



INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

AGENDA

3rd Meeting, 2016 (Session 4)

Wednesday 20 January 2016

The Committee will meet at 10.00 am in the Adam Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 and any future consideration of evidence on its inquiry into the circumstances surrounding the closure of the Forth Road Bridge in private.

2. **Inquiry into the circumstances surrounding the closure of the Forth Road Bridge:** The Committee will take evidence from—

Wayne Hindshaw, Chief Bridge Engineer, and Scott Lees, Head of Network Maintenance, Transport Scotland;

Mark Arndt, Operating Company Representative, Forth Bridges Unit, and John Russell, Operations Manager, Forth Bridges Unit, Amey;

Colin Clark, Partner, Fairhurst;

Richard Hornby, Director, Arup.

3. **Subordinate legislation:** The Committee will consider the following negative instrument—

The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2015 (SSI 2015/420)

4. **Subordinate legislation:** The Committee will consider the following negative instrument—

The Housing (Scotland) Act 2014 (Commencement No. 5 and Consequential Provision) Order 2015 (SSI 2015/430 (C. 58))

5. **Inquiry into the circumstances surrounding the closure of the Forth Road Bridge:** The Committee will consider the evidence heard earlier in the meeting.

Steve Farrell
Clerk to the Infrastructure and Capital Investment Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 0131 348 5211
Email: steve.farrell@scottish.parliament.uk

The papers for this meeting are as follows—

Agenda item 2

FRB Inquiry Cover Note	ICI/S4/16/3/1
Technical briefing on the Bridge defect and repair plans	ICI/S4/16/3/2
PRIVATE PAPER	ICI/S4/16/3/3 (P)
PRIVATE PAPER	ICI/S4/16/3/4 (P)

Agenda Item 3

SSI 2015/420 Cover Note	ICI/S4/16/3/5
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Agenda Item 4

SSI 2015/430 (C. 58) Cover Note	ICI/S4/16/3/6
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Infrastructure and Capital Investment Committee

3rd Meeting, 2016 (Session 4), Wednesday 20 January 2016

Inquiry into the circumstances surrounding the closure of the Forth Road Bridge

Introduction

1. At its meeting on 16 December 2015 the Infrastructure and Capital Investment Committee agreed to hold an inquiry into the circumstances surrounding the closure of the Forth Road Bridge. This followed the closure of the bridge to all traffic on public safety grounds on 4 December due to the discovery of steelwork defects of a support beam.¹

2. The remit of the inquiry is:

“To examine the management, monitoring and maintenance of the Forth Road Bridge principally in the 10 year period prior to its closure on public safety grounds in December 2015”

3. While the Committee understands that the closure of the Bridge brought frustration to travellers and continues to bring significant impact upon many businesses, it agreed that its inquiry should focus on the structural defects identified and whether these could have been avoided or dealt with differently. The Committee acknowledged that these related and hugely important issues might however be investigated at a later stage.

Current work

Written evidence

4. The Committee issued a [call for written evidence](#) on 16 December 2015. The closing date for submissions is Friday 29 January 2016.

Evidence sessions

5. The Committee will hold a series of oral evidence sessions in January and February 2016 where it will hear from officials and engineers from Transport Scotland and Amey (who were appointed by Transport Scotland to manage and maintain the Forth Road Bridge from June 2015), representatives of the former Forth Estuary Transport Authority (who had previously managed and maintained the Bridge up to June 2015), independent engineering experts and the Minister for Transport and Islands.

6. At its first evidence session on 20 January 2016, the Committee will take oral evidence from representatives of Transport Scotland and Amey as well as bridge engineers from Arup and Fairhurst who provided independent advice on the structural defects.

¹ The bridge was subsequently reopened to all traffic except Heavy Goods Vehicles (HGVs) on 23 December 2015. The restriction for HGVs is expected to be in place until mid-February 2016.

Visits

7. On 19 January the Committee will visit the Forth Road Bridge to see where the steelwork failure occurred and the interim solution which has been put in place.

Report

8. The Committee will take into account all evidence received on the closure of the Forth Road Bridge prior to publishing a report on its findings prior to dissolution of the Scottish Parliament in March 2016.

Andrew Proudfoot
Senior Assistant Clerk
January 2016

Infrastructure and Capital Investment Committee

3rd Meeting, 2016 (Session 4), Wednesday 20 January 2016

Technical briefing by Amey on the structural failure identified on the Forth Road Bridge and the repair plans

