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The Transport Bill: Part III Road Charging and Workplace Parking

Bill 8 of 1999-2000

Part III of the *Transport Bill* enables local traffic authorities outside London to introduce road user charges and workplace parking levies to help tackle congestion in towns and cities. All revenue received in the first ten years must be spent on measures for improving local transport. It also enables the secretary of state and the National Assembly for Wales to introduce charges on trunk roads in very limited circumstances. Scotland is to introduce its own legislation.

This paper deals only with part III of the bill: other aspects are covered by research paper 99/102 on aviation, research paper 99/103 on local transport plans and buses and research paper 99/105 on railways.

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Summary of main points

The government announced in the white paper, *A new deal for transport*, published in July 1998, that it would consider introducing charges for road use and non-residential workplace parking. It issued a consultation paper, *Breaking the Logjam*, on the subject in December 1998. Road pricing can be designed to control the overall level of traffic in an area or it can be used primarily as a revenue raising tool.

Part III of the *Transport Bill* allows local authorities to introduce congestion charges and a workplace parking levy, but it will be for them to decide whether or not to do so. Local authorities will have to submit their plans for charging and for the use to which they will put the revenue raised to the secretary of state for approval. For the first ten years the money raised must be spent on local transport schemes. To be politically acceptable, significant improvements in public transport are likely to be required as a precondition. As a result the DETR does not expect to see widespread charging schemes being introduced for another 4 or 5 years.

The theoretical case for road pricing derives from the rationale that the users of roads, like the users of any other valuable and limited resource, should pay all the costs arising from their use. Only then will the decisions on whether, when, where and how to travel be made correctly. The problem is to agree the full social, economic and environmental costs. In the short run a road pricing system which assesses congestion, pollution and other externalities, can ensure those who contribute to them, pay for them. In the medium and long run, its function is also to guide decisions about investment (or disinvestment). If road users are prepared to pay a price for the use of roads that is greater than the cost of providing them (including all costs) then there is an argument for additional road space to be built. The practical reason for introducing road pricing is that it is likely to raise large amounts of money.

The main objections to road pricing are that it is impractical and unfair. However trials have shown that electronic systems appear to be capable of handling automatically large flows of moving traffic and of processing cashless transactions. Further tests are taking place in Leeds and Edinburgh to see how equipment will cope with real vehicles and road conditions.

The availability of convenient, guaranteed, free or cheap parking is a major factor influencing people's decision to drive to work. Even the harshest controls on public parking will have little effect on this. For controls over parking to be fully effective there needs to be some form of control over existing private non-residential parking. Local authorities will be able to introduce such charges.

The *Greater London Authority Act 1999* introduced the primary legislation for road user charging schemes and workplace parking charges in London.

Part III of the bill extends to England and Wales only.

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I Road user charging

A. Government policy

Part III of the *Transport Bill* includes powers for local authorities to impose charges for the use of roads and for workplace parking, in order to carry out the policies in their local transport plans. The explanatory notes to the bill say they can be introduced to help tackle congestion in towns and cities and if the improvement of local transport requires the "spending of revenues".¹

The government announced in the transport white paper, *A new deal for transport*, that it would consider introducing legislation to allow local authorities to charge road users:

4. 94 But experience has shown that improving public transport and related traffic management measures whilst necessary are not sufficient in many cases. We will therefore introduce legislation to allow local authorities to charge road users so as to reduce congestion, as part of a package of measures in a local transport plan that would include improving public transport. The use of revenues to benefit transport serving the area where charges apply, which in many cases will mean supporting projects in more than one local authority area, will be critical to the success of such schemes.

4.95 Carefully designed schemes should reduce traffic mileage and emissions, bringing significant improvements in air quality, reducing noise and greenhouse gas emissions and relieving congestion. This will benefit pedestrians, cyclists and public transport, including more reliable and quicker bus services and more reliable delivery times for freight. Less congestion also means shorter and more reliable journey times for those who continue to drive. Charging will provide a guaranteed income stream to improve transport and support the renaissance of our towns and cities. The availability of a revenue stream will also open up the scope for greater involvement of the private sector working in partnership with local authorities.

4.96 In rural areas, road user charging is most likely to be used where there are significant problems caused by very high levels of seasonal traffic, for example, in tourist areas such as the National Parks. We would welcome proposals for such initiatives to provide the basis for pilot schemes in rural areas.²

The government issued a consultation paper, *Breaking the Logjam*, on congestion charging and workplace parking in December 1998. It outlined the new powers that would be needed by local authorities if they were to raise money from these sources and asked for views on

¹ Para 13

² DETR *A new deal for transport: better for everyone* Cm 3950 July 1998 paras 4.92-4.99

how the schemes could be put into place.³ The results of the consultation are likely to be published about the time of the second reading debate.

The consultation paper set out the government's proposals for the primary legislation necessary to enable traffic authorities to introduce road user charging in all or part of their area or on particular roads, although it considered that much of the detail (such as possible limits to the size of the charges imposed, exemptions from charges and preferential rates, penalties for non-compliance and procedures for appeals) would be best provided in secondary legislation, statutory guidance or dealt with in the approval of individual schemes. It would not be compulsory to introduce schemes but would be up to local councils. Charges would be intended to reduce congestion, to prevent traffic growth, or to assist in other aims as part of the local transport plan. Although schemes were likely to be focused on urban areas, the document mentioned that charges might also be appropriate in rural areas, perhaps to address seasonal traffic in tourist areas, for example.

John Prescott emphasised that his proposals were not anti-car, whereas congestion was, and pollution could be a killer. In a statement at the time of the consultation paper, he pointed out that a fair price charging system could have a number of benefits:⁴

- cutting congestion on the roads so it is easier and quicker to make essential journeys;
- fighting pollution by improving the environment and attacking the rise in respiratory illnesses made worse by vehicle fumes;
- pumping money into improved local transport;
- ring fencing money raised by transport so it is spent on transport ; and
- cutting the costs to business when goods and people get stuck in traffic.

The Conservative government considered introducing urban road pricing but following the report into congestion charging in London published in 1995, it concluded that there was no accurate or proven technology existing for such a system and as a result decided against it. In its 1996 green paper, *Transport: the Way Forward*, it explained:⁵

This work has significantly advanced knowledge of the advantages and disadvantages of charging. It confirmed the potential benefits, specifically the potential congestion charging offered to bring about a significant reduction in traffic levels in the charged area, with consequent improvements in journey speeds and reliability and reductions in emission levels. But it also identified a number of complex issues, relating primarily to administration and enforcement that need to be addressed before congestion charging could be a realistic policy option. The government concluded on that basis that a congestion charging scheme could not be implemented this century, but that work could continue on

³ DETR *Breaking the logjam; the government's consultation paper on fighting traffic congestion and pollution through road user and workplace parking charges*, December 1998

⁴ DETR press notice *Breaking the logjam*, 8 December 1998

⁵ Department of Transport *Transport: the Way Forward*, 1996

the subject. Further research and development is in progress, in partnership with interested local authorities.

Despite the presumption that road pricing would be introduced, the proposal was not in the Conservative party's election manifesto in 1997 and the Conservatives opposed the introduction of road user charges during the passage of the *Greater London Authority Bill 1998-99*.⁶ In July 1999 the Conservative Party published their policies for a better transport policy in *A fair deal for the motorist*. In this they said that they believed "road user charges are unacceptable unless they are applied where there are genuine alternatives to the use of the car, where the money raised would be truly additional to local transport grants and only after a proper assessment of the social and economic impact has been made".⁷ John Redwood has said that the Opposition will oppose congestion charging introduced in this bill.⁸ He continued "The main problem with the Transport Bill is that it cannot possibly work. The answer to travel congestion is more capacity."

B. Background

The most recent national road traffic forecasts were published in October 1997.⁹ The central estimate of this forecast is a growth in traffic from 1996 to 2016 of 38 per cent and from 1996 to 2031 of 60 per cent. A range of 24 per cent to 51 per cent for 2016 and 36 per cent to 84 per cent for 2031 includes most of the range of uncertainty in the forecasts.

Motoring costs for the average household rose 96 percent in the 10 years to financial year 1997-8, or 27 per cent in real terms. The increase in costs was not accompanied by a fall in traffic: the number of miles travelled by people in cars rose 24 per cent in the same period. The increase does not seem to be merely the result of rising incomes as the percentage of household expenditure spent on motoring rose from 12.6 per cent to 14.2 per cent over the ten year period.

