

## Partial Business and Regulatory Impact Assessment

### Title of Proposal

Changes to Bus Registration in Scotland.

### Purpose and intended effect

- **Background**

Under the Transport Act 1985 all local bus services must be registered with the Traffic Commissioner. Section 2 defines the meaning of local services and section 6 requires these services to be registered with the Traffic Commissioner (TC).

Registered services are subject to a regulatory regime administered by the Traffic Commissioner which ensures the delivery of services to the registered 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 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.

- **Objective**

The purpose of this consultation is 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.

The proposed changes aim 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. This 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 is to the benefit of local transport authorities, bus operators and bus users and may have the added benefit of growing bus patronage.

- **Rationale for Government intervention**

While the bus registration regime in Scotland generally works well, the Scottish Government considers that there is room for improvement. The proposed changes would provide 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 both

their benefits 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 have 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 will take place between 1 August to 24 October 2014.

- **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 will be informed directly by email when the consultation launches.

## Options

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

**Option 2: Adopt 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 (or vary or cancel) a service route with the Traffic Commissioner for Scotland. Once the local transport authority has acknowledged receipt of this notice, the operator can then proceed to registration, variation or cancellation of a service. This proposal is designed to allow improved dialogue between local transport authorities and bus operators in the run up to service changes. Both parties could use the greater period of notice of proposed changes for meaningful discussion on the implications of any proposed changes 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 service changes which might provide the Commissioner with 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 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).**

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. If this is the case, the alternative option of reducing the time period for electronic registrations only may be more viable.

**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), (b), (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.

**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 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 Local Transport Authorities (LTAs).

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 LTAs. It would be for the Operators or LTAs 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 discussion with business interests will be conducted in parallel with the public consultation. This section of the BRIA will be finalised post-consultation.

### **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**

No new business forms will be introduced.

### **Legal Aid Impact Test**

The proposals will not have any impact fulfilling 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. Other changes agreed would 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 will go out for public consultation on 1 August 2014.

Consultation closes 24 October 2014.

Analysis of responses will continue thereafter and inform any changes to be made to legislation and/or Guidance.

Any Statutory changes and new Guidance or code of conduct would come into force in 2015.

- **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**

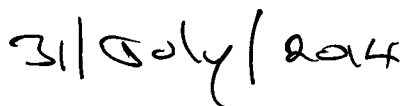
This section will be completed at Final BRIA stage.

- **Summary costs and benefits table**

This section will be completed at Final BRIA stage.

**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:****Keith Brown MSP****Minister for Transport and Veterans****Scottish Government Contact point:**

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