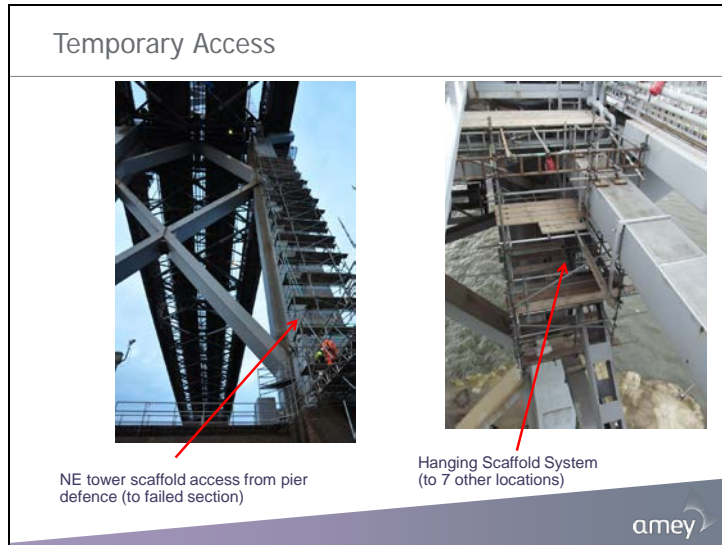
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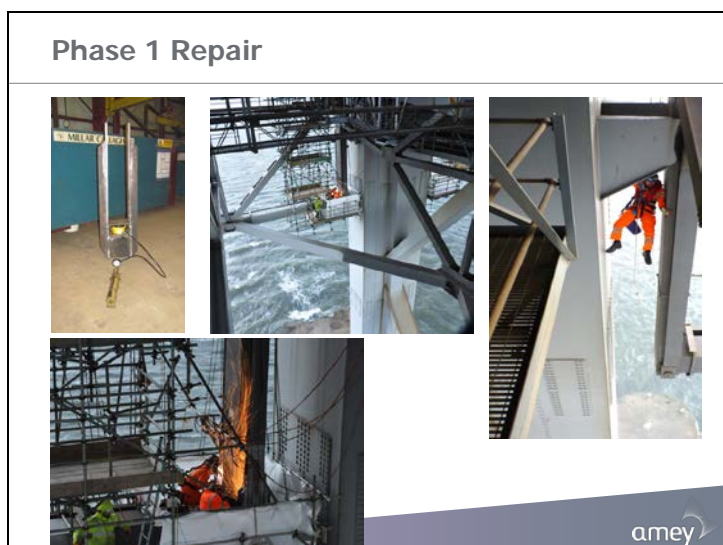
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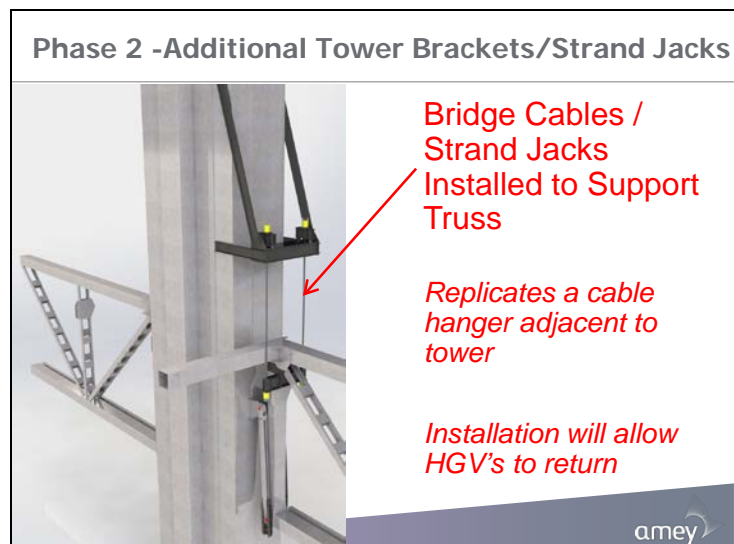
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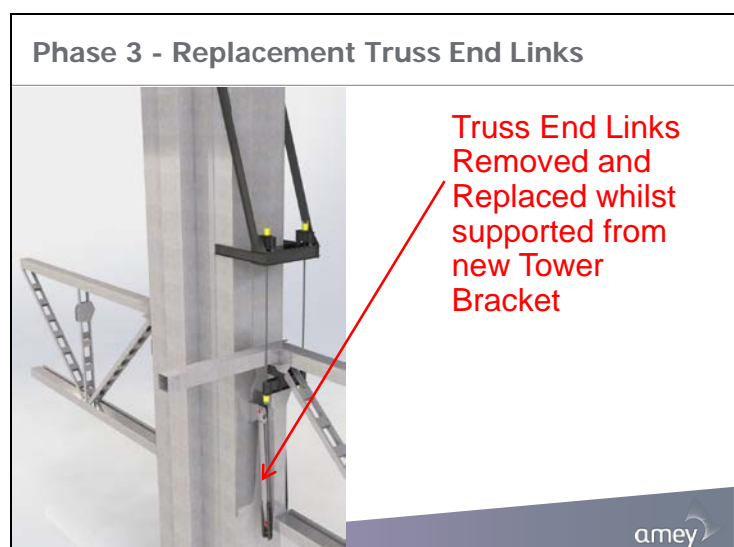
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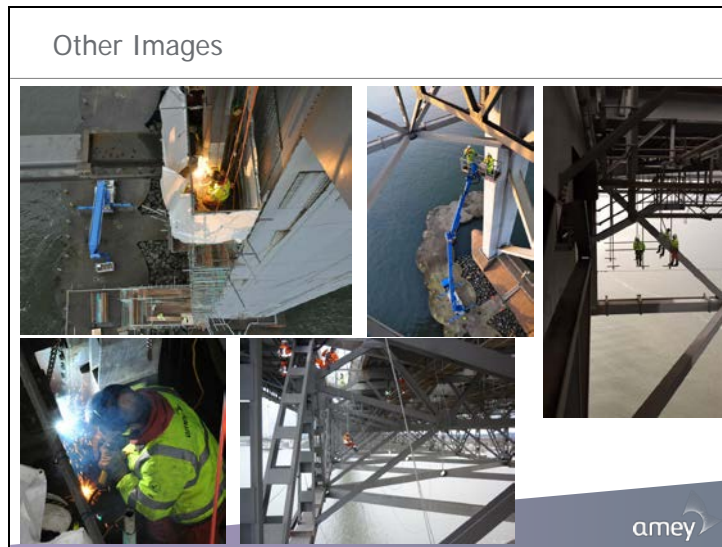
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Infrastructure and Capital Investment Committee