Transport planners have been trying to reduce the impact of the private car in urban areas as a result of concern about air quality and the economic consequences of congestion. Exhortation to leave the car at home continues but seems to have little effect. Car drivers are much in favour of better public transport and its increased use - but usually only for everyone else. Urban traffic congestion is still rife, and probably growing, in most cities. The conclusions reached by many of the transport academics and practitioners are that "carrots", combinations of public transport/cycling/traffic management measures, are not enough to reduce traffic in city centres and that restraint measures, such as parking controls

⁶ See for example Bernard Jenkin HC Deb 14 December 1998 c 728, Richard Ottaway HC Deb 5 May 1999 c 1001

⁷ Conservative Party *A fair deal for the motorist*, July 1999 p 6

⁸ Debate on Queen's speech HC Deb 18 November c 131-2

⁹ Department of Transport *National road traffic forecasts: Great Britain 1997*, HMSO 1997

or road pricing, are needed as well.¹⁰ Much depends on the desired aims of a particular policy and the precise circumstances in which it is introduced but congestion charging, in combination with the removal of non-residential parking spaces, is the means currently favoured by transport professionals to permanently decrease the amount of traffic entering a town centre. It can also produce very high revenues.

The idea of road pricing first surfaced in the early 1960s. New car registrations - only half a million in 1958 - jumped in 1963 to more than one million (today they are about 2.3 million). Traffic in the big cities was chaotic. Ernest Marples, then the transport minister, appointed two working parties to find solutions. One led to Sir Colin Buchanan's report *Traffic in towns* which for the first time counted the environmental cost of the use of cars.¹¹ The second, much less known, was Dr. Reuben Smeed's report, *Road Pricing: the economic and technical possibilities*.¹² Smeed argued that if drivers were charged for the delays they imposed on one another, some of them would travel at different times, by different means or to different places - and that time wasted in traffic jams would be reduced. The ministry of transport accepted the argument and awarded contracts to firms to develop electronics that would identify cars passing through buried toll gates. However the first test of road pricing which eventually took place in 1975 was not in Britain, but in Singapore, where it has continued to be used ever since. The next place to experiment with road pricing was Hong Kong in 1985. An experiment conducted there was a technical success but it was not permanently introduced as the elected representatives feared that the records, logged by a central computer, would be a threat to the privacy and freedom of drivers. These sort of arguments led to the UK government rejecting the idea of road pricing in 1990.¹³ In a speech in June that year, Cecil Parkinson said the theoretical attractions of charging motorists for congestion were considerable but the practical problems - of fairness, of technology and of enforcement - he saw as "mind-boggling".¹⁴

Proposals to introduce road pricing have generally been motivated by one or more of the following concerns: the reduction of traffic congestion, the reduction of air pollution and the raising of revenue. In Singapore, the system concentrated on reducing traffic in the central area at congested times. This resulted in around 40 per cent reduction in car trips inside the area (in conjunction with tighter parking controls and better public transport) but congestion and pollution increased on the ring road. In other situations road pricing has been used primarily as a revenue raising tool with no desire to reduce traffic levels significantly. The Norwegian "toll rings" in Bergen, Oslo and Trondheim fall into this latter category.¹⁵

¹⁰ More information is given in Library research paper 98/16 *Traffic congestion*, 28 January 1998

¹¹ Ministry of Transport *Traffic in towns*, HMSO November 1963

¹² Ministry of Transport *Road pricing: the economic and technical possibilities*, HMSO 1964

¹³ PQ HC Deb 23 January 1990 cc 616-7W

¹⁴ Department of Transport press notice 11 June 1990

¹⁵ Nigel Lewis *Road pricing: theory and practice*, 1994

Various studies, for example in London, Bristol, Cambridge and Edinburgh, have been made both of the technical possibilities and the likely revenue that might be raised by the introduction of road pricing in individual cities. These studies have considered alternative systems of charging, the availability of suitable technology, options for implementation, the likely impact on travel patterns and distributional issues. A study into congestion charging in London was commissioned by the Government Office for London and published in 1995.¹⁶ It was estimated that a charge of £8 for each inbound journey in central London would reduce traffic there by 22 per cent and raise £465 million a year. A £2 charge would achieve a third of the reduction in traffic and would raise £160 million. The studies of Cambridge and York suggested that a reduction in traffic of 15 per cent would be achievable.¹⁷

A practical experiment took place in Leicester in 1997-98.¹⁸ The Leicester Environmental Road Tolling Scheme (LERTS) tested the responses of 100 volunteer drivers to different levels of charge for entering Leicester along the A47 corridor. If the volunteer drivers preferred not to pay the charge, they had the option of switching to the new park and ride service linked to the city centre by a comprehensive bus priority system. Volunteers, who had been given a travel budget, had their vehicles fitted with an on-board unit that enabled payments to be deducted automatically from a smartcard "electronic wallet" as they drove past roadside radio beacons. The smartcard could also be used to purchase park and ride tickets. The LERTS project was a collaboration between the DETR, Leicester city council and Leicestershire county council. According to early reports, motorists are prepared to pay an extra £4 a day rather than use public transport. A daily charge would have to be as high as £6 to deter motorists from entering the city centre.¹⁹ A final report should be published in the near future.

Research recently carried out by consultants, WS Atkins, for the Commission for Integrated Transport suggested that if charges were imposed, future traffic growth would be minimised and could even deliver "actual reductions in congestion levels". If nothing was done, traffic levels would increase by 35 per cent by 2010, leading to a 65% increase in congestion. The charges considered were £5 a day for entering congested urban areas, a £2000 annual charge for a workplace parking place and 7p a mile on congested stretches of motorway.²⁰

¹⁶ MVA Consultancy *The London Charging Research Programme*, HMSO 1995

¹⁷ Royal Commission on Environmental Pollution *Transport and the Environment-developments since 1994*, 20th report September 1997 Cm 3752 para 6.32

¹⁸ DETR press notice *Urban road project goes live* 4 August 1997

¹⁹ "Charges fail to price drivers off the road" *Times* 29 December 1997

²⁰ CIT press notice *Powers in Transport Bill should substantially reduce congestion*, 18 November 1999

C. Arguments

1. In favour

The theoretical case for road pricing derives from the rationale that the users of roads, like the users of any other valuable and limited resource, should pay all the costs arising from their use. Only then will the decisions on whether, when, where and how to travel be made correctly. Road users are currently charged for the right to use roads (e.g. by paying vehicle excise duty) but not on the degree to which they use them. Congestion costs money and a road pricing system which assesses congestion, as well as pollution and other similar externalities, can ensure those who contribute to them, pay for them. In the short run the function of the price mechanism is to allocate existing resources but in the medium and long run, its function is also to guide decisions about investment (or disinvestment). If road users are prepared to pay a price for the use of roads that is greater than the cost of providing it (including all costs) then there is an argument for additional road space to be built.²¹

a. Direct expenditure

The Library's social and general statistical section has produced figures on the taxes paid by road users and direct expenditure on roads.²² The sources are based on annual public expenditure publications and local authority financial returns and car tax is included for the earlier years.²³

²¹ More discussion of these points are contained in a series of articles on road pricing in *Economic Affairs* December 1998

²² Paul Bolton, social & general statistics section, House of Commons Library (219 6789)

²³ For a discussion of published sources of transport expenditure, see *Roads to Accountability: accounting for transport expenditure, taxes and charges* by Jim Coates, AA April 1999

Road taxation and expenditure 1989/90 to 1998/99, UK£ billion 1998-99 prices^(a)

	Taxation				Total	Expenditure on roads ^(d)	Difference between taxation and expenditure	Ratio of taxation to expenditure
	Fuel duties ^(b)	VAT ^(c)	Vehicle excise duty	Car Tax				
1989/90	12.0	5.3	4.0	2.1	23.4	6.8	16.6	3.4
1990/91	12.3	4.8	3.8	1.9	22.8	7.2	15.6	3.2
1991/92	13.2	4.9	3.5	1.5	23.2	6.8	16.4	3.4
1992/93	13.3	4.9	3.7	0.6	22.5	7.3	15.3	3.1
1993/94	14.5	5.2	4.3	..	23.9	7.3	16.6	3.3
1994/95	16.0	5.3	4.3	..	25.5	7.3	18.2	3.5
1995/96	17.1	5.4	4.4	..	26.8	6.7	20.1	4.0
1996/97	18.1	5.8	4.4	..	28.3	6.0	22.4	4.7
1997/98	19.9	6.4	4.7	..	31.0	5.4	25.6	5.8
1998/99 ^(e)	21.6	6.4	4.7	..	32.6	5.3	27.3	6.2

(a) Adjusted using the GDP deflator

(b) Hydrocarbon oil duties, these include receipts from rebatable heavy oil.

