

Legislative Consent Memorandum

Bus Services (No. 2) Bill

Background

1. This memorandum has been lodged by Fiona Hyslop MSP, Cabinet Secretary for Transport, in accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders.
2. The Bus Services (No. 2) Bill was introduced by the UK Government/Lord Hendy of Richmond Hill in the House of Lords on 17 December 2024. The Bill is available on the UK Parliament website via this link: [Bus Services \(No. 2\) Bill \[HL\] - Parliamentary Bills - UK Parliament](#).
3. The UK Government has tabled an amendment in the House of Commons, which includes provisions which will trigger the requirement for the Scottish Government to lodge a Legislative Consent Memorandum (LCM) with the Scottish Parliament.

Content of the Bill

4. The Bill makes provision to support the UK Government's commitment to deliver better buses. The intention is to empower local leaders in England to choose the bus operating model that works for their local area and provide powers to effectively underpin these models. This should help improve bus services and grow usage, as passengers benefit from a more reliable network that provides the connections people need across the country.
5. The Bill contains measures to simplify the process for local transport authorities (LTAs) who wish to pursue bus franchising; strengthen legislation governing Enhanced Partnership (EP) agreements between LTAs and bus operators; and enable LTAs to establish new local authority bus companies.
6. It includes provisions that: devolve grant making powers to LTAs; provide greater protection against service cancellation by placing a duty on LTAs to consider the provision of socially necessary local services, and deliver a more accessible and inclusive bus network, including measures aimed at protection from anti-social behaviour and violence against women and girls as well as measures aimed at improving the transparency and availability of data relating to bus services.
7. The Bill also contains provisions intended to reduce the use of new non-zero emission buses (non-ZEBs).
8. Most of the Bill will apply in England only. There are, however, some measures in the Bill which do apply to, or have some effect on, Scotland. The provisions relating to these measures are concerned with reserved matters. Following introduction of the Bill,

Scottish Ministers confirmed to the UK Government that the Bill, at introduction, did not engage the legislative consent process.

9. The UK Government has tabled an amendment in the House of Commons, which includes provisions which trigger the requirement for the Scottish Government to lodge a LCM with the Scottish Parliament. The relevant amendment is Gov NC38 at [Bus Services \(No. 2\) Bill \[HL\], As Amended \(Amendment Paper\) - Parliamentary Bills - UK Parliament](#).

10. The amendment mirrors clause 37 of the Bill, which introduces new powers for the Secretary of State to prevent the registration of new non-ZEBs in England from a date no earlier than 2030, by introducing a similar clause which introduces new powers for Scottish Ministers to prevent the registration of new non-ZEBs in Scotland, also from a date no earlier than 2030.

11. There are also a small number of consequential clauses linked to this which make provision to restrict the extent of Scottish Ministers' powers to Scotland only, provide Scottish Ministers with the power to commence the relevant provisions once enacted and provide Scottish Ministers with powers to make regulations regarding transitional or savings provisions.

Provisions which require the consent of the Scottish Parliament

12. The Bill is a relevant Bill under Rule 9B.1.1 of the Standing Orders. The new clause contains provision for a purpose within the legislative competence of the Scottish Parliament and alters the executive competence of Scottish Ministers by providing the Scottish Ministers with regulation making powers to prevent the registration of new non-ZEBs within Scotland from a date no earlier than 2030. The Scottish Government agrees that the consent process is engaged.

13. The clause introduced by the amendment will enable Scottish Ministers, by way of regulations, to prohibit the use of new non-ZEBs on local bus services (i.e. those registered under Section 6 of the [Transport Act 1985](#) as well as franchised services) in Scotland. It also provides Scottish Ministers with the ability to make provision about documents that may be relied on to determine what is included in the tailpipe emissions from a vehicle and specify descriptions of vehicles and local services to which the prohibition will not apply.

14. This change in the law will come into effect on a date specified by Scottish Ministers in regulations but the date cannot be before 1 January 2030. The Scottish Statutory Instrument which sets the date from which non-ZEBs cannot be registered, must be made using the affirmative resolution procedure.

15. The aim of this amendment is to reduce greenhouse gases and contribute to the decarbonisation of the bus industry for the purpose of reducing pollution and maximising the air quality benefits afforded by the transition to a ZEB fleet. This will ensure that all areas of Scotland are included and that the benefits of the transition to a zero-emission fleet are felt nationwide. It will also increase market certainty on demand for ZEBs. These

matters are not captured by any of the reservations in schedule 5 of the Scotland Act 1998 and are therefore within the devolved competence, as a result the Scottish Government considers that the legislative consent process is engaged.