3rd Meeting, 2016 (Session 4), Wednesday 21 January 2016

Subordinate legislation

Title of Instrument

[Public Service Vehicles \(Registration of Local Services\) \(Scotland\) Amendment Regulations 2015 \(SSI 2015/420\)](#)

Type of Instrument

Negative

Laid Date

11 December 2015

Minister to attend the meeting

No

SSI's drawn to the Parliament's attention by Delegated Powers and Law Reform Committee

No

Reporting Deadline

1 February 2016

Purpose

1. Under the [Transport Act 1985](#) local bus services must be registered with the Traffic Commissioner. The purpose of this instrument is to put in place improvements to bus registration procedure.

2. Specifically, the measures will extend the pre-registration notice period to inform the relevant authority or authorities, where making an application to register, vary or cancel a service route with the Traffic Commissioner for Scotland, from 14 days to 28 days. The aim being to provide additional time for more meaningful discussion between public transport authorities and bus operators on the implications of any proposed changes and to plan accordingly to minimise any disruption or seek alternative options in the run up to service changes.

3. In conjunction with the change above, the instrument will also reduce the notice period of registration from 56 days to 42 days in order to preserve the overall timetable from notification to service change at 70 days.

4. The Scottish Government's policy note is attached at Annexe A. The Scottish Government also carried out a Business and Regulatory Impact Assessment and a copy of this is attached at Annexe B. Best Practice Guidance is attached at Annexe C.

Procedure

5. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

6. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Consideration by the Delegated Powers and Law Reform Committee

7. At its meeting on 5 January 2016, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Recommendation

8. **The Committee is invited to consider any issues that it wishes to raise in reporting to the Parliament on this instrument.**

**Jason Nairn
Assistant Clerk
January 2016**

Annexe A

POLICY NOTE
THE PUBLIC SERVICE VEHICLES (REGISTRATION OF LOCAL
SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2015
SSI 2015/420

1. The above instrument is made in exercise of powers conferred by sections 6(2)(a), (3)(a), (8)(a) and (9) of the Transport Act 1985 and by section 60(1), (1A) and (2) and is subject to the negative procedure.
2. Regulations 4 and 6 of The Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (“the 2001 Regulations”; SSI 2001/219) provide for the term of the pre-registration notification period and the period of notice for bus service registrations in Scotland in terms of section 6(3) of the Transport Act 1985.
3. This instrument amends the 2001 Regulations by changing the pre-registration notification period and the period of notice for all new bus service registration applications.

Policy Objectives

4. Under the Transport Act 1985 local bus services in Scotland must be registered with, and are regulated by, the Traffic Commissioner for the Scottish Traffic Area. Section 2 defines the meaning of local services and section 6 sets out the registration requirement.
5. Registered services are subject to a regulatory regime administered by the Traffic Commissioner which aims to ensure the delivery of services to the proposed standard. The regime helps provide an important element of stability in the local bus network and facilitates the timely provision of information to bus users and others affected by planned changes in services by giving advance notice of changes, which allows local transport authorities (LTAs) to consider whether to take action to avoid potential adverse consequences of proposed changes.
6. The details of local bus services are required to be registered with the Traffic Commissioner before they come into operation and the Commissioner has powers to act against operators if services are not being operated as registered.
7. The general policy objective of these Regulations is to offer LTAs the opportunity to better manage the effects of planned bus service changes, including new services and withdrawal of services on the transport network, with the ultimate aim of providing greater certainty and information to bus users and potential new users.
8. The increase in the pre-registration notification period to up to 28 days will allow more time for meaningful discussion between LTAs and bus operators in the

run up to service changes, allowing both parties time to plan accordingly to minimise any disruption or seek alternative options.

9. The corresponding decrease in the registration period of notice from 56 to 42 days will retain the overall timescale of a maximum of 70 days between notification and service change.

10. The Scottish Government will issue guidance at the time these Regulations come into effect setting out how the additional time allocated to pre-registration notification might profitably be used by LTAs and bus service operators when considering the effects of proposed bus service changes.

Consultation

11. A twelve week public consultation took place between 1 August and 24 October 2014. The consultation period was then extended by two weeks to 7 November in order to allow late submissions.

12. Following the consultation, a series of meetings were held with stakeholder groups and representatives in 2015 to discuss the proposed changes and their intended effects.

Impact Assessments

13. There are no equality impact issues. The bus service registration regime affects bus operators, local and regional transport authorities and the Traffic Commissioner for Scotland. From the perspective of bus users, there will be no change.

14. A Business Regulatory Impact Assessment has been completed and is attached. The proposed changes are not expected to have any significant impact on costs, will not impact significantly more on some bus operators than others nor will they restrict new entrants to the market.

Date of implementation

15. These amending new regulations will come into force on 31st January 2016. They contain savings provision, preserving the effect of the preceding law as regards applications notified before that date.