(c) VAT on fuel and vehicles. Estimates based on final consumer expenditure

(d) Excludes expenditure on priority routes in London

(e) Estimated

*Sources: ONS Database**Financial statistics November 1999, ONS**HC Deb 14 January 1993 c793w**Transport Statistics Great Britain 1999 and earlier editions.**HM Customs and Excise Annual Reports.**Inland Revenue Statistics.**Transport statistics 1998-99, DOE (NI) and earlier editions*

In addition there are the social, economic and environmental costs. The policy of both this government and the previous one is that users should pay the full social and environmental cost of their transport decisions, so improving the overall efficiency of these decisions for the economy as a whole and bringing environmental benefits. The problem is to agree what these costs are.

b. Congestion

Attempts have been made to estimate the "costs of congestion" by taking the legal speed limit on roads or the standards to which they were designed as baselines from which to calculate and cost delays. A study by the British Road Federation estimated that the cost of congestion in Britain's main conurbations in 1985/86 amounted to £3.2 billion.²⁴ In 1989 the CBI estimated that the nationwide costs of congestion were around £15 billion per annum of

²⁴ British Road Federation *The Price of Congestion in Inner London*, 1986

which some £10 billion could be attributed to the problems of London and the south east.²⁵ More recently, Newbery²⁶ and Maddison (with Pearce and others)²⁷ have both valued congestion costs at £19.1 billion a year. The government's consultation paper estimates that 1.6 billion hours were lost by drivers and passengers in 1996 as a result of congestion.²⁸

c. Environmental and social costs

The Royal Commission on Environmental Pollution found that emissions from road vehicles were the main influence on air quality over large areas of the UK in which there are no significant industrial emissions. The main air pollutants are carbon monoxide, nitrogen oxide, volatile organic compounds, particulates and sulphur dioxide. With the exception of sulphur dioxide, most of which comes from power stations, transport produces most of these, with almost all emissions coming from road transport.

The Royal Commission looked at the evidence of a number of studies that had attempted to quantify and to value in money terms the environmental and social costs of transport, either separately or in aggregate. This evidence was used to derive broad estimates of environmental and social costs other than congestion costs, while acknowledging the very considerable difficulties both of estimating the effects of damage and of assigning money costs to them. These included the full costs to the community in congested conditions of pollution, noise and other intrusive social effects, but not the congestion costs which road users impose on each other. On this definition environmental and social costs were estimated to be between £10.9 billion and £20.5 billion a year for all UK transport in 1994 prices; and environmental and social costs attributed to road transport were estimated to be between £10 billion and £18.3 billion.²⁹

When it announced its second report on transport, the Royal Commission particularly sought recent material on this issue. Estimates of the overall external costs of road transport, by type and in total, have been made by Newbery and by Maddison and Pearce. Their estimates of the types of cost quantified in the eighteenth report span an even wider range, from £8 billion to £32 billion a year.³⁰

It is almost impossible to estimate environmental costs with precision and so caution must therefore be applied in interpreting such estimates. It should also be noted that not all the solutions for dealing with congestion are of direct benefit to the environment. For example, road pricing may have a major effect on the congestion levels in urban centres

²⁵ CBI *The Capital at Risk*, Transport in London Task Force Report 1989

²⁶ DM Newbery *Reforming road taxation*, AA 1995

²⁷ D Maddison, D Pearce & others *Blueprint 5: The true costs of road transport*, 1996

²⁸ DETR *Breaking the logjam; the government's consultation paper on fighting traffic congestion and pollution through road user and workplace parking charges*, December 1998 para 2.2

²⁹ Royal Commission on Environmental Pollution, 18th report, *Transport and the environment* October 1994 Cm 2674, para 7.16-7.17

³⁰ Royal Commission on Environmental Pollution, 20th report, *Transport and the environment: Developments since 1994*, September 1997 Cm 3752, Table 1.1

but it does not necessarily have an effect on the overall total amount of traffic. If the policy aim is to decrease harmful pollutants, it may be more successful to concentrate on improvements in the technological developments of better vehicle design and more efficient fuels. The increase in road fuel duty in real terms reduces emissions, as well as encouraging the uptake of more fuel efficient and greener cars. Policies such as a variable Vehicle Excise Duty could help this. All such policies will contribute to reducing carbon dioxide emissions from transport and they are also likely to affect congestion as people are dissuaded from using their cars. However the prime aim of these policies will be to decrease pollution levels, not to reduce congestion.

Not everyone is convinced by some of the figures put forward but even if the precise values are disputed, all agree that the economic waste of resources in congestion and the damaging effects of pollution are real and large and that they are not taken into account in the individual decisions that, added together, create traffic problems.

d. Practical reasons

The practical reasons for introducing road pricing are that it could make more effective use of the existing networks: it offers a means of deterring people from driving in congested areas so allowing buses, taxis, local commercial traffic etc to move faster; it reduces the transport-created pollution in town both from the number of vehicles on the road and by reducing the high emissions while idling; and it is a way of financing investment in public transport and the improvement of the roads. It is impossible to provide enough road capacity to meet unrestrained traffic growth so some sort of traffic restraint has become inevitable. Pricing has one great advantage over all others: its ability to raise large amounts of money.

2. Objections

The main objections put forward to road pricing are that it is unfair and impractical. It is true that rich drivers are bound to find changes less burdensome than poor drivers do. On the other hand, only 20 per cent of the poorest quarter of households own a car compared with 93 per cent of the richest. Road pricing, by improving traffic flow, ought to improve the efficiency of bus services that are used disproportionately by the low paid. As has been seen, the privacy concerns have largely disappeared: there need be no record of any individuals' journeys, which was seen as an unacceptable intrusion into people's lives. Road pricing will soon be technically feasible: trials have been taking place into electronic systems and they appear to be capable of handling automatically large flows of moving traffic and of processing cashless transactions. This and the political problems are considered in greater detail below.

a. Technology

The Conservative government's paper *New roads by new means* described three options for direct charging.³¹ The first was conventional tolling with toll plazas and booths of the sort found on estuarial crossings in this country and on motorways in a number of other countries. The disadvantages of this option for existing roads is that land is required and the traffic delays which it would cause.

The second option, suggested as a possible interim measure, was charging by means of a permit system.

The third option discussed was fully electronic tolling, where vehicles using the motorway network would carry an electronic tag which would react to signals as the vehicles passed roadside beacons. Vehicles would not have to stop. The toll would be worked out automatically and would either be charged to the road user's account or deducted from a pre-paid smart card on the vehicle. In the light of the responses to the green paper, the then government decided to launch immediately a major programme of research, development and trials to identify the capabilities of existing technology and to draw up a specification for a motorway charging system.³² It was convinced that there was a great deal of work being undertaken internationally, and it would be feasible technically to install motorway charging here within about five years. The electronic tolling technology worked satisfactorily in Germany and the Far East. Indeed, regular users of the M25 Dartford River Crossing have been able to use pre-paid tags combined with automatic vehicle identification since 1992.

Trials took place between November 1996 and June 1997 and the results were published in May 1998.³³ These found that:

The trials demonstrated that the technologies employed are maturing and could form the basis for operational free flow, multi-lane tolling systems in Great Britain within the foreseeable future. However, although a great deal has been learnt, no unequivocal statement of technical feasibility can be made, based upon the test track trials alone, because:

- no complete, fully engineered 'off-the-shelf' solution was offered for trial in a form which would give confidence to recommend commitment to implementation unless further trials in a live environment with practical implementation of prototype back office and support systems were undertaken (particularly from an enforcement processing perspective);
- the trials with each consortium lasted about 50 days with practical testing being confined to about five hours per day. Thus, although the trials covered

³¹ *New roads by new means: a consultation paper on private finance for roads*, May 1989 Cm 698, para 2

³² Department of Transport *Electronic tolling for motorways: an invitation to participate in technology trials*, 23 February 1994

³³ DETR *Report on the test track trials of motorway tolling technologies 1996-97*, May 1998

a variety of manoeuvres, speeds, weather, and lighting conditions, sample sizes were not large enough to allay all practical concerns on system performance;

- although the trials sought to observe rare events, the nature of the received data was such that a higher number of anomalies than expected was identified, which reduces the ability to make a firm decision on feasibility on these trials alone.

