

*Draft Order made by the Scottish Ministers, laid before the Scottish Parliament under section 81(4) (a) of the Transport (Scotland) Act 2001 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2002 No.**

**ROADS AND BRIDGES**

**The Forth Estuary Transport Authority Order 2002**

<i>Made</i>	- - - -	2002
<i>Coming into force</i>	- -	2002

The Scottish Ministers, in exercise of the powers conferred by section 69(1) and (2) of the Transport (Scotland) Act 2001<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 81(4)(a) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation and commencement**

- 1.—(1) This Order may be cited as the Forth Estuary Transport Authority Order 2002.
- (2) This Order shall come into force on 1st April 2002.

**Interpretation**

2. In this Order—

“the Act” means the Transport (Scotland) Act 2001;

“appointed day” means 1st April 2002;

“the Authority” means the joint board constituted by article 6 of this Order;

“bridge” means the Forth Road Bridge and any road or other property belonging to the existing board;

“Constituent local authorities” means City of Edinburgh Council, Fife Council, Perth & Kinross Council and West Lothian Council;

“existing board” means the Forth Road Bridge Joint Board constituted in terms of the Forth Road Bridge Order Confirmation Act 1947<sup>(2)</sup>; and

“the toll orders” means the Forth Road Bridge (Toll Period) Extension Order 1997<sup>(3)</sup> and the Forth Road Bridge (Revision of Tolls) Order 1997<sup>(4)</sup>.

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(1) [\(asp 2\)](#).

(2) [1947 ch.iv](#).

(3) An Order made on 30th January 1997.

### **Dissolution of existing board**

3. The existing board shall be dissolved.

### **Transfer of property, rights and liabilities to the Authority**

4.—(1) All property, rights or liabilities of the existing board shall transfer to and vest in the Authority.

(2) Without prejudice to the generality of article (1) above the employees of the existing board shall transfer to and become employees of the Authority. Such transfer shall be a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981(5).

### **Financial arrangements**

5. For the purposes of the Local Government Superannuation (Scotland) Regulations 1987(6) the appropriate superannuation fund in relation to the pensionable employees (as defined in said Regulations) of the Authority shall be the Lothian Pension Fund administered by City of Edinburgh Council.

### **Constitution of joint board**

6.—(1) There is hereby constituted a joint board consisting of 10 members to be appointed from the membership of the constituent local authorities as follows—

- (a) 4 shall be appointed by City of Edinburgh Council;
- (b) 4 shall be appointed by Fife Council;
- (c) 1 shall be appointed by Perth and Kinross Council; and
- (d) 1 shall be appointed by West Lothian Council.

(2) The joint board shall be incorporated with a common seal and shall be known as the Forth Estuary Transport Authority.

(3) Schedule 1 to this Order (which contains provisions with respect to the appointment and tenure of members of the Authority and meetings and proceedings of the Authority) shall have effect.

### **Functions of the Authority**

7.—(1) The Authority shall be responsible for the management, maintenance and operation of the bridge.

(2) The Authority may develop, support and fund such schemes and measures including roadworks, traffic management and public transport services, which it considers appropriate to reduce road traffic congestion on the bridge or to encourage an increase in the use of public transport across the Firth of Forth.

(3) In order to implement any schemes or measures to which paragraph 2 applies the Authority may enter into an agreement with any local transport authority, organisation, company or person they consider appropriate.

### **Byelaws**

- 8.—(1) The Authority may make byelaws—

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(4) An Order made on 8th July 1997.

(5) S.I.1981/1794; amended by S.I. 1987/442 and by the Trade Union Reform and Employment Rights Act 1993 (c. 19) section 33.

(6) S.I 1987/1850 to which there are amendments not relevant to this Order.

- (a) for preventing injury or damage to the bridge;
- (b) for regulating the conduct of persons using the bridge;
- (c) for the management, regulation, direction and control of traffic using the bridge;
- (d) for prohibiting certain classes of vehicle from using the bridge; and
- (e) for providing that the bridge may be temporarily closed to traffic for repairs or in cases of emergency or for other reasons considered necessary by the Authority.

(2) The byelaws shall be authenticated by being sealed with the common seal of the Authority and signed by the clerk of the Authority and shall not have effect until they are confirmed by the Scottish Ministers.

(3) Any byelaws made by the existing board prior to the coming into force of this Order shall continue to have effect after the appointed day as though made by the Authority.