Scottish Government
Transport Scotland

December 2015

Business and Regulatory Impact Assessment

<p>Title of Proposal</p> <p>Changes to Bus Registration in Scotland.</p>
<p>Purpose and intended effect</p> <ul style="list-style-type: none"> <p>Background</p> <p>Under the Transport Act 1985 local bus services must be registered with, and are regulated by, the Traffic Commissioner. Section 2 defines the meaning of local services and section 6 sets out the registration requirement.</p> <p>Registered services are subject to a regulatory regime administered by the Traffic Commissioner which aims to ensure the delivery of services to the proposed standard. The regime helps provide an important element of stability in the local bus network, facilitates the timely provision of information to bus users and others affected by planned changes in services and by giving advance notice of changes allows local transport authorities (LTAs) to consider whether to take action to avoid potential adverse consequences of proposed changes. The details of local bus services are generally required to be registered with the Commissioner before they come into operation, and the Commissioner has powers to act against operators if services are not being operated as registered.</p> <p>Objective</p> <p>In August 2014 Transport Scotland published a consultation to discuss potential improvements to bus registration procedure in Scotland through amendments to The Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (SSI 2001/219), non-legislative means (guidance, code of conduct) or a combination of the two.</p> <p>The changes proposed were designed to offer public transport authorities the opportunity to better manage the effects of planned bus service changes, new services and withdrawal of services on the transport network with the ultimate aim of providing greater certainty and information to bus users and potential new users. Interventions may include offering financial or other support to influence planned proposals before they are registered, while maintaining the overall competition-based approach to bus service provision. This additional support will benefit local transport authorities, bus operators and bus users and may have the added benefit of growing bus patronage.</p>

- **Rationale for Government intervention**

While the bus registration regime in Scotland generally works well, the Scottish Government considers that there are a number of areas of the regime with room for improvement. The proposed changes would create time for more detailed discussion between bus operators and local transport authorities without lengthening the overall process, offering both parties the opportunity to work collaboratively to their benefit and, ultimately, that of the bus user.

This contributes to the Scottish Government's National Performance Framework: by making Scotland wealthier and fairer we will generate wider opportunities for work, increase our competitiveness and make Scotland a more attractive place to live, work and invest.

Consultation

- **Within Government**

Bus and Local Transport policy team consulted with colleagues in Analytical Services Division and Scottish Government Legal Directorate, both of whom provided advice on draft proposals and offered valuable perspectives on our chosen approach.

- **Public Consultation**

A twelve week public consultation took place between 1 August to 24 October 2014. The consultation period was extended by two weeks to 07 November in order to allow late submissions.

- **Business**

Comments have been received from bus industry representative bodies, local transport authority representatives and regional transport partnerships. These have been taken into account in the development of the proposed changes. The parties who will be affected by the proposed changes (bus operators, local and regional transport authorities, Traffic Commissioner for Scotland) and other interested parties were informed directly by email when the consultation launched.

A total of 54 responses were received, which could be divided into five distinct groups depending on their institutional affiliation. The responses came from bus operators (7), local authorities (21), Regional Transport Partnerships (7), other professional organisations and trade body associations (12) and individuals (8).

Options

Option 1: Do nothing: maintain the current bus service registration regime in Scotland.

Option 2: Adopt some or all of the proposals outlined below

a) extend the pre-registration notice period from 14 days to 28 days.

At present, bus operators are obliged to inform the relevant authority or authorities 14 days before making an application to register (vary or cancel) a service route with the Traffic Commissioner for Scotland. Once the relevant authority (defined as any Passenger Transport Authority or local authority within whose area there will be a stopping place for the service) has acknowledged receipt of this notice, the operator can then proceed to registration, variation or cancellation of a service. This proposal is designed to provide additional time for more detailed dialogue between the relevant authorities and bus operators in the run up to service changes. Both parties could use the greater period of notice for meaningful discussion on the implications and to plan accordingly to minimise any disruption or seek alternative options (possibly with third parties).

b) replace the duty to inform the relevant authority before making an application for registration with a duty to enter into dialogue with the relevant authority.

Currently, bus operators are obliged only to notify the relevant authority 14 days prior to making an application for registration. The authority must then acknowledge receipt of the notification. This proposal seeks to encourage a more collaborative approach between bus operator and local transport authority to determine how a proposed new route or change to an existing route might best be implemented to the benefit (or least disruption) of bus users.

c) relevant authorities should be encouraged through guidance to draw potential concerns about new registrations to the attention of the Traffic Commissioner for Scotland and/or Transport Scotland

In some circumstances it may be helpful for relevant authorities to draw to the attention of the Traffic Commissioner and/or Transport Scotland concerns relating to proposed service changes. This might provide the Commissioner with additional information which could help her in the exercise of her wider powers or identify issues with the operation of national bus service regulation or funding which could inform the further development of bus services policy.

d) reduce the period of registration from 56 days to 42 days (either (i) for all registrations or (ii) for applications registered using Electronic Bus Service Registration).

In conjunction with (a) above, this change would preserve the overall timetable from notification to service change at 70 days. However, this might not leave sufficient time to allow the conversion of finalised service details into timetables for public dissemination by local transport authorities. The alternative option of reducing the time period for electronic registrations only was also put forward for consideration.

e) operators will be required to detail within registered hourly frequency bands any services that are registered as frequent services.

In 2011 the Competition Commission's Local Bus Services Market Investigation recommended that the Scottish Government make changes to local bus services legislation to remove an incentive for bus operators to compete in ways that can lead to a rival's exit rather through ongoing competition on the merits of their respective offerings.