Until recently there was no electronic urban scheme anywhere in the world to look at, but in 1998 Singapore moved to an electronic system after 25 years of a paper based system. It is apparently working well but Singapore imposes tough financial barriers to car ownership and is a small area geographically.³⁴

John Prescott announced on 23 September 1998 plans to set up a major national road user charging demonstrator project at sites in England and Scotland.³⁵ Leeds and Edinburgh have been chosen to test the system and see how equipment will cope with real vehicles and road conditions. The project will last for about a year so that information can be gathered in a variety of weather conditions.³⁶

Although schemes can be either electronic or paper-based, it is expected that the first schemes in urban areas will initially be paper-based because of the higher infrastructure costs associated with electronic charging schemes. The likely means of charging on the trunk road network is likely to be electronic.

b. Political problems

There are undoubted political difficulties to the introduction of road user charges as people tend to resent being charged for something previously free. For road pricing to be acceptable, significant improvements in public transport are likely to be required as a precondition.³⁷ Ideally improved public transport providing alternative means of travel, needs to be in place before the restraints are introduced. It may, however, be sufficient for the public to see some improvements, perhaps paid for by the workplace parking charge, increases in fuel duty above the rate of inflation³⁸ or through the Local Transport Plans. Furthermore public perceptions are changing. No longer do drivers assume they can drive anywhere (they are used to being excluded from pedestrian precincts for example); a large number of traffic calming schemes have been introduced; they are used to tolls on roads abroad; and to the use of smartcards in a variety of situations. Furthermore drivers can see

³⁴ POST *Electronic road charging*, Note 112 March 1998; *Financial Times* 6 July 1999 "Roving eye required for urban road tolls"

³⁵ DETR press release no 78123 September 1998

³⁶ DETR press notice *Leeds to host trials of electronic road user charging equipment*, 28 June 1999

³⁷ Hugh Colis *Road Pricing – Bristol Case Study*, Paper presented at conference on Urban Congestion, 10 July 1997

³⁸ Pre-Budget statement by the Chancellor of the Exchequer, HC Deb 9 November 1999 c 890

how much congestion is increasing and are more aware of the effects on health and the environment.

Urban road pricing is likely to succeed only in areas of severe congestion. First, since the concept is controversial both the public and the decision makers will look to alternatives in the first instance to remedy less severe congestion problems. Second, the cost of implementation can only be justified where congestion is sufficiently severe that the benefits of reduced congestion outweigh the cost. Third, travellers are more likely to find greater alternatives and other demand-management options in severely congested areas.

D. Greater London Authority Act 1999

About the same time as the consultation paper was published at the end of 1998, the *Greater London Authority Bill* was published. It provided for the introduction of road user charging schemes in London.

Section 295 provides for Transport for London (TfL) to introduce road user charging across all or part of London. Details of the possible scheme are set out in schedule 23. A charging system must conform to the mayor's transport strategy and it will be for him to decide on the system to be introduced, the area to be covered, the times it will apply, the vehicles affected and the charges to be imposed. Schemes will be implemented and operated by Transport for London. Individual boroughs or the Common Council [of the City] may also introduce charging but will first need the agreement of the mayor.

Road user charges can generate substantial revenue streams. Schedule 23 paragraphs 22-24 relate to the application of the net proceeds. Initially the legislation proposed that any sums received by the secretary of state should be paid into the consolidated fund although John Prescott emphasised in interviews that the money would be ringfenced and spent on transport.³⁹ The subject also came up during the debate on second reading.⁴⁰ The legislation was amended in committee to remove reference to the secretary of state and ensure that the net proceeds of any charging scheme that came into being "during the ten years beginning with the inception of the Authority" would be available, for at least ten years, only for "relevant transport purposes".⁴¹ The secretary of state does have to approve in general terms the expenditure plans.

The Government Office for London appointed consultants in February 1999 to see how road user charge and workplace parking charges would work in practice and what would

³⁹ For example, BBC Today programme 7 December 1998

⁴⁰ HC Deb 14 and 15 December 1998. See for example c 806, 728

⁴¹ Standing committee A 9 March 1999. Amendment now schedule 23

be the effect on Londoners.⁴² The executive summary was published on 22 November 1999. The report showed that 53% of all Londoners thought that road user charging in central London would be a "good thing", but 58% of those motorists who would have to pay the charge thought it would be a "bad thing". There was a higher level of support if the money raised was to be spent on transport improvements. Surveys undertaken as part of the study suggested that charging people for driving or parking their cars in parts of London is the most acceptable method of raising additional funds for public transport investment.⁴³

E. The bill

1. Charging schemes

Clause 139 defines "charging scheme" as a "scheme for imposing charges in respect of the use or keeping of motor vehicles on roads."

Schemes may be introduced by:

- local traffic authorities outside London acting either singly, or jointly with another local authority, with Transport for London, or with London borough councils or the Common Council of the City of London
- by the secretary of state or the National Assembly for Wales

Clauses 140, 141 and 142 provide that charging schemes may only apply to roads for which the charging authorities are responsible. They may only be made if they will "facilitate the achievement of policies in the charging authorities' local transport plans" or the proposals set out in the transport strategy prepared by the mayor of London.

Clause 143 refers to trunk roads and is discussed in the next session.

Clause 144 to 146 sets out the procedure involved in making a charging scheme.

- The charging authority introducing, changing or revoking a scheme makes the order.
- The national authorities (i.e. the secretary of state and the NAW) may make regulations specifying the form they should take and the publicity.

⁴² DETR press notice *New study to look at road user and workplace parking charges in London*, 4 February 1999

⁴³ www.open.gov.uk/glondon

- A charging scheme (other than for a trunk road) must be confirmed by the appropriate national authority. A scheme run jointly by an English local authority and a London authority, will need approval from the secretary of state and the Greater London Authority. In all cases, the approving authority can make modifications to the order.
- A scheme run jointly by an English local authority and a London authority, will need approval from the secretary of state and the Greater London Authority. In all cases, the approving authority can make modifications to the order.
- The secretary of state or the NAW will also be able, by regulation, to waive the requirement for his/its consent. This will allow, for example, local authorities to make minor changes to their schemes or suspend charges through more streamlined, simplified procedures, provided certain conditions are met.
- The secretary of state or the NAW may 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.

Although the government is introducing the legislation, it will be for the local authorities to decide whether or not to introduce a scheme. Local authorities will have to submit both their plans for charging and for the accompanying improvements to local transport to be paid for by the revenue raised to the secretary of state for approval. Certain conditions were outlined by the deputy prime minister as having to be met before he would approve any congestion charging scheme.⁴⁴ These are:

- Public transport should be improved first to offer motorists choice, before charging starts;
- Local people should be consulted;
- All proceeds should be put into improving local transport;
- Appropriate technology must be in place to make it work.

As a result widespread charging schemes are not expected to be introduced for at least four or five years.

Clause 147 sets out the basic elements which must be included in the order establishing the charging scheme. It must:

- (a) designate the roads in respect of which charges are imposed,
- (b) specify or describe the events by reference to the happening of which a charge is imposed in respect of a motor vehicle being used or kept on a road,
- (c) specify the classes of motor vehicles in respect of which charges are imposed,
- (d) specify the charges imposed, and

⁴⁴ Press reports of meeting of motoring organisations, transport advisers and others, 29 November 1999. See, for example, *Guardian* 30 November 1999 "Prescott changes gear to calm roads rage"

(e) state whether or not the charging scheme is to remain in force indefinitely and, if it is not to remain in force indefinitely, the period for which it is to remain in force.

Clause 147(3) ensures that charging powers cannot be used purely as a charge on parked vehicles.

The order may also make provision as to the way the charges are made and collected. Charges may be included under clause 147(5) for:

- (a) different days,
- (b) different times of day,
- (c) different roads,
- (d) different distances travelled, and
- (e) different classes of motor vehicles.

Charging authorities will have 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.

Clause 148 provides for the secretary of state and the NAW to make regulations to set exemptions from charges, reduced rates or limits on charges. This is a general power and could cover many of the topics discussed in the consultation paper. For example it could be used to specify exemptions, for example, of emergency vehicles, motorcycles or disabled persons.⁴⁵ The local transport authority will also be able to set additional exemptions, reductions or limits, subject to approval.

Clauses 149 and 150 allow the secretary of state to make regulations to provide for the fair and effective enforcement of road user charging schemes. This includes arrangements for adjudication. The bill 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 road user charge and any penalty charge notices, but that there will be a defence where the vehicle has been stolen. Deliberate tampering with any in-vehicle or roadside equipment of a vehicle with intent to avoid payment or being identified as having failed to pay are more serious cases and will therefore be subject to criminal rather than civil law. Clause 150 provides powers for the secretary of state to make regulations to allow enforcement actions such as the examination of vehicles and equipment, and the mobilisation or removal and storage of vehicles.

⁴⁵ For further discussion of possible exemptions, see DETR *Breaking the logjam*, December 1998, para 4.14-4.19

Clause 151 allows charging authorities to install and maintain any equipment or buildings in connection with effective operation of a charging scheme. The secretary of state will have the power to set the basic specifications for and type approve any equipment, as well as setting out the basic classifications of motor vehicles (eg by weight, or engine size), so that all schemes will conform technically. **Clause 152** 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 connected with a trunk road charging scheme.