(4) Any byelaws made by the existing board or by the Authority may be varied by the Authority as they deem necessary.

(5) Any byelaws made or varied by the Authority shall follow the procedures for byelaws set out in section 202 of the Local Government (Scotland) Act 1973(7).

#### **Power of Authority to regulate traffic on the bridge**

9. The Authority shall be deemed to be a roads authority as defined in section 151(1) (interpretation) of the Roads (Scotland) Act 1984(8) and shall be the roads authority in respect of that part of the road spanning the bridge, more particularly described in Schedule 2 to this Order and as such may make traffic regulation orders under sections 1,2 and 4 of the Road Traffic Regulation Act 1984(9), experimental traffic orders under section 9 and temporary prohibitions or restrictions under section 14 of the said Act and may give directions and make orders under section 82(2) and section 84 respectively of that Act which shall, with any necessary adaptations, apply to all such orders and directions made by the Authority as aforesaid.

#### **General transfer of functions**

10.—(1) The functions exercisable by the existing board immediately before the appointed day under any enactment shall, on and after the appointed day, transfer to and be exercisable by the Authority.

(2) So far as may be necessary for the purpose or in consequence of the exercise of functions by the Authority by virtue of article (1) above, any enactment and any other instrument or document shall be read as if reference to a joint board (however described) were or included references to the Authority.

#### **Power to compound for payment of tolls**

11.—(1) The Authority may subject to the approval of the Scottish Ministers compound with any person using the bridge for passage over the bridge on such terms and for such period as may be agreed between the Authority and that person provided that if the Authority make a composition agreement with any person under this section every other person using the bridge in like circumstances may compound for the tolls payable upon like terms to those contained in such agreement.

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(7) 1973 c. 65; section 202 was modified by S.I. 1984/918.

(8) 1984 c. 54. The words in the definition of “roads authority” were substituted by the Local Government etc (Scotland) Act 1994 (c. 39) section 180(1), Schedule 13 paragraph 135(10)(a)(iii); S.I. 1996/323 article 4(1)(c).

(9) 1984 c. 27 as amended by the Roads (Scotland) Act 1984.

(2) Any agreement entered into by the existing board and another person under article 67 of the Forth Road Bridge Order Confirmation Act 1947 shall continue in force after the appointed day as though that agreement were between the Authority and that person.

### **Power to provide car parks etc**

**12.**—(1) The Authority may, on any land for the time being vested in or leased by them, provide, maintain and manage car parks and may exercise all or any of the following powers upon and in respect of the whole or any part of any such land and upon and in respect of any car park provided by them under the powers of this article—

- (a) they may lay out such land and adapt the same for use as a car park and construct and provide roads, paths, ramps, steps and gardens;
- (b) they may provide and maintain cloakrooms, shelters, offices, information bureaux and displays, lavatories and conveniences;
- (c) they may make reasonable charges for the use of any car park provided by them as aforesaid or of any building or structure provided in connection therewith;
- (d) they may make byelaws as to the use of any such car park and, in particular, as to the vehicles or classes of vehicles which may be entitled to use the same, or any part thereof, and the conditions upon which any such car park may be used;
- (e) they may set aside part of such lands for the purpose of a station for public service vehicles; and
- (f) they may provide, maintain, equip and carry on refreshment rooms and—
  - (i) manage the same themselves and provide and sell refreshments of all kinds (other than exciseable liquors); or
  - (ii) grant to any person on such terms and conditions and for such period as they think fit the right to provide and sell such refreshments of all kinds at such refreshment rooms.

(2) The Authority may enter into and carry into effect agreements with the roads authority of the area in which any such car park is situated or other person for the maintenance and management of such car park by such roads authority or other person.

(3) The powers conferred on the Authority by this article shall be exercisable only with the consent of the Scottish Ministers.

### **Bridge to be exempt from rates**

**13.**—(1) Notwithstanding anything contained in any Act, the bridge shall not be assessed to any rate as defined in section 43 of the Valuation and Rating (Scotland) Act 1956<sup>(10)</sup>.

(2) This article shall not extend to any refreshment rooms provided under article 12(1)(f) of this Order or so far as relating to non-domestic water rates or to any other subjects provided under article 12.

### **Subsidiary powers**

**14.**—(1) Without prejudice to any powers exercisable apart from this article but subject to the provisions of this Order and any other enactment passed before or after this Order, the Authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

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(10) 1956 c. 60.