It is possible that much of what is proposed above could be achieved through Guidance and/or a Code of Conduct to facilitate engagement between operators and relevant authorities rather than changes to the legislation. Do you have any views on this?

The proposals in Questions (a), (d) and (e) would make limited changes to the legislation which would be backed up with guidance for parties to follow. The intention would be to give an impetus and create room for bus operators and the relevant authorities to work better together rather than to prescribe a rigid sequence of steps to be undertaken.

Sectors and groups affected

The changes to the registration system are technical in nature and will directly affect bus operators, local transport authorities and the Traffic Commissioner. The changes could have an indirect impact on bus users from any overall improvement in services or information about them.

Benefits

Option 1 above retains the status quo. Consequently no change in benefits or costs.

Option 2: the changes proposed seek to improve the stability of the bus service network in Scotland. This, in turn, will help ensure that bus users have access to appropriate local services.

Extending the notice period to up to 28 days and correspondingly reducing the registration period to 42 days seeks to maintain the overall timetable from notice of change to actual change at 70 days. At the same time, these proposals, together with those requiring operators to enter into dialogue with local transport authorities and enabling the Traffic Commissioner to receive further information on registrations to inform her decisions, should allow local transport authorities greater notice of any changes and offer both operator and authority the chance to work in a more collaborative way in planning and maintaining the bus service network.

The Competition Commission recommended that operators should be required to detail within registered hourly frequency bands any services that are registered as frequent services. Existing rules for registering 'frequent services' requires only a statement of fact to be made and might allow operators to increase the frequency of buses in response to a competitor's entrance to the market without having to make an application to the Traffic Commissioner, leading to a rival's exit rather than competing through ongoing competition on the merits of their respective offerings. Competition should be

to the benefit of the bus user through the provision of more choice and frequency.

Costs

The costs of these proposals should be limited and are likely to impact mainly on the operators and local authorities. The additional period set aside for dialogue may in some cases lead to additional administrative time and costs for both parties, although these are not expected to be significant beyond the limited administrative costs involved in fuller dialogue with the relevant authorities.

However, it is envisaged that the extended pre-registration notification period will cut the number of erroneous submissions as defects in the proposed registration can be addressed at this time, potentially saving costs associated with resubmission of registrations. In addition, the relevant authorities will have greater notice of planned registrations, allowing them to plan for changes and begin to prepare public information earlier in the process, i.e. prior to the submission of a registration.

In some instances, the enhanced dialogue which the proposals aim to promote may result in amendments to proposed service changes which could mean additional costs to operators or authorities. It would be for the operators or authorities concerned to decide whether to incur these costs taking account of wider commercial and other considerations.

Scottish Firms Impact Test

The proposals have been formulated from the outputs of the Bus Stakeholder Group, which includes representatives of both bus operators and local transport authorities. Further discussions with business interests were conducted in parallel with the public consultation and informed the drafting of the guidance to bus operators and local transport authorities.

Reducing the registration period for only those applications using Electronic Bus Service Registration (EBSR) would disproportionately affect small operators, who would have to meet the cost of installing EBSR compliant software. Accordingly, this option will not be progressed in order to allow time for the EBSR system to become more user friendly, cheaper and widely adopted.

Competition Assessment

The proposals outlined above are not expected to impact significantly more on some bus operators than others nor to restrict new entrants to the market. The proposed legislative changes are not likely to impose additional burdens on businesses.

Test run of business forms

The Office for the Traffic Commissioner will be making slight amendments to

existing form PSV350 (Scotland) to take account of new time periods for pre-registration notification and registration period. This will have no material effect on businesses.

Legal Aid Impact Test

The proposals will not have any impact on individuals' right to access to justice and no impact on the legal aid fund. Scottish Government Access to Justice Team have confirmed that they concur with this view.

Enforcement, sanctions and monitoring

Some of the proposals would require secondary legislative change. These are the increase in the pre-registration notification period to up to 28 days and the corresponding reduction in the actual registration period from 56 to 42 days. Other changes agreed will be set out in Official Guidance.

We will monitor the impact of any changes made to determine if the desired result is achieved. The proposals are designed to facilitate behavioural changes on the part of operators and local transport authorities in order to improve the stability of the network and minimise disruptions. If the changes do not have the desired effect further legislative changes may be considered.

Implementation and delivery plan

The proposals went out for public consultation on 1 August 2014.

Consultation closed on 07 November 2014.

Analysis of responses continued thereafter and have informed the proposed changes to be made to legislation and Guidance.

In addition a number of workshops were held in the course of this year with stakeholders and interested groups to discuss the options put forward in the consultation and their possible effects.

The proposed Statutory changes and new Guidance will be laid before Parliament in December 2015 to come into force on 31 January 2016.

Post-implementation review

Transport Scotland will monitor the impact of any changes made to the registration process and consider any practical or unforeseen consequences as they arise. Any areas of concern are likely to become quickly apparent through representations made by bus operators and local transport authorities, the Traffic Commissioner for Scotland and the Bus Stakeholder Group.

Summary and recommendation

In summary, following public consultation and further discussion with bus operators, LTAs and other interested parties we recommend proceeding with some, but not all, of the options outlined above.

