

ERSKINE BRIDGE TOLLS ACT 2001

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by the Parliament.
2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act.

BACKGROUND

3. 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 the 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.
4. During early 2000 the Scottish Executive reviewed the position with regard to tolling at the Erskine Bridge, and in August 2000 the Scottish 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 the Parliament prior to that date. The Act therefore restores the position on tolling to the point it would have been at 1 July 2001 had this error not been made.
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 interest on those costs, and expenses associated with operating, maintaining, repairing, improving and renewing the Bridge.
6. Some 8.7 million crossings were made in the year 2000-01, of which 325,000 were exempt from paying tolls. Assuming tolls remain at the same level, income is likely to increase in future years in line with increases in traffic levels, which are currently projected at around 4.5-5% per annum. 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.

PARLIAMENTARY HISTORY

7. The Parliament agreed that the Bill for the Act be treated as an Emergency Bill. All stages of the Bill (SP Bill 33 (Session 1)) were considered on the same day - 6 September 2001 (Scottish Parliament Official Report, 6 September 2001, Cols. 2265 to 2312, 2368 to 2385 and 2388 to 2390). The Bill was passed without amendment on that day.

8. The Bill was given Royal Assent on 13 September 2001 and the Act came into force on that day.

COMMENTARY ON SECTION 1: POWER TO LEVY TOLLS

9. 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.

10. 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 Act 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).

11. The purpose of subsection (2) is to avoid any doubts about the status of related secondary legislation. SI 1992/433 is The Erskine Bridge Tolls Order 1992, which determines which 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, by providing for the places at which tolls are to be paid; by imposing restrictions on stopping on the bridge; by allowing the removal of stationary vehicles; etc.

12. Under section 6(1) of the 1968 Act the Scottish Ministers have the ability to suspend tolls on the bridge. Subsection (4) deems that power to have been exercised so as to suspend tolls generally between 8.50 pm on 30 August 2001, being the point at which tolls ceased to be collected following discovery of the administrative error referred to at paragraph 5 above, and the date the Act came into force (13 September 2001). This provision is needed because of the retrospective nature of section 1(1). Otherwise, the cessation of tolling between 30 August and 13 September 2001 would have been without statutory basis and any user of the Bridge liable to criminal penalties for non-payment of the toll. Subsection (7) makes further provision to ensure that the Act does not retrospectively create criminal offences.

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