2. Motorways and trunk roads

Motorway tolls and urban road user charges are not identical and are unlikely to be introduced for the same reasons. The present legislation does not include a general power to introduce tolls on motorways and trunk roads. It identifies only very limited situations in which tolls can be introduced. **Clause 143** states that a trunk road charging scheme may be made by the secretary of state or the National Assembly for Wales only in respect of a road if:

- The road is carried by a bridge or passes through a tunnel of at least 600 metres in length.
- A local authority requests the secretary of state or the NAW to charge on a stretch of trunk road, in order to complement a local authority road user charging scheme.

This is to allow for new structures in the future and to allow tolling on crossings when the current tolling powers are due for renewal. The Explanatory Notes state that the government has no plans to introduce tolling on existing bridges and tunnels which are not already tolled.

The government originally appeared to envisage that the primary legislation would provide powers, complementary to those for local authorities, to enable the secretary of state to introduce charging on those roads for which he is responsible. It announced in its 1998 white paper, *A new deal for transport* that it would consider introducing road user charges on trunk roads and motorways.

Our proposals for legislation to allow road user charging will enable pilot schemes to be developed in a variety of circumstances. Schemes may be developed, for example, to help to meet transport and environmental objectives in urban or rural areas, or on bottlenecks on specific roads or at certain times of the day or year. **Such schemes may also be developed on trunk roads and motorways, either on a self-standing basis or as joint schemes with local authorities.** Pilot charging schemes will be individually developed and designed to take into account the local transport network, ensuring in particular that acceptable diversion does not take place onto local roads. We will also consider for each scheme how best revenues generated may be used to provide related benefits locally which might otherwise be unaffordable, including better means of securing the environmental acceptability of transport infrastructure. ..

On most of the motorway and trunk road network, charging schemes will in general be feasible only with full electronic technology. Further studies are required on the electronic units and on administrative support systems before they may be introduced with confidence. In particular, we need to be satisfied that such systems can cope with high volumes of traffic, travelling at motorway speeds in a way that does not produce unacceptably high error rates in charging users.

We will continue technical trials of electronic systems and carry out further research on their possible effects and how they must best be implemented. These trials will examine such issues as personal privacy, impact on different parts of society and diversion onto untolled roads. An early priority will be work to ensure that, as charging projects are introduced in different parts of the country, vehicles do not require more than one set of in-vehicle equipment. We will continue to work with the European Commission and EU Member States to ensure that the design of charging systems in Europe is compatible.⁴⁶

More detail was given in the consultation paper *Breaking the logjam*.⁴⁷

The TRL has undertaken a number of surveys on motorway tolls in behalf of the DETR. It has predicted that three per cent of drivers will try to avoid paying motorway tolls - even with certain detection - and says this would present "a very real risk that the machinery of enforcement could be overwhelmed".⁴⁸ It has also concluded that introducing motorway tolls could increase congestion on motorways themselves, as drivers queue on exit ramps to divert to all-purpose roads.⁴⁹ Meanwhile, the overall number of road accidents would be likely to increase by 3.5%, given an expected 10% of traffic diverting from motorways.⁵⁰

On-board card readers using disposable cards would be drivers' favoured option for paying electronic motorway tolls, according to another TRL survey. But the researchers found hostility to an automatic direct debit system, partly due to fears of fraud. A second TRL study emphasised that on-board units must be as simple as possible, minimising the interaction with the driver on both safety and cost grounds. It recommended that units should not inform drivers each time they were tolled, to avoid distractions.⁵¹

A test of motorists' willingness to pay will come soon. Work begins in 2000 on the 27 mile Birmingham northern relief road (BNRR) which runs round the city, parallel to the

⁴⁶ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950 paras 4.100-4.104

⁴⁷ DETR *Breaking the logjam: the government's consultation paper on fighting traffic congestion and pollution through road user and workplace parking charges*, December 1998 chapter 5

⁴⁸ TRL *The potential for the evasion of electronic motorway toll systems*, Report 355 1999

⁴⁹ TRL *Motorway tolling - modelling some congestion effects of diversion*; Report 351 1999

⁵⁰ TRL *The likely effects of motorway tolling on accident risk- phase 2* Report 352 1999

⁵¹ TRL *User requirements of on-board units for electronic fee collection*, TRL 348; TRL *Measures for assessing on-board units for electronic toll collection, Parts 1 and 2*, TRL 345

M6 motorway. It will be finished in 2003 and drivers will have the choice of paying £3 for a faster journey.

3. Reactions

The royal commission on environmental pollution concluded in 1994, and again in 1997, that road pricing could help reduce the dominance of the motor traffic if local authorities were given power to introduce it in their areas. Academics generally favour such schemes in theory. Stephen Glaister of London University argues for a less technical and more practical option. He has proposed a road user charging smart card cum public transport travel card. Users would fill the card with credits which could be deducted when the card was used as a windscreen permit to drive into town in busy periods but which could also be used to provide free travel by public transport.⁵² Local authorities are attracted by the revenue, even though there are no solutions that local authorities can adopt ready made and the introduction of road pricing is unlikely to be trouble free. Despite this a number (e.g. Bristol, Leeds, Manchester, Derby and Reading) have already expressed an interest in introducing charges.⁵³

The environmental groups, including Friends of the Earth and Transport 2000 have recently published an agenda, *Getting into neutral*. They argue that the current debate highlights the potential losers from policies aimed at restraining traffic, notably some motorists and hauliers, but that "all of us, including drivers, stand to benefit from changes in policy and lifestyle that reduce car dependence. The only real losers are those who believe that people have the right to drive wherever and when ever that want, whatever the consequences."

The British Road Federation welcomed the plan for road charging because it would provide incentives to travel at non-peak times or chose a different mode. But it said the money would be acceptable only if the money counted in addition to existing grants.⁵⁴ The RAC's reaction to the bill was that any new taxes would be seen as a "poll tax on wheels" unless motorists could see they were getting something in return. John Dawson, policy director of the AA, said "motorists are happy to have a sensible debate on how they pay for driving, but what they will insist on is a fair system and a fair deal. They are well aware that they already pay £8 in tax for every £10 they spend on fuel."⁵⁵

⁵² See for example, "Virtue out of necessity: practical pricing of traffic in towns" Transport Law and policy April 1998

⁵³ ".. but few councils ready to use bill's new charging powers " *Local Transport today* 2 December 1999

⁵⁴ "Opposition hits out over plan to charge motorists" *Financial Times* 18 November 1999

⁵⁵ "Motorists face city centre road tolls" *Independent* 18 November 1999

II Workplace parking levy

A. Government policy

The government announced in the 1998 transport white paper that it would introduce legislation to enable local authorities to levy a new charge (not a tax) on non-residential workplace parking:

4.105 Employees driving to work and enjoying free parking at the workplace account for a significant proportion of peak hour congestion. Controlling the price and availability of parking has been known by research to be capable of reducing traffic in an area. Local authorities determine the price and availability of public parking, on and off the highway. But they have little control over existing parking spaces at private business premises. They can use their development control powers to limit the amount of parking associated with new development but, in the past, development was allowed with extensive parking provision, considerably in excess of the standards advocated in current government guidance.

4.106 We believe that new measures are needed to tackle excessive workplace parking provision at existing developments so local authorities can develop comprehensive parking management policies that support their transport and development plans.

4.107 We will introduce legislation to enable local authorities to levy a new parking charge on workplace parking. This charge would not apply to residential parking, i.e. parking at or outside the home. We propose that owners or occupiers of business premises would apply for a licence to allow a certain number of vehicles to be parked on site. The aim is to reduce the amount of parking available as a means of reducing car journeys and increasing use of public transport, walking and cycling. As with road user charging, a vital element in the effectiveness of the policy will be the use made of the proceeds to improve transport choice locally. That expenditure may have to take place in more than one local authority area.

4.108 We propose to legislate to enable the parking charge to apply to all types of private non-residential workplace parking, although we will consult on whether there should be any national exemptions (e.g. for emergency vehicles and orange badge holders). There are strong arguments for workplace parking charges to be levied in all types of location, whether in the town centre or at out of town sites, in order to be consistent with our planning policy, particularly on the revitalisation of towns and cities, by influencing individual's travel choice and businesses' location choice.