We intend to proceed with the following:-

- Extend the pre-registration notification period from 14 to up to 28 days.
- Replace the duty to inform the relevant authority of an application for registration with a duty to enter into dialogue.
- Allow the relevant authorities to draw potential concerns about new registrations to the attention of the Traffic Commissioner for Scotland.
- Reduce the registration period from 56 to 42 days.

All of these options found favour in the Consultation and resulting discussion with stakeholders. Although some authorities raised practical concerns about the reduction in the registration period, the overall consultation responses and further discussion with stakeholders lead us to believe that the increase in pre-registration notification period leaves sufficient time to plan for changes and prepare public information.

However, we do not intend to proceed with the following at this time:-

- Reduce the registration period for EBSR applications only.
- Operators to detail within registered hourly frequency bands any services that are registered as frequent services.

Feedback received during the consultation and since has confirmed that the vast majority of Scottish operators do not use EBSR at present and do not plan to use the system until problems with reliability and costs have been resolved. DfT and DVSA are investigating the barriers to take up of EBSR (Transport Scotland will contribute) and are expected to report in the next year. In light of this, we will then consider further how to extend the usage of EBSR in Scotland.

In addition, we will discuss the implications of frequency bands in more detail with operators and LTAs. A similar proposal in a DfT consultation was strongly opposed by operators and LTAs as creating inflexibility to address a rare problem that could better tackled by other means. This was accepted by DfT and the proposal was not taken forward.

• Summary costs and benefits table

Summary costs	Summary benefits
Potential for little or no benefit from the proposed changes if the parties fail to embrace the spirit or partnership and co-operative working that the proposals offer.	The proposed new structure will encourage more meaningful discussion and information sharing between operators and LTAs. Should be of benefit to the bus

However, this would have no real impact on costs.	infrastructure in Scotland.
No sanctions for inadequate consultation or engagement. However, will monitor the effectiveness of the changes and consider further options if improvements are not forthcoming.	The additional time allocated to pre-registration notice should facilitate greater accuracy of registrations when submitted as errors should be filtered out at this stage.
	Incentive for greater co-operation to reduce overall registration period by agreement.
	Overall effect should be to provide better service outcomes for users.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date: 23 November 2015

Derek Mackay MSP
Minister for Transport and Islands

Scottish Government Contact point:

Allan Crawford
 Bus and Local Transport Policy
 Transport Policy Directorate
 2-D(N) Victoria Quay
 0131 244 7422
Allan.Crawford@transportscotland.gsi.gov.uk

Annexe C

Bus service registration – best practice guidance**Introduction**

Under the [Transport Act 1985](#) local bus services must be registered with the Traffic Commissioner. Section 2 defines the meaning of local services and section 6 sets out the registration requirement.

Registered services are subject to a regulatory regime administered by the Traffic Commissioner which aims to ensure the delivery of services to the proposed standard. The regime helps provide an important element of stability in the local bus network, facilitates the timely provision of information to bus users and others affected by planned changes in services and by giving advance notice of changes allows the relevant authority (defined as any Passenger Transport Authority or local authority within whose area there will be a stopping place for the service) to consider whether to take action to avoid potential adverse consequences of proposed changes or suggest potential improvements. The details of local bus services are generally required to be registered with the Commissioner before they come into operation, and the Commissioner has powers to act against operators if services are not being operated as registered.

While the bus service registration regime in Scotland generally works well, the Scottish Government considers that there are a number of areas where there is room for improvement. The proposed changes are designed to create time for more detailed discussion between bus operators and the relevant authorities without lengthening the overall process, offering both parties the opportunity to work collaboratively to their benefit and, ultimately, that of the bus user.

This draft Guidance is designed to come into effect at the same time as the proposed legislative changes set out in [the Public Service Vehicles \(Registration of Local Services\) \(Scotland\) Amendment Regulations 2015](#) (*link when available*).

Background

Earlier this year Transport Scotland published [Changes to Bus Registration in Scotland: Analysis of Responses and Next Steps](#) to the 2014 Consultation on improvements to bus registration procedure in Scotland. The Consultation sought changes through amendments to [The Public Service Vehicles \(Registration of Local Services\) \(Scotland\) Regulations 2001](#), non-legislative means (guidance, code of conduct) or a combination of the two.

Following the consultation and discussion with stakeholder groups the Scottish Government has introduced the [Public Service Vehicles \(Registration of Local Services\) \(Scotland\) Amendment Regulations 2015](#). This sets out the following changes to the bus service registration regime:-

- extend the pre-registration notice period from 14 days to 28 days. Previously, bus operators were obliged to inform the relevant authority or authorities 14 days before making an application to register, vary or cancel a service route with the Traffic Commissioner for Scotland. This proposal provides additional time for more meaningful discussion between public transport authorities and bus operators on the implications of any proposed changes and to plan accordingly to minimise any disruption or seek alternative options in the run up to service changes.
- reduce the period of registration from 56 days to 42 days. In conjunction with the extension of the pre-registration notice period, this change preserves the overall timetable from notification to service change at 70 days.

The proposed changes are designed to offer the relevant transport authorities the opportunity to better manage the effects of planned bus service changes, new services and withdrawal of services on the transport network with the ultimate aim of providing greater certainty and information to bus users and potential new users. Interventions may include offering financial or other support to influence planned proposals before they are registered, while maintaining the overall competition-based approach to bus service provision.

