TRANSPORT (SCOTLAND) BILL
[AS AMENDED AT STAGE 2]

REVISED FINANCIAL MEMORANDUM

CONTEXT AND OVERVIEW

1. As required under rule 9.7.8B of the Parliament’s Standing Orders, this revised Financial Memorandum is published to accompany the Transport (Scotland) Bill as amended at Stage 2. The Bill was introduced on 27 October 2004.

2. The Scottish Executive Departmental Expenditure Limit (DEL) transport budget for 2004/5 is £823m. Local authorities will be awarded £441m from Scottish Executive Local Government budget in the form of Grant Aided Expenditure (GAE) during 2004/5 financial year. Budgeted expenditure on transport is therefore likely to be £1,264m.

3. On current estimates the provisions within this Bill will generate start up costs of £3.7m during the years 2006 and 2007 with a net additional £0.56m, in cash terms, in ongoing expenditure to the combined Scottish Executive transport budget and the GAE transport element. In the Scottish Executive transport budget additional provision of £96m (2006/7) and £100m (2007/8) has been made for national concessionary travel schemes. That provision is not conditional on the powers of this Bill.

FINANCIAL IMPLICATIONS OF PROVISIONS

Part 1 Regional Transport: sections 1-11

Chapter 1

Background

4. Though the final number has not yet been confirmed, and will not be until orders are confirmed by Parliament, the expectation is that 6 Transport Partnerships will be created. There are currently 4 voluntary regional partnerships covering together most, but not all, of Scotland. One of the existing voluntary regional transport partnerships, WESTRANS, incorporates the Strathclyde Passenger Transport (SPT) area.

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1 Scottish Executive Annual Evaluation Report 2005-06 (March 2004)
2 NESTRANS (City of Aberdeen and Aberdeenshire councils); SESTRAN (City of Edinburgh, Perth & Kinross, Stirling, Falkirk, Fife, Clackmannanshire, Scottish Borders, East Lothian, Midlothian and West Lothian councils); HITRANS (Highland, Moray, Western Isles, Orkney Islands, Argyll & Bute and Shetland Islands councils); WESTRANS (City of Glasgow, West Dunbartonshire, East Dunbartonshire, East Renfrewshire, Inverclyde, Renfrewshire, East Ayrshire, North Ayrshire, Argyll & Bute, North Lanarkshire, South Lanarkshire, Dumfries & Galloway and South Ayrshire councils).
5. The new Transport Partnerships will, in their first year of operation, be concentrating on the production of their regional transport strategies and, as part of their considerations, they will be determining what transport functions need to be undertaken at a regional level and what can be retained and effectively discharged by local authorities.

6. The functions that the Transport Partnerships will perform will not be known with precision until the regional transport strategies have been produced.

7. The Scottish Executive propose however that most of the functions currently performed by SPT, including the operation of the Glasgow Underground, will transfer to the successor Transport Partnership covering the west of Scotland. The passenger rail franchise function performed by SPT will transfer to the Scottish Ministers.

**Staffing and administration costs – start up**

8. The Scottish Executive will fund any additional staff and administrative costs required for the production of regional transport strategies by Transport Partnerships during their first year of operation. There will be a funding commitment for additional staff and this is likely to generate a cost of approx. £1m of which 80% relates to staffing costs and the balance to associated general administration costs arising as a direct consequence of the Bill. (The Scottish Executive currently provides some funding to support the core costs of the voluntary transport partnerships. The policy intention is to continue the provision of this funding to regional transport partnerships. The funding would have continued regardless of whether the transport partnerships were voluntary or statutory and therefore this continuing contribution is not conditional on the provisions of the Bill).

**Members expenses – start up**

9. The Scottish Executive will also fund the expenses incurred by the Transport Partnerships’ members during the period that the Transport Partnership is constructing its strategy. If there are 50 members, nationally, holding meetings fortnightly then the likely expenditure on travel and subsistence will be £100,000.

**SPT transitional costs**

10. It has been assumed that most of the existing SPT staff will transfer, in situ, into the new Transport Partnership covering the west of Scotland and therefore it is not envisaged that there will be any additional accommodation costs associated with this move. There will, however, be cost increases managing the transition of staff, particularly in respect of any staff transferring from SPT to the new transport agency (Policy Memorandum, paragraph 3 refers). The transition costs (for example relocation costs) are estimated at a maximum of £1m and will be met by the Scottish Executive.

