

# LOCAL TRANSPORT ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 7: Miscellaneous provisions**

##### *Section 122: Powers of the National Assembly for Wales*

300. Section 94 of the Government of Wales Act 2006 provides that a provision of an Assembly Measure is within the legislative competence of the National Assembly for Wales if it relates to (or is incidental or consequential on provision that relates to) one or more of the matters specified in Schedule 5 to that Act. The list of twenty fields in which the Assembly currently exercises functions is set out in Part 1 of Schedule 5, and each field will be divided into matters. Assembly Measures may include any provision that could be made by Act of Parliament, subject to specific restrictions set out in Part 2 of Schedule 5.
301. [Section 122](#) amends Schedule 5 to the Government of Wales Act 2006 to insert a matter into field 10 (highways and transport). This matter will allow the Assembly to pass an Assembly Measure containing provision for and in connection with the making, operation and enforcement of schemes that impose charges in respect of the use or keeping of motor vehicles on Welsh trunk roads (which are defined as those roads for which the Welsh Ministers are the traffic authority). The new matter does not enable such an Assembly Measure to make provision about traffic signs, apart from provision about the placing and maintenance of such signs.
302. Any Assembly Measure would be able to make provision about the application of the proceeds of a charging scheme, which must be for transport-related purposes.

##### *Section 123: Information*

303. [Section 123](#) replicates the provisions of section 194 of the TA 2000 (as amended by section 118 of this Act) in respect of a trunk road charging scheme or proposed such scheme which is made by or under an Assembly Measure.
304. [Section 123](#) allows information obtained by Ministers, Government Departments, local authorities or other statutory bodies to be disclosed to the Welsh Ministers in relation to a trunk road charging scheme or proposed such scheme. *Subsection (2)* allows any information that has been or could be disclosed to the Welsh Ministers under *subsection (1)* to be disclosed to any person with whom the Welsh Ministers have entered into charging scheme arrangements. *Subsection (3)* provides that such information must only be used in connection with Welsh trunk road charging schemes.
305. *Subsection (4)* allows the Secretary of State to charge a reasonable fee for supplying information under subsection (1) or (2). *Subsection (5)* provides that where the Welsh Ministers have asked the Secretary of State to obtain information from registration authorities overseas, with a view to disclosing that information under subsection (1) or (2), the Secretary of State may charge a reasonable fee for obtaining that information or for seeking to obtain it.

***Section 124: Street works: reinstatement and remedial works***

306. This section amends the [New Roads and Street Works Act 1991 \(c.22\)](#).
307. Section 48(3) of that Act defines “street works” for the purposes of Part 3 of the Act. *Subsection (2)* of section 124 inserts a new subsection (3A) into section 48 to clarify that the meaning of “street works” includes reinstatement of the street and, where an undertaker has failed to comply with his duties under Part 3 with respect to reinstatement of the street, any remedial works.
308. Section 50(1) of the New Roads and Street Works Act 1991 provides a power for street authorities to grant “street works licences” permitting, for example, apparatus to be placed, retained or inspected and to execute any works required for or incidental to such works. *Subsection (3)* of section 124 amends that section to clarify that reinstatement and, where an undertaker has failed to comply with his duties under Part 3 with respect to reinstatement of the street, any remedial works are works required for or incidental to works carried out under a street works licence.
309. [Section 124](#) extends to England and Wales.

***Section 125: Vehicles authorised to be used under operator’s licence***

310. Section 5(6) of the [Goods Vehicles \(Licensing of Operators\) Act 1995 \(c.23\)](#) makes it unlawful for an operator to use a vehicle which is not specified in that operator’s licence unless notice of the vehicle, together with payment of the prescribed fee, has been made, within one month, to the traffic commissioner. Section 125 amends that subsection, and makes a consequential amendment to subsection (7), to provide for situations where no such fee is prescribed.
311. [Section 125](#) also amends section 263 of the TA 2000, which would substitute section 5(6) of the Goods Vehicles (Licensing of Operators) Act 1995 but has not yet been brought into force. Section 125:
- a) inserts a new subsection (6A) to define the period within which an operator must provide information to the traffic commissioner about any new vehicle to be specified on their operator’s licence. This will enable the Secretary of State to prescribe a period of up to one month beginning with the day on which the vehicle was first in the lawful possession of the operator, or (if later) the day when the relevant operator’s licence came into force; and
  - b) makes a consequential amendment to the substituted section 5(6) to provide for situations where a fee is not required to be paid .