Guidance for public transport authorities and bus service operators

In tandem with the legislative changes, this Guidance is designed to offer pointers as to how the additional time allocated to pre-registration notification might profitably be used by public transport authorities and bus service operators when considering applications for bus service registration.

It is important that the pre-registration process becomes more meaningful and fosters consultation between operator and authority on changes to the bus network. The additional time given to the pre-registration period is intended to be used by both bus operator and the relevant authority to discuss proposed registrations in partnership and to allow them to seek to resolve potential difficulties before they arise.

Of course, the Scottish Government recognises that bus operators and public transport authorities have different imperatives. However, both parties also have a shared interest in a robust and resilient transport network that is used and valued by the passenger.

By providing additional time at the front end of the registration process, it is envisaged that many of the difficulties currently encountered can be resolved by discussion at an earlier stage, making the actual registration process simpler and reducing the number of faulty applications submitted for registration.

In addition, although in the consultation some local authority representatives voiced misgivings about the impact of reducing the registration period to 42 days, they should find that the additional time allocated to the pre-registration period results in fewer inaccurate applications being submitted for registration. The fact that the overall period from notification to service change

remains at 70 days will also allow authorities to plan for changes and begin to prepare some formats of public information earlier in the process.

The following guidance draws on best practice examples and aims to facilitate greater dialogue and information sharing between operators and authorities, in particular, how to make better use of the pre-registration notification period to iron out any potential difficulties before they arise.

1. Pre-registration consultation period

All operators planning to register a new service or a change to an existing service or to deregister a service should consult with the public transport authorities through whose areas the service operates 28 days before submitting the registration to the Traffic Commissioner. For the purposes of this Guidance, the term 'consult' means to provide information, discuss, consider and action matters agreed by both parties.

The consultation process should include the following steps and adhere to the following time frames.

Day 1:

The operator sends the registration document, along with associated timetables and maps, to the relevant authority, who can issue an email to acknowledge receipt of documents from the operator.

Days 2-14:

The authority considers the content of the registration, highlighting any mistakes if found, and identifying potential changes that would benefit the community. Where potential changes have been identified, or a particular issue arises, a meeting should be held with the operator to discuss these. The authority should consider whether:

- (i) The service/changes are complementary to the current public transport network.
- (ii) A supported socially necessary service would be required.
- (iii) The registration would cause concerns for safety or uncompetitive practices.
- (iv) The service could in practice operate as registered.
- (v) Another authority's or the Regional Transport Partnership's view is required if the service is cross-boundary or has regional strategic implications.
- (vi) Any stance allocations have been agreed

In line with the recommendations of the Competition Commission's Local Bus Services Market Investigation, in instances where services are being withdrawn, operators should automatically provide data on revenue and patronage of services to the relevant authority.

Days 15-27:

The operator considers the comments from the authority and provides a counter response. Where applicable, the operator may make changes to the registration. The operator submits its final intended registration to all authorities through which the service operates.

If both the authority and operator agree, the operator can submit the registration after the initial 14-day pre-registration period. This will, of course, depend on the authority being satisfied that this leaves them sufficient time to plan for the changes proposed.

If agreement has not been reached within the pre-registration period, the operator is still able to submit the registration to the Traffic Commissioner. Unless this is an issue on which the Traffic Commissioner can intervene, the registration will be accepted by the Commissioner.

The relevant authority or authorities should return to the operator acknowledgement that consultation has taken place. This confirmation notice will then be submitted by the operator to the Office of the Traffic Commissioner with the relevant application Form for the proposed registration.

2. Registration period

The application for registration should include a confirmation from the relevant authority that it has been properly consulted (a confirmation notice). The authority also has the opportunity to highlight to the Office of the Traffic Commissioner any concerns that were not resolved during the pre-registration period. The registration period will last for 42 days and begins when the operator submits an application for registration.

To be clear, the provision of this additional information does not alter the duties or remit of the Traffic Commissioner for Scotland. However, this information is expected to provide useful evidence for evaluation of the effectiveness or otherwise of the changes to the registration system and to inform policy decisions in the future.

Day 1:

The operator submits the registration to the Traffic Commissioner.

Days 2- 42:

The Traffic Commissioner considers the registration. If the relevant authority has indicated that they have not been consulted or that they are not in agreement with the content, the Traffic Commissioner should examine the circumstances. The powers for refusing registrations will be restricted, as currently, to the following instances:

- (i) The operator does not hold a valid PSV operator's licence or community bus permit.
- (ii) The operator's licence has a condition on it which stops the operator running the type of service applied for.

(iii) The service runs in an area covered by a Quality Contract, unless it is exempt for the Quality Contract.

(iv) Where the registration document has not been completed properly or the fee has not been enclosed, in which case the Traffic Commissioner can seek additional information and the fee from the operator.

In addition, if requested by the relevant authority in terms of s. 7 of the Transport Act 1985, the Traffic Commissioner may attach Traffic Regulation Conditions (TRCs) to the PSV operator's licence which must be met in the provision of services in the area to which the conditions apply. Implementation of a TRC is normally as a result of a Public Inquiry unless the Traffic Commissioner believes the condition should be determined without delay. Conditions can affect:

- (i) Stopping places
- (ii) The times vehicles may stop and for how long
- (iii) Routes of services
- (iv) Turning or reversing manoeuvres vehicles may take
- (v) The number of vehicles or frequency of service.