**Accommodation start-up**

11. The Scottish Executive will fund the additional accommodation charges (rent/rates) and establishment costs for the first year of operation of each of the Transport Partnerships - the Transport Partnership covering the west of Scotland is not included for the reason provided above. The cost is estimated to be in the region of £100,000 per unit. The Scottish Executive has made provision of £400,000.
Ongoing running costs

12. It will not be known until the regional transport strategies are produced and have been approved by the Scottish Ministers what functions the Transport Partnerships intend to perform either solely or concurrently with local authorities. The absolute minimum requirement of a Transport Partnership is to produce a regional transport strategy which is then implemented by the constituent local authorities. In such an instance the Transport Partnership would not need to acquire any functions from its constituent local authorities, its duties would be to measure and monitor progress towards the achievement of the strategy. This function would require only a minimum number of staff to support the members of the Transport Partnership. However, if a Transport Partnership determined that it required a range of functions either solely or concurrently with local authorities then it is reasonable to assume that by taking responsibility for the delivery of a function previously performed by local authorities the associated funding, staff and liabilities will transfer to the Transport Partnership.

13. In transferring functions (and potentially staff) from local authorities to Transport Partnerships there will be inevitable operational and administrative disturbances. It is difficult to estimate what these costs might be since transition is predicated on the production and execution of a regional transport strategy. There is however a duty imposed on Transport Partnerships to consult their constituent local authorities prior to the production of their strategies and it is envisaged that that consultation will involve an assessment of the transitional and on-going changes in the operations of the Transport Partnership and affected local authorities.

14. The net ongoing running costs of Transport Partnerships will be paid by constituent local authorities, whether the Transport Partnerships are just producing the strategy and subsequently performing a monitoring role or, at another level, delivering specific functions. The share of the expenses that each local authority will contribute will be determined by the Transport Partnership and if no agreement is reached then the Scottish Ministers will, by order, make a determination taking into account the population size of each of the constituent local authorities. No increased costs for local authorities are anticipated as a consequence of the establishment of Transport Partnerships.

15. The Transport Partnerships will be encouraged, where practical, to maximise the benefit of shared services utilising, where appropriate, re-charge facilities. A Transport Partnership, for example, might utilise the legal services of one or more of its constituent local authorities rather than maintaining its own in-house service.

16. The transfer of responsibility for the delivery of particular functions may generate some initial transitional implementation costs but should ultimately deliver, through economies of scale or co-ordinated management, financial and operational benefits and thus savings to public expenditure. However, it would be impossible to provide a meaningful estimate of any such savings at this point in time.

Financial Management

17. If the strategies of the Transport Partnerships contain capital proposals there is a provision for them to borrow monies for such expenditure with loan charges being met from the income derived from the requisitions from local authorities. The Scottish Ministers may also award grants.
or loans under section 70 of the Transport Act (Scotland) 2001 for specific initiatives contained within regional strategies.

**Other impacts**

18. The establishment of Transport Partnerships offers a means of addressing the resolution of significant transport problems confronting local communities and businesses. Whilst the Transport Partnership itself does not have a financial bearing on other bodies, individuals or businesses the execution of its strategy may have financial implications for individuals or businesses (e.g. if an Transport Partnership were to introduce car parking charges where none currently exist). Any potential implications will need to be considered and assessed during the production of the strategy.

19. It is difficult to pre-determine the regional transport strategy of the prospective Transport Partnerships, but the presumption is that the strategy will be positive, striving to achieve a net beneficial effect on local communities and businesses.

**Chapter 2 Scottish Ministers’ Transport Functions: section 12**

20. The intention of this section is to enable the transfer of the rail franchise functions of SPT to the Scottish Ministers. The expectation is that staff will transfer with the function. The transitional cost of the transfer has been highlighted above (paragraph 138).

**Part 2 Road Works: sections 14 - 36**

21. This part of the Bill comprises provisions to improve the quality and co-ordination of road works in Scotland. The Bill addresses the identified issues by introducing the following specific new measures:

- establishing a Scottish Road Works Commissioner to promote good practice, to promote compliance and monitor performance of statutory undertakers;
- making the Scottish Road Works Register the single national register for planning and co-ordinating all road works;
- tightening the requirements for training of personnel involved in carrying out, supervising or administering road works;
- introducing stricter requirements for reinstating roads and new provisions on resurfacing roads; and
- making changes to the enforcement regime of offences.