### **Incidental and supplementary provisions**

**15.** Without prejudice to Articles 10 and 11 above, anything done before the appointed day by, or on behalf of, or in relation to, the existing board for the purposes of or in connection with the property, rights and liabilities transferred by article 4 of this Order shall, on and after the appointed day, be treated as having been done by, or on behalf of, or in relation to, the Authority and—

- (a) any legal proceedings by the existing board, or in relation to which it is a party, for the purposes of, or in connection with, the said property, rights and liabilities may be continued by, or in relation to, the Authority; and, accordingly references to the existing board in any process or other document issued, prepared or employed for the purposes of any such proceedings before any court, tribunal or other body shall be taken as referring to the Authority;
- (b) every contract or agreement whether written or not, to which the existing board is a party for the purposes of, or in connection with, the said property, rights and liabilities shall have effect in relation to such property, rights and liabilities as if the Authority was the party thereto in place of the existing board and as if for each reference therein to the existing board there was substituted a reference to the Authority; and
- (c) every deed, bond, instrument and other document relating to the said property, rights and liabilities shall have effect in relation to such property, rights and liabilities as if, where the existing board is a party thereto the Authority was substituted as that party and as if for each reference therein to the existing board there was substituted a reference to the Authority.

### **Amendments and repeals**

- 16.**—(1) Schedule 3 (which makes modifications of enactments) shall have effect.  
(2) The enactments specified in Schedule 4 are repealed to the extent specified in that Schedule.

Authorised to sign by the Scottish Ministers

St Andrews House,  
Edinburgh  
2002

## SCHEDULE 1

Article 6(3)

### **Appointment of members of the Authority and period of office**

1.—(1) Subject to paragraph 2 below, each of the members first appointed as members of the Authority shall hold office from and after the appointed day until the first meeting of the authority which appointed that member after the next ordinary election of councillors of that authority.

(2) The members of the Authority other than the first members shall be appointed by each constituent local authority at the first meeting of that authority after the ordinary election of councillors of that authority.

(3) Subject to paragraph 2 below, the members of the Authority other than the first members shall hold office for the period from the date of their appointment until the first meeting of the constituent local authority appointing them after each ordinary election of councillors.

(4) The proceedings of the Authority shall not be invalidated by any vacancy or vacancies among its members or by any defects in the method of appointment of any of its members.

(5) Any member of the Authority may be represented at any meeting of the Authority by a substitute member appointed in accordance with sub-paragraph (6) below.

(6) A constituent local authority may, subject to sub-paragraph (8) below, appoint one of its members to be a substitute member for any member of the Authority who is also a member of that constituent local authority.

(7) A substitute member shall have the same powers at a meeting of the Authority as the member whom he is representing would have had at that meeting.

(8) A person may not be appointed as a substitute member of the Authority if he is a member of the Authority.

### **Cessation of membership of the Authority**

2.—(1) On any member of the Authority ceasing to be a member of the constituent local authority which appointed him he shall cease to be a member of the Authority.

(2) A member of the Authority may resign his membership at any time. Such resignation shall—

(a) be in writing;

(b) be intimated to the head of the paid service of the constituent local authority by which he was appointed and to the clerk to the Authority; and

(c) take effect on the date on which the clerk to the Authority receives such intimation or on such later date as may be specified in that intimation.

(3) A member of the Authority who resigns his membership shall cease to be a member of the Authority on the date on which his resignation takes effect.

(4) A member of the Authority shall cease to be a member of the Authority if and when the constituent local authority by which he was appointed so decides.

(5) If any person ceases to be a member of the Authority, the constituent local authority which appointed him shall as soon as possible appoint a member in his place unless in the opinion of the constituent local authority the appointment should be deferred until the next appointment of members of the Authority.

### **Convener and vice-convener**

3.—(1) The convener of the Authority shall be—

- (a) for the period beginning with the appointed day and ending with 30th June 2003 selected by the Authority from the 4 members appointed by City of Edinburgh Council;
  - (b) for the period beginning with 1st July 2003 and ending with 30th June 2005 selected by the Authority from the 4 members appointed by Fife Council;
  - (c) on and after 1st July 2005 selected by the Authority on a rotational basis from the 4 members of City of Edinburgh Council followed by the 4 members of Fife Council and shall serve for a period of 2 years.
- (2) The vice-convener of the Authority shall be—
- (a) for the period beginning with the appointed day and ending with 30th June 2003 selected by the Authority from the 4 members appointed by Fife Council;
  - (b) for the period beginning with 1st July 2003 and ending with 30th June 2005 selected by the Authority from the 4 members appointed by City of Edinburgh Council;
  - (c) on and after 1st July 2005 selected by the Authority on a rotational basis from the 4 members of Fife Council followed by the 4 members of City of Edinburgh Council and shall serve for a period of 2 years.
- (3) If either the convener or vice-convener is unable for any reason to exercise their respective functions for a period in excess of 6 months the post will be regarded as vacant and the Authority shall appoint a replacement in accordance with sub-paragraphs (1) and (2) above.

