticketing scheme (if any).
310. Subsection (4)(d) adds new subsections (5), (6) and (7) to section 31 of the 2001 Act. These confer on local transport authorities the power to vary or revoke a ticketing scheme. The same procedure (set out in sections 29 to 31) applies to variation and revocation as applies to the making of a ticketing scheme.

Directions about ticketing schemes – section 45

311. Section 45(2) inserts a new section 32A into the 2001 Act giving the Scottish Ministers the power to issue directions to local transport authorities about ticketing schemes.
312. Inserted section 32A(1) confers the power to issue a direction requiring local transport authorities to use their powers under sections 29 and 31 to make or vary a ticketing scheme.
313. The direction may require particular ticketing arrangements or kinds of arrangements to be specified in the scheme and for those arrangements to have specific characteristics as set out in the direction. It may also require the scheme to apply to a particular kind of local service.
314. Inserted subsections (3) to (5) set out some procedural matters including (i) a requirement to consult the National Smart Ticketing Advisory Board before issuing a direction and (ii) a requirement that any direction must be in writing, must be published and must set out the Scottish Ministers' reasons for making it.

Reports on ticketing arrangements and schemes – section 46

315. Section 46(2) inserts a new section 32B into the 2001 Act requiring local transport authorities to produce annual reports on ticketing arrangements and ticketing schemes.
316. Inserted section 32B(1) provides for the reports to be published.
317. The content of a report is set out in inserted subsection (2). The report is to include:
- information on determinations under section 28(1) (determinations as to what ticketing arrangements should be made available for the local transport authority's area);
 - information on arrangements made under section 28(4) (arrangements with operators of local services to make ticketing arrangements) and on the extent to which they are smart ticketing arrangements complying with the national technological standard for smart ticketing; and
 - information on ticketing schemes made, varied or revoked during the year.
318. *318.* Inserted section 32B(3) clarifies that, where a scheme has been made jointly by more than one authority, each of those authorities must include the scheme within their report.

Application of ticketing arrangements and schemes to trams – section 47

319. Section 47(1) provides that the ticketing provisions in Chapter 3 of Part 2 of the 2001 Act (as amended and extended by sections 41- 46 of the Act) apply to tramway services. The exception to this is the provision contained in section 32(2) of the 2001 Act (ticketing arrangements to be treated as prescribed particulars for the purposes of registration of local bus services) which is excluded by section 47(2) of the Act.
320. Subsection (3) provides a definition of “tramway” and subsections (4) and (5) make consequential amendments to the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006, repealing section 54(2) of each Act on the basis that they are superseded by the provision made in subsection (1).
321. The effect of section 47 is to ensure that the ticketing provisions in the 2001 Act continue to apply to Edinburgh Trams and to allow for their application to any new tramway services which may be proposed in the future.

Guidance – section 48

322. This section makes some changes to existing provisions in section 79 of the 2001 Act which relate to guidance issued by the Scottish Ministers.
323. The amendments in subsection (2) mean that Scottish Ministers have the power to issue guidance about:
 - the determination by local transport authorities of what ticketing arrangements should be made;
 - ticketing schemes in general; and
 - the preparation by local transport authorities of reports under section 32B (see section 46 above).
324. Section 79 of the 2001 Act provides that local transport authorities must have regard to any guidance issued under that section. The guidance must be published.
325. Subsection (3) makes a consequential change to the interpretation section of the 2001 Act to provide a definition of “ticketing arrangements” for the purposes of section 79.