**Scottish Road Works Commissioner: sections 14 and 15**

22. The office of the Scottish Road Works Commissioner (SRWC) will be funded by the Scottish Executive. The post will promote good practice, compliance and monitor the performance of statutory undertakers.

23. To assist the Commissioner in the execution of responsibilities a small administrative support unit will be required. Provision has been made by the Scottish Executive for the initial establishment and running costs of the unit, including the salary costs of the Commissioner, of
Expenditure of the unit will be higher in year one to reflect initial costs such as recruitment, IT, furniture and fittings. Based on the initial funding level costs in subsequent years are estimated to be in the region of £160,000.

Scottish Road Works Register: section 17

24. The Scottish Road Works Register (SRWR) is currently in existence and functioning: therefore there will be no set up costs emanating from the provisions of this Bill. The register’s user community consists of approximately 800 operators, comprising all 32 local authorities, 18 statutory undertakers (mainly utility companies), the Scottish Executive (as roads authority for trunk roads) and its trunk road agents.

25. Improvements to the register however will be needed to enable it to meet the new legislative requirements. To design and implement the new software to enable digital mapping and other enhancements will cost £500,000. Provision of an additional £400,000 has been made for the upgrade of local systems to support the enhanced register. The Scottish Executive has agreed to fund these enhancements recognising that additional duties are being placed on road works authorities and statutory undertakers as a result of the provisions of the Bill.

26. The Scottish Ministers appointed Susiephone Ltd as keeper of the register, for 10 years, in 1999. The current operational costs of the SRWR (£450,000) are met by contributions from local authorities, statutory undertakers and the Scottish Executive in the proportions of 28%, 70% and 2%. It is expected that the pattern of contributions will continue and that the required contribution will not rise appreciably once the enhanced register is operational.

27. The Scottish Executive has made provision of £100,000 for the funding of a number of regional seminars, in 2005/6, to explain the new functionality of the SRWR to operators.

Training: sections 24 and 25

28. In section 24 undertakers are being asked to provide, when required to do so by a road works authority, evidence that their supervisors and operatives (those who perform the road works) have the requisite qualification to perform their duties. The cost impacts are likely to be the posting of evidence by undertakers to road works authorities and the subsequent retention of the notification of evidence by the road works authority. The administrative cost impact for both parties is likely to be minimal.

29. In section 25 each of the road works authorities and the undertakers have a duty to ensure that their staff are competent to perform their duties in line with the new procedures as set out within the provisions of the Bill. There will clearly be some financial implications; however any associated costs arising from these provisions should derive as part of the ongoing training and awareness that employers provide to their employees.

30. All staff involved with accessing and updating the Scottish Road Works Register will need to be fully apprised of the latest technical enhancements. Since the Scottish Executive is providing direct funding for regionally based training any additional costs arising for local authorities or undertakers are not deemed to be substantial: there is also no expectation for users to provide

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3 Susiephone Ltd 2003/4 Operations Report
upgraded IT hardware to support the enhanced software. The expectation is that the software will run on existing hardware but should users have to upgrade it is likely, in all probability, that the hardware will have reached the end of its useable life.

**Reinstatement and resurfacing: sections 27-30**

31. The objective of these provisions is to ensure that the quality of the road surface is maintained to required standards after road works have been carried out. Where the condition of a road has deteriorated as a result of utility works and reinstatements a road works authority could serve an undertaker with a resurfacing notice. This notice would instruct the undertaker to reinstate an area to either a half or the full width of the carriageway.

32. The extent to which undertakers will be issued with notices will depend on the quality of the road works that have been carried out. The expectation is that undertakers will strive for quality on the initial road works since being served with a resurfacing notice will generate additional costs.

33. There may be an increase in costs for undertakers if notices are served but only if they fail to carry out re-instatements to the required standard. There will also be consequential cost implications for undertakers in respect of their overheads and labour charges, and in managing traffic whilst the work is taking place. The latter point is particularly pertinent since the impact on traffic is likely to be greater on a half or full width resurfacing than for the smaller more standard reinstatement.