4.109 As with congestion charging, subject to the necessary legislation being in place, we will work with local authorities in developing pilot schemes, individually approved by the secretary of state (in Scotland, by the Scottish Executive). The effects will then be monitored so that detailed guidance can be

developed for further schemes. We will consult further on the details of how the new workplace parking scheme would operate in practice, the implications for local government finance arrangements and for particular sectors of society, including disabled people. We envisage that regional planning guidance would set out the regional framework within which local authorities would be able to exercise discretion on the specific application of the powers to reflect local circumstances. Local authorities would set out their proposals for use of these powers in the local transport plan, showing how a parking charge would support the implementation of their development plan.⁵⁶

The consultation paper, *Breaking the logjam*, set out the government's proposals for the primary legislation necessary to introduce a levy on workplace parking. It described the likely scope of the levy as follows:

6.4 The Government proposes that only parking associated with the workplace should initially be subject to the levy. The most serious congestion problems in most towns and cities are associated with peak period commuting, and car use is influenced by the availability of convenient and free or relatively cheap workplace parking. The aim of the levy is to reduce the amount of free workplace car parking available as a means of reducing car journeys and promoting greater use of alternative modes. The parking in question would be for all who are at their workplace, whether or not they are direct employees of the building's occupier. Examples include consultants and contractors, students at educational establishments, Councillors and, at the Palace of Westminster, Members of both Houses of Parliament.

6.5 The Government proposes that the levy should apply to:

- all parking at categories of property where parking provision is predominantly for use by those at their workplace (as described above) such as parking at offices, factories, warehouses and educational establishments;
- parking for workers at buildings where workplace parking is a minority of total on-site parking – such as parking at retail outlets, leisure centres, hospitals and so on.

6.6 The Government takes the view that at types of premises where, by their nature, parking can be expected to be predominantly for use by those at their workplace, the levy will have to apply to visitor parking as well as workplace parking. This is because of practical difficulties in distinguishing between the two categories. In any case, exemptions for certain types of user and vehicle, and the possibility of applying the levy only above a threshold (..), would present an opportunity for removing some visitor parking from the scope of levy.

⁵⁶ *A new deal for transport: better for everyone* July 1998 Cm 3950 paras 4.105-4.112

6.7 The Government is aware that non-workplace parking – e.g. customer parking at retail and leisure facilities – can contribute to local congestion, both in town centres and in other areas. This is particularly so for larger retail and leisure developments although, unlike commuting journeys, the effects are not usually concentrated in peak periods. Over-generous provision of parking for customers and visitors can have other undesirable effects, such as encouraging car-dependent development on edge-of-town and out-of-town sites. However, the Government is not yet persuaded that a levy on non-workplace parking would be the most effective way of addressing the issue of changing customer travel patterns.

6.10 The Government is aware that imposing a levy on workplace parking and not other types of private non-residential (PNR) parking could encourage diversion to PNR parking which is not subject to a levy. Imposing a levy on workplace parking would, for example, encourage commuters to park at local retail outlets where the levy would not apply. The Government would expect authorities to consider this displacement effect, and to encourage owners of premises not subject to the levy to take measures to ensure that parking at their sites was used only by those for whom it was intended.

6.11 The Government is also aware of the need to prevent the introduction of a workplace parking levy from simply displacing parking on to the streets or to public off-street car parks. It takes the view that the introduction of a levy will require traffic authorities to introduce complementary restraint measures. For instance, many authorities might need to introduce new or strengthened on-street parking restrictions, and these will need credible levels of enforcement. The Government feels that this would require authorities that had not already done so to take up responsibility for on-street parking enforcement. The adequacy of on-street controls and enforcement arrangements would be a key consideration in the Secretary of State's decision whether or not to confirm an order.

6.12 Where an authority charges for on-street and off-street parking, the Government feels that tariffs will need to be raised to ensure that they are consistent with the charges imposed by the levy so that the levy does not simply result in displacement to cheaper parking. Other options would be to reduce the number of public off-street parking places, or change their availability to favour short stay rather than long stay parking. Arrangements for publicly and privately owned public off-street car parking are discussed as an issue for consultation.⁵⁷

Clause 296 and schedule 24 of the *Greater London Authority Act 1999* introduce the primary legislation for charging for workplace parking in London. The mayor, acting for the GLA, and individual boroughs will be able to bring forward proposals for parking levies in their areas. TfL would operate schemes on behalf of the GLA. The mayor will have the power to approve a borough scheme with or without modification, or to reject it. He will also have the power to arrange for the boroughs to operate a GLA workplace

⁵⁷ DETR *Breaking the logjam*, December 1998

parking levy scheme on his or her behalf. It will not be possible for a mayor's scheme and a borough scheme for a workplace parking levy to operate simultaneously in the same area although the proceeds from a single scheme could be distributed between them by agreement.

B. Background

1. Private non-residential parking

At present controls on parking are perhaps the most important tool available to local authorities to control traffic congestion in towns, since the availability of parking spaces and the cost of parking to the motorist can have a major influence on the level of traffic entering a town. A report by the TRL considered five options for reducing car trips to city centres: halving public transport fares, raising fuel costs by 50 per cent, doubling parking charges, halving the number of parking spaces, and applying a central area cordon charge.⁵⁸ The models predicted that the resultant decrease in car use would be 20 per cent if the number of parking places was halved. This compared with a decrease of between one and two per cent if fares were halved, 2 to 3 per cent if a cordon charge was applied or parking charges doubled, and 4 to 6 per cent if fuel prices rose.

The availability of convenient, guaranteed, free or cheap parking is a major factor influencing people's decision to drive to work, but even the harshest controls on public parking will have little effect on this and may simply result in an increase in traffic driving through the area. A study of parking control strategies, based on Bristol, found that a package of measures based on a reduction of 12.5% in private non-residential parking could reduce morning peak hour traffic by between 7% and 12%.⁵⁹ For controls over parking to be fully effective there needs to be some form of control over existing private non-residential parking (PNR) parking. It is estimated that there are three million parking spaces at commercial premises in the UK.⁶⁰

The sort of problems which need to be addressed in this area are:

- the need for clear objectives for the charge, particularly the balance between revenue raising and traffic restraint;
- the need for local authorities to introduce complementary on-street parking controls where there is a possibility of displacement from existing workplace car parks;
- the amount of the levy in city centres if there is to be any deterrent effect;

⁵⁸ M Dasgupta, R Oldfield, K Sharman and V Webster *Impact of Transport Policies in Five Cities*, TRL report 107 1994

⁵⁹ *A new deal for transport: better for everyone* July 1998 Cm 3950 p 117

⁶⁰ Tindale, Stephen and Holtham, Gerald *Green Tax Reform*, IPPR 1996 p 85

- the need for strong regional guidance on the amount of the levy to avoid problems of competing city centres;
- the need for effective enforcement by the local authorities, including the right to enter private property for this purpose;
- the question of whether an employee would be taxed as receiving a benefit in kind if the employer paid the workplace parking levy.

Controls cannot at present be imposed on private, non-residential parking (e.g. parking by employees, shoppers in private spaces) which typically accounts for 40 to 60 per cent of all town centre parking spaces.

One disadvantage of using a charge on workplace parking to control congestion is that it will only have an effect on traffic terminating in the area and not on through traffic. Indeed by reducing the amount of traffic it may even encourage through traffic. The significance of this can be judged by the fact that in suburban London as much as 70 per cent of the traffic is through traffic.⁶¹ Second, parking restraints do not distinguish between traffic using busy roads and that using quieter routes. Third, it is not clear how employers will react to the charge: they may simply regard it as an additional overhead and absorb the cost, rather than passing it on to their employees.

The government has said that it will not at the moment include non-workplace parking on the grounds that the effects are not usually concentrated in peak periods.⁶² Others have argued that such a tax should not be applied to parking places at shops, cinemas and the like on the grounds that these spaces are not private: they are open to members of the public using the facilities. Food shopping in particular is an activity for which a car is very useful.⁶³ In 1997 the Environment Committee proposed that a car park tax should be levied on out of town shopping centres, either as a fixed sum per square foot of parking space, or as an addition to the Uniform Business Rate.⁶⁴ Its argument was that a tax would make out of town shopping relatively more expensive and thus make town centre shopping more attractive. Making town centres more attractive would encourage the use of public transport. Whether such a tax would have this outcome is more questionable. Tesco argued at the time that it could be absorbed entirely by the retailer in which case it would be ineffective, or it could be passed on to the consumer in higher prices, which would be unfair to those without cars, often the poorer members of society. If it was passed on to the motorist, through car park charges for example, it might not make much difference to behaviour, either because customers would park outside the car park or because a car is considered necessary for carrying the goods.⁶⁵

⁶¹ Quoted in David Bayliss "Congestion charging" *Transport Law and Policy* June 1999

⁶² DETR *Breaking the logjam: the government's consultation paper on fighting traffic congestion and pollution through road user and workplace parking charges*, December 1998, para 6.7-6.10

⁶³ Stephen Tindale and Gerald Holtham *Green Tax Reform*, IPPR 1996, p 88

⁶⁴ Environment Committee *Shopping Centres*, 4th report 1996-97, March 1997 HC 210

