This document relates to the Erskine Bridge Tolls Bill (SP Bill 33) as introduced in the Scottish Parliament on 4 September 2001

ERSKINE BRIDGE TOLLS BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Erskine Bridge Tolls Bill introduced in the Scottish Parliament on 4 September 2001:

   - Explanatory Notes;
   - a Financial Memorandum;
   - an Executive Statement on Legislative Competence; and
   - the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Executive, is printed separately as SP Bill 33–PM.
INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

BACKGROUND

4. The Erskine Bridge was first opened to traffic on 2 July 1971. The power to levy tolls at the Bridge is set out in section 1 of the Erskine Bridge Tolls Act 1968 (hereafter referred to as “the 1968 Act”). Under section 4(1) of the 1968 Act tolling was to cease 20 years after the Bridge opened. However, section 4(3) enabled the Secretary of State, and now Scottish Ministers, to extend by order the tolling period by 5 years. Further extension orders could be made consecutively. The original 20-year period was extended in 1991 and 1996.

5. Section 4(2) of the 1968 Act provides that tolls cannot be set at a level that would, in aggregate, exceed the amount needed to cover the relevant costs attributable to the Bridge set out in Schedule 2 to the 1968 Act. This includes the capital costs of constructing the Bridge, along with interests on those costs, and expenses associated with operating, maintaining, repairing, improving and renewing the Bridge.

6. During early 2000 the Scottish Executive reviewed the position with regard to tolling at the Erskine Bridge, and in August 2000 Ministers concluded that the tolling period should be extended for a further 5 years from 2 July 2001. Due to an administrative error the instrument necessary to achieve this was not laid before Parliament prior to that date. This Bill is therefore intended to restore the position on tolling to the point it would have been at 1 July 2001 had this error not been made.

7. Toll income from the Bridge was £5 million in the financial year 2000-01. This is part of the retained income on the motorway and trunk roads programme. It supplements provision from the Assigned Budget. Were the power to toll not restored, the shortfall in income (approximately £100,000 per week) would require offsetting savings in expenditure on transport programmes.

8. Assuming tolls remain at the same level, income is likely to increase in future years in line with increases in traffic levels. These are currently projected at around 4.5-5% per annum. Some 8.7 million crossings were made in the year 2000-01, of which 325,000 were exempt from paying tolls.
9. Section 17(1) of the Erskine Bridge Tolls Act 1968 requires Ministers to prepare an annual statement of accounts and to lay it before Parliament. This has been done for every year since 1971-72; the most recent was laid before the Scottish Parliament on 7 February 2001.

COMMENTARY ON SECTIONS

Section 1: Power to levy tolls

10. Subsection (1) restores, with retrospective effect from 2 July 2001, the power to levy tolls under section 1 of the 1968 Act. It does this by asserting that the power was and is available as if an order had been made timeously under section 4(3) of the 1968 Act and had come into force.

11. The power to levy tolls will last for 5 years from 2 July 2001, as it would have done had an order been approved prior to that date. The power conferred under this Bill does not affect the ability of the Scottish Ministers to promote further orders under section 4(3) in future. This is ensured by subsection (3).

12. Subsection (2) is primarily explanatory and to avoid any doubts about the status of related secondary legislation. SI 1992/433 is The Erskine Bridge Tolls Order 1992, which determines what vehicles should pay tolls and when, and sets the level of tolls to be charged. SI 1989/530 is The Erskine Bridge Regulations 1989, which set out detailed provisions regulating use of the bridge, for example the places at which tolls are to be made; restrictions on stopping on the bridge; the removal of stationary vehicles; etc.

13. Under section 6(1) of the 1968 Act the Scottish Ministers have the ability to suspend tolls on the bridge. Subsection (4) of section 1 of the Bill deems that power to have been exercised so as to suspend tolls generally between 8.50 pm on 30 August 2001 and the date the Bill comes into force. 8.50 pm on 30 August 2001 is the point at which tolls ceased to be collected, once the Scottish Executive had received legal advice that continuing to collect tolls would not be covered by the statutory provisions of the 1968 Act. This provision is needed because of the retrospective nature of section 1(1). Otherwise, the current temporary cessation of tolling pending this Bill would be without statutory basis and any user of the Bridge technically liable to criminal proceedings for non-payment of the tolls. Subsection (7) makes further provision to ensure that the Bill does not retrospectively create criminal offences.

14. Subsection (5) is a residual provision which is intended to ensure that no other instruments or provisions have been affected by the failure to extend the toll period timeously. Subsection (6) ensures that subsections (2) and (5) do not operate so as to prevent the order, regulations or instruments to which they refer from being amended or revised in future.

Section 2: Short title

15. This section sets out the title by which the Bill may be cited once it has been enacted. The new Act will come into force immediately on Royal Assent.
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FINANCIAL MEMORANDUM

COSTS ON THE SCOTTISH ADMINISTRATION

16. The Bill will give rise to no costs on the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

17. There are no direct costs on local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

18. The toll level at the Erskine Bridge has been set at 60p per crossing for all vehicles, except for motorcycles and exempt categories such as emergency services vehicles, since 1 April 1992. A discount of 10% is available to those purchasing 50 pre-paid crossing vouchers in advance of their journeys. The power to set tolls is conferred on the Scottish Ministers by section 2 of the 1968 Act and that power is not affected by the Bill. There are no direct costs on individuals, businesses or other bodies.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

19. On 4 September 2001, the Minister for Transport and Planning (Sarah Boyack) made the following statement:

“In my view, the provisions of the Erskine Bridge Tolls Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

20. On 4 September 2001, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Erskine Bridge Tolls Bill would be within the legislative competence of the Scottish Parliament.”
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