The request for TRCs would normally come from a relevant authority. The Traffic Commissioner should consider evidence and cases from both the authority and operator before considering whether a TRC should be attached and the detail of the TRC.

In the spirit of good partnership working, authorities should not raise any issues with the Traffic Commissioner that they have not already raised with operators during the pre-registration period. The relevant authority may not be in agreement as to the proposed registration, but this will not constitute a reason for the Traffic Commissioner to reject the registration.

Throughout, the aim should be for good data accuracy and adherence to timescales.

3. Registration form

The amended form will allow for more information on the consultation undertaken with the relevant authority to be recorded. In terms of s. 4(2) of The Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001, the Traffic Commissioner for Scotland can require such information and in such form as they reasonably require in connection with the application.

It will require as a minimum

- (i) all authorities that the service passes through,
- (ii) whether they have been consulted,
- (iii) the date they were informed of the registration,

- (iv) the date of response from the authority,
- (v) the date of any amendments and boxes to indicate whether or not the authority supports the content, and if not, a reason why not.

Where a registration has been submitted without agreement from the authority, this should be clearly stated and a reason for this disagreement given from the authority. The authority should also be able to state whether requested information was not supplied by the operator.

To be clear, the provision of this additional information does not alter the duties or remit of the Traffic Commissioner for Scotland. However, this information is expected to provide useful evidence for evaluation of the effectiveness or otherwise of the changes to the registration system and to inform policy decisions in the future.

Infrastructure and Capital Investment Committee

3rd Meeting, 2016 (Session 4), Wednesday 21 January 2016

Subordinate legislation

Title of Instrument

[Housing \(Scotland\) Act 2014 \(Commencement No. 5 and Consequential Provision\) Order 2015 \(SSI 2015/430 \(C.58\)\)](#)

Type of Instrument

Negative

Laid Date

17 December 2015

Minister to attend the meeting

No

SSI's drawn to the Parliament's attention by Delegated Powers and Law Reform Committee

No

Reporting Deadline

8 February 2016

Purpose

1. This instrument commences the following sections of the Housing (Scotland) Act 2014 to enable Scottish Ministers to exercise their regulation making powers to assist in implementing a register of letting agents as provided for in Part 4 of the 2014 Act:

- 29(2)(b), 30(2)(f) and 52(2) enables Scottish Ministers to make further provision about the requiring of information as part of the registration process and to monitor compliance; and
- 32(2)(c) enable Scottish Ministers to prescribe training requirements applicants to the register must meet to be admitted.

2. Using the 2014 Act ancillary powers, the instrument also makes amendments to the Tenant Information Packs (Assured Tenancies) (Scotland) Order 2013 to reflect the following provisions in the 2014 Act:

- electrical safety inspection requirements (section 22);
- carbon monoxide detection (section 23); and
- third party reporting to the private rented housing panel (section 25).

3. The Scottish Government's policy note is attached at Annexe A.

Procedure

4. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

5. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Consideration by the Delegated Powers and Law Reform Committee

6. At its meeting on 12 January 2016, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Recommendation

7. **The Committee is invited to consider any issues that it wishes to raise in reporting to the Parliament on this instrument.**

**Jason Nairn
Assistant Clerk
January 2016**

Annexe A**POLICY NOTE****The Housing (Scotland) Act 2014 (Commencement No. 5 and Consequential Provision) Order 2015
SSI 2015/430 (C. 58)**

The above instrument was made in exercise of the powers conferred by section 102 and 104(3) of the Housing (Scotland) Act 2014(a) (the 2014 Act) and all other powers enabling them to do so. The instrument is subject to the negative procedure.

Policy Objectives

This instrument commences the following sections of the 2014 Act to enable Scottish Ministers to exercise their regulation making powers to assist in implementing a register of letting agents as provided for in Part 4 of the 2014 Act:

- 29(2)(b), 30(2)(f) and 52(2) enables Scottish Ministers to make further provision about the requiring of information as part of the registration process and to monitor compliance; and
- 32(2)(c) enable Scottish Ministers to prescribe training requirements applicants to the register must meet to be admitted.

Using the 2014 Act ancillary powers, the instrument also makes amendments to the Tenant Information Packs (Assured Tenancies) (Scotland) Order 2013 to reflect the following provisions in the 2014 Act:

- electrical safety inspection requirements (section 22);
- carbon monoxide detection (section 23); and
- third party reporting to the private rented housing panel (section 25).

Consultation

During 2010 the Scottish Government carried out a policy consultation which informed the drafting of the Housing Bill. The results of the consultation are available on the Scottish Government website at:

<http://www.gov.scot/Publications/2010/05/17110017/0>

In addition, an informal consultation with a number of key stakeholders took place in December 2015, where views were sought on the proposed text changes to the Tenant Information Pack. Responses to this short consultation were considered in the final drafting of the changes to the Tenant Information Pack.

Impact Assessments

A full Equality Impact Assessment was carried out on the Bill as introduced on 21 November 2013. The impact assessment along with those produced for the individual policy areas that are in the 2014 Act can be found at:

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/reform/housing-bill/impact>

Financial Effects

A full Business and Regulation impact assessment was carried out on the Bill as introduced on 21 November 2013. The impact assessment, along with those produced for the individual policy areas that are in the 2014 Act can be found at:

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/reform/housing-bill/impact>

Scottish Government
Housing, Regeneration and Welfare Directorate

17 December 2015