34. A comprehensive regulatory impact assessment in respect of reinstatement and resurfacing will be produced when regulations are laid before the Parliament. Those regulations will specify amongst other matters the materials and standard of workmanship that is to apply in particular circumstances, which will necessarily have financial implications for undertakers.

**Enforcement: sections 31-36**

35. The Bill makes provision, at section 31, to increase the maximum level of fines for existing offences. Some fines are being raised to level 4 (£2,500) and others to level 5 (£5,000). A description of the offence or offences to which the fines relate is contained within Schedule 2 of the Bill. Any increased costs incurred as a result of these provisions, however, are avoidable if undertakers comply with their statutory duties. It is not expected that in raising the level of fines there will be any impact on any other party engaged in the enforcement and pursuit of offenders.

36. The Bill also introduces, at section 32, fixed penalty notices for certain offences committed by undertakers. These notices will be issued by the roads works authority who will be able to recoup the administrative costs associated with the issuing of the fixed penalty notice from the penalty raised. The net charge of the penalty will revert to the Scottish Consolidated Fund. The precise arrangements and level of retention to cover administrative costs will be established by regulations. If an offender fails to pay the fine by the specified date or chooses not to do so the penalty becomes enforceable as an extract registered decree arbitral and there will only be an impact on the courts if the offender raises a summary application, then the case will be taken to court. In 2003 there were 2355 recorded infringements relating to re-instatement. These infringements now fall within the scope of the fixed penalty regime and it is therefore likely that

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4 Susiephone Ltd Quarterly Reports for 2003/4
only a small percentage of future cases will involve the courts and therefore there will be a
significant reduction in potential court involvement.

37. The Bill contains provisions, at section 33, to decriminalise offences which means that any
dispute about the imposition of a penalty charge would be dealt with on a civil rather than criminal
basis and any appeal would be as specified in regulations that will be made by the Scottish
Ministers.

Indirect benefits

38. The provisions as implemented will improve the effectiveness of the management of road
works and as a consequence benefit the local economy through a reduction in disruption and
congestion.

39. It is impossible to approximate the financial benefits that will accrue as a result of improving
the effectiveness of the management of road works but even a minor improvement in reducing
disruption may bring substantial benefits to business and individuals. A report published in 1992 by
the Transport Research Laboratory concluded that disruption resulting from utility companies’ road
works cost the UK economy £2.4 billion per annum. Based on that figure even a modest 10% reduction in disruption and consequential congestion caused by road works alone, would benefit the
UK economy to the tune of £240m. Since 1992 there has been an increase in utilities requiring
access due to the expansion, particularly, of cable television and broadband services. For instance in
1992 there was only 1 telecom operator; now there are in excess of 900 licensees operating within
the UK. It is therefore reasonable to assume that the impact on the economy has risen substantially
in the intervening years and therefore the benefit to the Scottish economy is likely to be in the tens of millions of pounds.

Part 3 – Miscellaneous

National Travel Concessionary Schemes: section 37

40. At present, schemes are run by local authorities and there are 16 schemes run by individual
local authorities or groups of local authorities. As previously mentioned, a further £196m is being
invested over the financial years 2006/7 and 2007/8 to support concessionary travel. The powers
within the Bill are discretionary, providing flexibility to allow the Scottish Ministers to choose
which body should take responsibility for concessionary travel schemes at a later date. Additional
administrative costs borne by the Scottish Executive as a result of this provision would depend on
what is proposed but would only arise if the Scottish Ministers decide at some later stage to seek the
Parliament’s approval of any scheme by draft affirmative order. It is for that reason that no costings
can at this stage be provided.

41. A regulatory impact assessment will accompany any such order as the implications for
service operators arising from any changed arrangements will need to be established. It is
conceivable, depending on what is proposed, that there may indeed be a reduction in the
administrative costs of operators. Under the current arrangements, bus operators which operate in
the area of more than one local authority often have to take part in more than one set of negotiations
about re-imbursement for carrying concessionary passengers and this is particularly burdensome for
operators which participate in a number of schemes. If the Scottish Ministers decided to take over

3 OFCOM website
the management of concessionary travel from local authorities, then there might be a positive shift in the administrative costs of bus operators.

42. The intention is to take powers to enable the Scottish Ministers to run concessionary travel schemes at their own hand. Any transfer, therefore, of concessionary travel schemes to the proposed Transport Agency or the Transport Partnerships would be accompanied by funding provision. That transfer would not result in windfall savings by local authorities.