⁶⁵ Tesco's submission to the review on integrated transport, 1997

The CBI and the Institute of Directors are against parking charges on the grounds that it would be a tax on business that would do little to change travel patterns.⁶⁶ The British Chambers of Commerce said the introduction of a workplace parking charge would force businessmen to act as "unpaid tax collectors" and would cause friction between employers and staff.⁶⁷ Organisations such as the RAC and the AA have said motorists will reject additional taxes unless it was clear the money was being used for transport improvements. The RAC has also said there is no research to show that workplace parking charges will reduce pollution and congestion. Transport 2000, as one might expect, are in favour of the charges and made the following comments on the consultation paper:

.. The proposals on parking follow the ideas set out by Transport 2000 last year, with businesses having to apply for a licence for parking spaces, the consultation says that the legislation will cover all non-residential parking including visitor spaces at shopping and leisure centres. Transport 2000 has generally welcomed the consultation, though we are concerned about delays in taxing out of town shopping and leisure parking and about whether the money raised will be additional to other transport spending.⁶⁸

2. Existing Controls on Parking

Where there is little private, non-residential parking and through traffic can be controlled, existing parking controls can be effective in reducing car use. This in turn reduces congestion, environmental impact and accidents. Performance will depend very much, however, on the way in which controls are applied. Simply reducing space may merely increase the amount of time spent searching for parking space, which may have adverse impacts on congestion. Controls are generally inexpensive to implement, but usually require continuing expenditure on enforcement if they are to be effective.

The *Road Traffic Act 1991* Part II decriminalised most non-endorsable parking offences in London and contained provision under section 43 and schedule 3 to extend this to other areas. The new arrangements came into force in London on 4 July 1994 when most parking offences were decriminalised and enforcement became the responsibility of the local authority. On 11 May 1995, it was announced that local authorities outside London could now apply to take over parking enforcement from the police. Winchester, Oxford, High Wycombe, Watford and Maidstone have already taken up these powers.

The principal idea behind the *Road Traffic Act 1991* was to give local authorities complete responsibility for all "permitted" parking. They would decide what to do,

⁶⁶ "Motoring funds raised from road tolls and workplace parking to be spent on transport for 10 years" *Financial Times* 9 December 1998

⁶⁷ "Drive to accelerate congestion charging" *Times* 18 November 1999

⁶⁸ *Transport Retort* January 1999

administer the scheme and keep all the income from it. There would be guidance from central government, but the responsibility for the schemes would rest with the local authorities. They are able to keep the fees from parking meters, charges associated with wheel clamping and vehicle removal, and the money from the new penalty charge notices.

The then government did not consider that it would be appropriate to allow local authorities responsibility to take on "prohibited" parking. This was still subject to criminal sanctions so it was felt that its enforcement should continue to be the responsibility of the police. The powers of the police appointed traffic wardens were extended so they could take responsibility for enforcing the law on endorsable offences (as long as the vehicle is stationary) as well as the non-endorsable as previously. The money from penalties associated with this group of offences continues to go to central government.

This legislation provides a precedent for allowing local authorities to retain money from charges to spend on transport issues. Local authorities are now responsible for enforcing their own parking controls and so parking policy can become part of a wider traffic management policy. Authorities are allowed to retain the proceeds from the penalty charges, used to finance the enforcement and adjudication systems. Any surpluses must be used for other "traffic management purposes", as set out in the legislation: specifically section 55 of the *Road Traffic Regulation Act 1984*, as amended. Section 55(4) states that any surplus should be used to provide or maintain off-street parking accommodation; but "if it appears to the local authority that the provision in their area of further off-street parking accommodation is unnecessary or undesirable" then these funds may be used for two other purposes:

- (i) meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services
- (ii) the purposes of a highway road or road improvement project in the local authority's area.

A TRL report on decriminalised parking in London found that the additional resources contributed to improved traffic flow and better traffic management.⁶⁹

3. Taxing workplace parking

The provision of free parking by an employer to an employee as part of their remuneration was chargeable to tax up until 1988. In cases where a car park was owned by an employer, and its use made available to a large number of employees, the measure of the benefit was

taken to be the annual value of the space (either the rent paid by the employer, or, where the land was owned, its annual rateable value). The annual value to any one individual of a parking space was often negligible in practice, with the result that the benefit was *de minimis* and not charged to tax.⁷⁰ In his Budget Speech of that year the then Chancellor, Nigel Lawson, noted a growing tendency on the part of employers to give benefits-in-kind, and that the taxation of the considerable numbers of persons now given free parking "threatens to become an administrative nightmare." He proposed that this particular benefit be exempted from tax altogether.⁷¹ When debated in Standing Committee, the then Paymaster General, Peter Brooke, explained the rationale for this move in more detail:⁷²

The essence of the clause is that it is an administrative nightmare to tax the benefit that is derived from car parking spaces. It is difficult to quantify the value of the car parking space on an individual basis. The value assigned to each parking space would derive from the difficult exercise of apportionment of the rental value, or the rateable value, of the entire business premises. Many car parks are operated on a first-come, first-served basis, so space is not always available, and many employees do not bring their cars to work every day. Even under the existing arrangements, if a car is there for business purposes it is not taxable. Moreover, the amounts involved would be quite small in terms of what would be realised. It would be expensive on employers in terms of compliance costs, and it would not be an effective tax because of the expense of collection.

The measure was adopted. Since then, the possibility of taxing parking has been raised in the press and the Transport Select Committee also discussed the matter, when it examined the issue of urban road pricing. In its final report, the Committee noted that taxing parking spaces was one way, among several, to restrict or deter vehicle use in town, but it did not recommend its use, simply noting that it had been abandoned in the past because of its complexity.⁷³

C. The bill

Clause 154 to 157 defines a workplace parking scheme as a scheme "for imposing charges in respect of the provision of workplace parking places at premises in the area covered by the scheme". It will be for local authorities to decide whether or not to bring forward a scheme. They can be introduced by a local traffic authority outside London, either singly or jointly with another local traffic authority or with a London traffic authority. A scheme may only be made if it facilitates the policies set out in the local transport plan or the transport strategy prepared and published by the mayor. A licensing scheme is the mechanism for collecting the workplace parking levy.

⁶⁹ TRL 279

⁷⁰ HL Deb 16 June 1986 cc 588-589

⁷¹ HC Deb 15 March 1988 c 1009

⁷² *Finance Bill* Standing Committee A, 14 June 1988 c 410

⁷³ Select Committee on Transport *Urban Road Pricing*, 22 March 1995 1994-95, HC 104-I, p xxx

A person will be able to apply to the local authority for a licence to park up to a maximum number of vehicles ("licensed units"), and will 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 provided.

Clause 158 provides the detailed definition of workplace parking. Included in the definition is parking by the employer himself, 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 attending a place where the organisation carries on business. The definition includes what is referred to in the legislation as the "relevant person":

- (a) the person who provides the parking place in question
- (b) any person with whom the provider has entered into arrangements to provide the parking place, or
- (c) any person who is associated with the provider or a person.

In addition it includes any parking place used by:

- (b) by an employee, agent, supplier, business customer or business visitor of a relevant person,
- (c) by a pupil or student attending a course of education or training provided by a relevant person, or
- (d) where a body whose affairs are controlled by its members is a relevant person, by a member of the body,

for attending a place at which the relevant person carries on business at or in the vicinity of the premises.

Business includes:

- (a) any trade, profession, vocation or undertaking,
- (b) the functions of any office holder,
- (c) the provision of any course of education or training, and
- (d) the functions of, or any activities carried on by, a government department or a local authority or other statutory body,

The definition is designed to include most 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 is also designed to include parking provided by arrangement with a third party - for example where an employer has

a contract with a car park company to provide a certain number of spaces for its workforce.

Clause 158 includes a power for the secretary of state or NAW to change this definition by regulation. This is included to cover any loopholes in the definition that may emerge. It does not provide for the extension of the scope of the levy beyond workplace parking to customer leisure or retail parking. This could only be done by primary legislation.

It is not clear what happens at mixed-use and joint-ownership sites. In the former it would not be easy to determine how many parked cars belonged to customers or residents and how many to staff and business visitors. In the latter it would not be easy to determine who was liable for a penalty if the number of parked cars exceeded the licensed number.

Clauses 159 to 161 closely follow clauses 144 to 146 of the bill on road user charging and set out the order-making process for introducing a licensing scheme.

Clauses 162 to 164 set 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 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. **Clause 163** follows clause 148 in granting powers to the secretary of state to set, by regulation, exemptions, reduced rates or limits on charges. This clause be used to exempt small businesses with only a limited number of parking places or to set maximum charges.⁷⁴ **Clause 164** 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 less than a year.