***Section 126: Vehicles used without operator’s licence: power to return detained vehicles***

312. [Section 126](#) replaces paragraph 8 of Schedule 1A to the Goods Vehicles (Licensing of Operators) Act 1995 to bring it in line with paragraph 8 of the new Schedule 2A to the PPVA 1981 (which is inserted by Schedule 3 to the Act).

***Section 127: Civil enforcement of traffic contraventions: meaning of “local authority”***

313. This section amends provisions in Part 6 of the [Traffic Management Act 2004 \(c.18\)](#). The effect of the amendments is to provide a power for non-metropolitan district councils to appoint new civil enforcement officers for the purposes of sections 76, 85, 86 and 87 of that Act.
314. The relevant provisions in Part 6 of the Traffic Management Act 2004 extend to England and Wales, but are of practical relevance only in England because there are no two-tier authorities in Wales.

***Section 128: Financial penalty deposits: powers of vehicle examiners in Scotland***

315. This section amends the definition of “conditional offer” in section 90F of the [Road Traffic Offenders Act 1988 \(c.53\)](#) (“the RTOA”). It enables financial deposit requirements to be imposed on those who are issued with conditional offers in Scotland by Vehicle and Operator Services Agency (VOSA) vehicle examiners.
316. Part 3A of the RTOA (sections 90A to 90F) was inserted by section 11 of the [Road Safety Act 2006 \(c.49\)](#). It establishes a system of financial penalty deposits in England and Wales and Scotland to provide a means of enforcement against offenders who avoid payment of fixed penalties and prosecution by not having a satisfactory address in the United Kingdom.
317. Under section 90A of the RTOA, police constables and vehicle examiners, appointed under section 66A of the [Road Traffic Act 1988 \(c.52\)](#), are able to require the payment of a deposit by a person they believe to have committed an offence in relation to a motor vehicle who does not provide a satisfactory address in the United Kingdom at which it is likely the person can be found. The police constable or vehicle examiner must also believe that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Secretary of State.
318. The person must also be given written notification that it appears likely that proceedings will be brought against him in respect of the offence, or, if the offence is a fixed penalty offence, either given such notification or given a fixed penalty notice (or, in Scotland, handed a conditional offer) in respect of the offence.
319. “Conditional offer” is defined in section 90F of the RTOA to mean a notice under section 75(3)(a) of that Act. Section 75(3)(a) provides that in Scotland, a police constable may, on any occasion, hand a notice to any person he believes to be committing a fixed penalty offence, or who he believes to have committed a fixed penalty offence on that occasion.
320. The amendment extends the definition of conditional offer to include those notices under section 75(3B)(a) of the RTOA. This refers to those offers made by vehicle examiners equivalent to those made by police constables under section 75(3)(a).
321. [Section 128](#) extends to Great Britain, but is of practical effect only in relation to Scotland.

***Section 129: Disclosure of information relating to foreign-registered vehicles***

322. This section inserts a new section 49A into the [Road Safety Act 2006 \(c.49\)](#). The new section allows the Secretary of State to disclose information, derived from a register of vehicles maintained in a country or territory outside the UK, to the list of people and for the purposes specified at *subsection (3)*. The effect of *subsection (4)* is to allow the Secretary of State to charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information and for supplying information. *Subsection (5)* provides that this section does not affect any other power of the Secretary of State to disclose information.

***Section 130: Use of information relating to foreign-registered vehicles***

323. This section inserts a new section 49B into the Road Safety Act 2006. The new section allows the Secretary of State to use the information to which section 129 applies for the purposes set out in *subsection (2)*. The information can be used:
- to carry out vehicle identity checks (allowed by virtue of the regulations made under section 22A(2) of the Vehicle Excise and Registration Act 1994);
  - to check records of examinations of goods and other vehicles as maintained under section 45(6B) or 49(3A) of the Road Traffic Act 1988;

*These notes refer to the Local Transport Act 2008 (c.26)  
which received Royal Assent on 26 November 2008*

- to promote compliance with test certificates under section 47 or 53 of the Road Traffic Act 1988; and
- to trace non-resident parents (within the meaning of the Child Support (Information, Evidence and Disclosure) Regulations 1992).