Public Transport Users’ Committee for Scotland

43. The Public Transport Users’ Committee for Scotland will represent the interests of users or potential users of bus, ferry, railway and tram services. The Rail Passengers Council (Scotland) which will be replaced by a new Britain–wide body as a consequence of the Railways Act 2005 currently covers ferry and railway interests. It has annual running costs approaching £400,000 and these are supported by funds from the Strategic Rail Authority. The Bus User Complaints Tribunal representing the interests of bus passengers currently expends £100,000. There are currently no trams in operation in Scotland. Whilst there may be opportunities for economies of scale it is expected that total operating costs of the new committee could be contained with £0.5m. The Executive currently provides the financial support to Bus User Complaints Tribunal and therefore the only additional costs will be approximately £400,000. Start-up costs for initial recruitment and establishment are deemed to be relatively minor.

Pedestrian Crossings: section 38

44. The Scottish Executive receives on average twenty formal notifications per annum from local authorities under section 23(2) of The Road Traffic Regulation Act 1984. The Bill’s provisions will dispense with the need for local authorities to notify the Scottish Executive and as a consequence there will be some marginal administrative savings to local authorities and the Scottish Executive.

Modification of Highlands and Islands Shipping Services Act 1960 and loans for transport related purposes: section 39

45. This provision has no financial ramifications for the Scottish Executive as it seeks to terminate an administrative obligation that requires Scottish Ministers to obtain Parliamentary approval prior to providing assistance in excess of £10,000 to the provision of sea transport services in the form of grants or loans or entering into contracts for the charter of ships. There will however be financial benefits accruing to shipping operators since there will no longer be a delay between a draft undertaking and its subsequent approval by Parliament.

Amendment of procedures for dealing with applications for harbour orders: sections 40–42

46. These sections provide Scottish Ministers with the discretion to determine whether or not to hold a public inquiry when objections are made to a Harbour Order. Scottish Ministers will in future have the power to deal with objections by written representations or by appointing a person to hold a hearing. This means that where a single or a limited number of objections are raised a proportionate response can be made.

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6 Scottish Executive Transport Group
47. Since devolution there have been, or are currently in progress, 5 inquiries. It is likely that had the provisions of this Bill been in place certain objections could have been addressed without recourse to a public inquiry with consequent cost savings to Harbour Authorities and objectors. It is difficult to estimate a precise cost for an individual inquiry but the range of total costs can be from £20-30,000 up to and beyond £100,000.

**SUMMARY COSTS ON THE SCOTTISH ADMINISTRATION**

*Start-up Costs*

<table>
<thead>
<tr>
<th>Description</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial start up costs for the Scottish Executive</td>
<td></td>
</tr>
<tr>
<td>Initial Staffing and administration costs for Transport Partnerships</td>
<td>1.0</td>
</tr>
<tr>
<td>Members’ expenses to attend Transport Partnerships*</td>
<td>0.1</td>
</tr>
<tr>
<td>SPT transition costs resulting from creation of successor Transport Partnership</td>
<td>1.0</td>
</tr>
<tr>
<td>Initial accommodation costs for Transport Partnerships*</td>
<td>0.4</td>
</tr>
<tr>
<td>Initial Staffing and administration costs for SRWC</td>
<td>0.2</td>
</tr>
<tr>
<td>Software improvements for SRWR</td>
<td>0.9</td>
</tr>
<tr>
<td>Formal training for the improved SRWR</td>
<td>0.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3.7</td>
</tr>
</tbody>
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Table 1: Breakdown of start up costs to the Scottish Executive arising from the provisions contained within the Bill

*Ongoing costs*

<table>
<thead>
<tr>
<th>Description</th>
<th>£m</th>
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</thead>
<tbody>
<tr>
<td>Ongoing costs to the Scottish Executive</td>
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<tr>
<td>Staffing and administration costs for SRWC</td>
<td>0.16</td>
</tr>
<tr>
<td>Concessionary Travel (subject to proposals in secondary legislation)</td>
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</tr>
<tr>
<td>Public Transport Users’ Committee for Scotland</td>
<td>0.4</td>
</tr>
</tbody>
</table>

Table 2: Breakdown of ongoing costs to the Scottish Executive arising from provisions contained within the Bill.
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[AS AMENDED AT STAGE 2]

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