Reasons for recommending legislative consent

16. Emissions from bus services are included in the Scottish Government's statutory commitment to achieve net zero by 2045. The Scottish Government has been working with the industry to develop conditions to meet its ambitions for a fully decarbonised future for Scotland's bus fleet.

17. The amendment places a restriction on bus operators, which would prohibit the use of new non-ZEBs on local bus services in Scotland (i.e. those registered under Section 6 of the Transport Act 1985, as well as franchised services) from a date not before 1 January 2030. This change to the law will come into effect on a date specified by Scottish Ministers in regulations and the restriction on the use of new non-ZEBs will not take effect any earlier than 2030. This will provide time and confidence for manufacturers to shift production and to operators and local transport authorities to plan the fleet transition. The Scottish regulations will set the date from which non-ZEBs cannot be registered, and must be made using the affirmative resolution procedure. The amendment also provides Scottish Ministers with the ability to exempt, by regulations, certain vehicle types or services. This procedure will provide an opportunity for the Scottish Parliament to scrutinise the instrument and its intentions

18. It would be within the legislative competence of the Scottish Parliament to make provision in Scottish primary legislation to prohibit the use of non-ZEBs on Scottish local bus services. Consideration has been given to the development of Scottish legislation to be brought forward in the next parliamentary session. However, there is a need for clearer direction on future demand for zero emission buses. Therefore, the Scottish Government has worked with the UK Government to develop the proposed clause which is intended to accelerate bus decarbonisation in Scotland and provide greater certainty for bus manufacturers and operators.

19. Therefore, the Scottish Government is recommending consent for these clauses.

Consultation

20. In 2021, the UK Government published two documents, the [National Bus Strategy](#) and the [Transport Decarbonisation Plan](#), both of which committed to the consultation and subsequent announcement of a planned phase-out date for the sale of new, non-zero emission buses. In 2022, the UK Government [consulted](#) on a range of phase-out dates between 2025 and 2032. The original proposal was for this measure to focus on a UK wide phased ban of the purchase of new diesel buses. However, the UK Government moved away from this form of regulation, with the provisions of the Bus Services (No.2) Bill set to apply to England only at introduction.

21. Following confirmation that the UK Government would not be bringing forward a UK wide ban on the sale of non-zero emission buses, consideration has been given to the

development of Scottish specific legislation with a likely requirement for primary legislation in the next parliamentary session. There is a need for clearer direction on the decarbonisation of bus fleets and future demand for zero emission buses. Therefore, the Scottish Government has worked with the UK Government to develop the proposed clause which is intended to accelerate bus decarbonisation in Scotland and provide greater certainty bus manufacturers and operators.

Financial implications

22. There are no direct financial implications for the Scottish Government as a result of this amendment.

Other relevant considerations

23. The amendment would be introduced at Report Stage in the House of Commons, late in the Westminster legislative process.

Post EU scrutiny

24. These provisions are relevant to the Scottish Government's policy to maintain alignment with the EU. [Regulation \(EU\) 2024/1610](#) sets out that 100% of new urban buses must be zero emission by 2035. The amendment therefore seeks to bring Scotland more in line with the EU's policy intention to support economic and climate policy aims.

Conclusion

25. The aim of the amendment is to reduce greenhouse gases and contribute to the decarbonisation of the bus industry for the purposes of reducing pollution and maximising air quality benefits afforded by the transition to a ZEB fleet. This will ensure that all areas of Scotland are included and the benefits are felt nationwide.

26. Emissions from bus services are included in the Scottish Government's statutory commitment to achieve net zero by 2045. The amendment places a restriction on bus operators, which would prohibit the use of new non-ZEBs on local bus services in Scotland (i.e. those registered under Section 6 of the Transport Act 1985, as well as franchised services) from a date not before 1 January 2030. This change will provide time and confidence for manufacturers to shift production and for operators and local transport authorities to plan the fleet transition. In conclusion, the Scottish Government recommends consent to the amendment to this Bill for the reasons set out in paragraphs 16-19.

Draft motion on legislative consent

27. The draft motion, which will be lodged by Fiona Hyslop MSP, Cabinet Secretary for Transport, is:

"That the Parliament agrees, in relation to the Bus Services (No. 2) Bill, introduced in the House of Lords on 17 December 2024, and subsequently amended, that the

clauses affecting registration of zero-emission vehicles for local services in Scotland, so far as these matters fall within the legislative competence of the Scottish Parliament and amend the executive competence of Scottish Ministers, should be considered by the UK Parliament.”

Scottish Government
September 2025

This Legislative Consent Memorandum relates to the Bus Services (No. 2) Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 5 September 2025

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