Clause 165 and 166 are about enforcement. They largely follow clause 149(1)-(3) in providing for regulations to set out the enforcement requirements for licensing schemes. The secretary of state may make regulations making the occupier of premises (or, in specified circumstances, other persons) liable to pay the parking levy. **Clause 166** allows for a right of entry to premises by an authorised official to check that workplace parking is covered by a licence. It also creates an offence of intentionally obstructing an authorised official in the exercise of these powers.

⁷⁴ For further discussion of possible exemptions, see DETR *Breaking the logjam*, December 1998, chapter 7

III General provisions

This section of the bill is common to both road user charging and the workplace levy.

A. Finance

Road user charging can generate substantial revenue streams although how much will depend on the scheme devised and the charges imposed. What is to be done with the money is likely to influence the public's acceptance of the schemes.

Initially the Treasury argued that these charges were a tax and so could not be hypothecated or allocated to a particular policy. Hypothecation is the term used to describe the process of assigning tax revenues to a specific end, or - in certain cases - ensuring that they are not spent on one particular end. Earmarking taxes may be in relation to a given proportion of a wider pool of revenue (such as spending the receipts from an extra 1p on the basic rate of income tax on education), or a single tax base (such as spending all receipts from motoring taxes on road building). In each example, hypothecation contrasts with the funding of all government expenditure from a consolidated fund.

The deputy prime minister seems to have convinced the Treasury that road user pricing and workplace parking levies are charges and, at least for ten years, any money raised must be spent on transport. Indeed the Chancellor announced recently that any money raised by increases in fuel duty above the rate of inflation would also go towards improving public transport.

The comprehensive spending review covered the government's spending plans for the years 1999-2002. This foresees an extra £1700 million in transport investment, representing a 25 per cent increase at current prices averaged over three years. "New revenue streams" are identified for 2001 and beyond. These are shown to grow to more than £1000 million a year by 2006 and assume high levels of private sector investment and that "local authorities and others respond positively to the new powers to be announced in the transport white paper."⁷⁵ In other words that they introduce road user and workplace parking charges.

Local authorities will have to submit their plans for charging and for the use of revenue to improve local transport to the secretary of state. The use of the net proceeds raised by the road user pricing and the parking levy were referred to in the consultation paper.⁷⁶ The government proposed that the first call on the net proceeds from a workplace parking levy should be local transport expenditure, capital or current, in support of the objectives established in the local transport plan. This is likely to involve expenditure outside the

⁷⁵ *Modern public services for Britain: investing in reform* July 1999, Cm 4011 para 2.35-7

⁷⁶ DETR *Breaking the logjam*, December 1998 paras 6.28-6.30

charged area, and probably outside the boundaries of the traffic authority or authorities operating the scheme. The legislation will ensure that authorities can make payments to other authorities, and to transport operators in support of services that run beyond or outside their boundaries.

The consultation paper continued that although it is proposed that transport will have first call on the relevant stream from charging schemes, the legislation will not restrict expenditure entirely to transport-related matters. This is because there could be poor value for money if low priority transport projects were undertaken simply because of restrictions on the use of revenues.

The *Greater London Authority Act 1999* introduced similar provisions on road charging to those in the present bill. It provided initially that the net proceeds of any scheme could be paid to the secretary of state, the GLA or kept by the boroughs. John Prescott emphasised that the money would be ringfenced and spent on transport, but there was nothing in the legislation to prevent the Treasury from clawing it back. The bill was amended in committee and the Act now provides that for 10 years after the inception of the Authority, the net proceeds may be used only for "relevant transport purposes" by the Authority, TfL or a London borough. This applies during the 10 years from the setting up of the Authority but once a scheme is introduced, the rule applies to the first 10 years of its life. A scheme set up in year 8 will therefore be covered until year 18. The number of years can be extended by regulation and the proceeds may be used only for purposes that provide "value for money".

Schedule 11 of the *Transport Bill* contains the financial provisions for road user charging and workplace parking levy schemes, similar to those in the GLA Act. The aim is to create maximum flexibility as to how and where the money raised is spent. **Paragraph 2** defines net proceeds. 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 by regulation to treat certain wider expenses as deductible from gross proceeds in the case of a trunk road charging scheme. These include 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 as well as operating the charging scheme on it. Paragraph 2(5) allows a complementary trunk road charging scheme and the local authority scheme to include the expenses of either scheme within its own expenses provided there is no double-counting. This will allow flexibility for local authorities and the Highways Agency to agree to apportion costs as is most appropriate. **Paragraphs 3 and 4** deal with the apportionment of the net proceeds of a joint scheme.

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. Clear accountability for any revenue raised is essential, and it must be identified in a separate and transparent account.

Paragraph 7 sets out how net proceeds can be spent by local traffic authorities during the "initial" period of a scheme (i.e. ten years from commencement). It applies to schemes started within ten years of this part of the Act. It requires that net proceeds will only be spent in support of the authority's local transport plan. It makes provision for joint schemes, including ones involving a London authority where their share of proceeds must be spent in line with the mayor's transport strategy. It allows periods longer than 10 years to be agreed by the secretary of state or the NAW at the outset for individual schemes.

Paragraph 8 provides that after this ten year period local authorities must spend the net proceeds in accordance with regulations made by the secretary of state. It 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.

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 11 refers to the application of revenues from joint schemes involving a London charging authority and **paragraph 12** to the application of revenues from trunk road charging schemes. Similar rules apply, that the revenue must be spent on transport purposes for ten years. This can be extended by regulation.

Schedule 12 contains amendments to schedules 23 and 24 of the *Greater London Authority Act 1999*.

B. General

Clause 168 allows charging/licensing authorities to spend money on operating a charging or licensing scheme, and to enter into contracts with third parties for the operation of a scheme. **Clause 169** allows for guidance to be issued by the national authority. **Clause 170** 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 DVLA to the charging authority. **Clause 171** gives a regulation-making power to the secretary of state to provide for appeals and adjudication in respect of schemes. **Clause 172** ensures that this part of the bill applies to the Crown and its agents. **Clause 173** establishes that regulations are exercisable by statutory instrument, most subject to the negative resolution procedure. The power to amend the definition of workplace parking in clause 158(5), and the powers to change hypothecation provisions in Schedule 11 will be subject to the affirmative resolution procedure in the House of Commons.

IV Devolved bodies

Scotland

On 16 June 1999 the First Minister, Donald Dewar, announced that the Scottish Parliament's first legislative programme would include a Transport Bill, which would "establish a framework to enable, where sensible, road-user charging and to allow, where appropriate, to introduce a levy on workplace parking". The primary legislation is expected to be announced at the end of the year.

The Scottish Executive published a consultation paper, *Tackling Congestion*, on 13 July.⁷⁷ On 10 August the Scottish transport minister, Sarah Boyack, announced that a subgroup would be set up within the National Transport Forum for Scotland⁷⁸ to look specifically at replies to the consultation document.⁷⁹ In a debate on 4 November 1999, Sarah Boyack made clear that although plans for charging on local road users would be taken forward, proposals for charging the motorway and trunk road network would not be included in the forthcoming legislation.

Wales

The Welsh transport white paper in its executive summary said:

We will ensure that local authorities are able to use a substantial proportion of funds raised from road user charging or workplace parking levies to further improve public transport.⁸⁰

In the section on the role of rural local authorities it is stated that "there may also be a case for introducing congestion charging schemes in the most popular tourist areas in order to reduce the growth of traffic and promote the attractiveness of public transport alternatives: we will look to work with authorities in developing a pilot scheme along these lines."⁸¹

The enabling legislation is included in this bill.

⁷⁷ Scottish Office *Tackling Congestion*, 13 July 1999; <http://www.scotland.gov.uk>

⁷⁸ The National Transport Forum was established in October 1997, bringing together transport operators, administrators, users, academics and interest groups to consider transport issues. It concentrated particularly on the Scottish transport white paper but has also discussed the roads paper and set up other sub groups on topics such as freight transport, bus policy and rural issues.

⁷⁹ Scottish executive press notice 10 August 1999 "Boyack announces new group to examine responses to tackling congestion"

⁸⁰ Welsh Office July 1998, *Transporting Wales into the Future*

⁸¹ para 4.21

Northern Ireland

The Northern Ireland transport white paper contained the following statement on road user charging:⁸²

3.28 In the medium to long term, funding the development and maintenance of the road network and further improvements to public transport will require significant additional resources. New ways of raising additional funding will have to be explored. Studies suggest that charging for use of the road can lead to significant reductions in traffic levels, with the attendant improvements in air quality, reduction in emissions and relief of congestion.

3.29 In line with the proposals contained in the White Paper, the Department will

- Publish a consultation paper in 1999 outlining how road user charging might operate and how the proceeds of the scheme should be used;
- Investigate the possibility of introducing a pilot scheme as a way of exploring the issues relating to potential application in Northern Ireland.

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