#### **Officers of the Authority**

- 4.—(1) The Authority shall appoint a clerk and a treasurer.
- (2) The clerk and the treasurer shall hold and vacate office as such in accordance with the terms of the instruments by which they are respectively appointed and, notwithstanding the terms of the instrument of appointment, the Authority may terminate their appointment at any time.
- (3) The offices of clerk and treasurer shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.
- (4) For the period beginning with the appointed day until a clerk and treasurer have been appointed, the persons who are immediately before the appointed day clerk and treasurer of the existing board shall respectively be the clerk and the treasurer to the Authority.
- (5) The Authority may appoint such other staff as may be required for the discharge of the functions of the Authority under this order.
- (6) Where under an agreement with the Authority, any constituent local authority places its own staff at the disposal of the Authority, the Authority shall make annually such payments as may from time to time be agreed with that authority for the services of that staff.

- 5.—(1) The first meeting of the Authority shall be held no later than 5th April 2002.
- (2) The Authority shall hold such meetings as it shall consider necessary for the disposal of its business at such place or places as it may from time to time fix.
- (3) The clerk shall send copies of the minutes of meetings of the Authority to the constituent local authorities for their information.
- (4) The Authority shall have power to make or adopt standing orders regulating its procedures and business.
- (5) The quorum of the Authority shall be 4 members provided that the members present shall not all be members appointed by the same constituent local authority.
- (6) All questions coming or arising before the Authority shall be decided by a majority of the members of the Authority present and voting thereon at a meeting of the Authority.

(7) In the case of an equality of votes the person presiding at the meeting of the Authority shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member of the Authority to any particular office or sub-committee, in which case the decision shall be by lot.

6.—(1) The Authority may appoint from its membership such committees as it may from time to time consider necessary or desirable and may refer to such committees such matters as the Authority may from time to time specify by minute or in its standing orders.

(2) Any member of a committee of the Authority may be represented at any meeting of that committee by a substitute member appointed in accordance with sub-paragraph (3) below.

(3) A constituent local authority may, subject to sub-paragraph (5) below, appoint one of its members to be a substitute member for any member of a committee who is also a member of that authority.

(4) A substitute member shall have the same powers at a meeting of a committee as the member whom he is representing would have had at that meeting.

(5) A person may not be appointed as a substitute member of a committee if he is a member of that committee.

## SCHEDULE 2

Article 9

### DESCRIPTION OF ROAD

That length of road, partly within the boundary of the City of Edinburgh Council and partly within Fife Council, from a point on the north side of the Forth Road Bridge, at the commencement of the unclassified southwards continuation of the A90, 690 metres or thereby south of the southmost abutment of the bridge over the roundabout at which the A90 crosses over the B981 to a point on the south side of the Forth Road Bridge on the A90, 160 metres or thereby north of the northmost face of the overbridge carrying the roundabout on which the A8000 and A904 meet, including those lengths of the slip roads within these points which form part of the A90 and give access to and from the above roundabout on the south side of the Forth Road Bridge, a distance measured along the said length of road approximately 3.15 kilometres.

## SCHEDULE 3

Article 16(1)

### MODIFICATION OF ENACTMENTS

#### *Forth Road Bridge Order Confirmation Act 1947*

1. In section 101 of the Order contained in the Schedule to the Forth Road Bridge Order Confirmation Act 1947(**11**) the words “of any of his functions...” to the end of the section shall be omitted and there shall be substituted “of the exercise of any functions of the Forth Estuary Transport Authority and the provisions of section 210 of the Local Government (Scotland) Act 1973(**12**) shall have effect with regard to any such inquiry”.

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(11) 1947 ch.iv. The functions of the Minister were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(12) 1973 c. 65.

*Forth Road Bridge Order Confirmation Act 1958*

2. After section 46 of the Order contained in the Schedule to the Forth Road Bridge Order Confirmation Act 1958(13) there shall be inserted—

**“Exemptions**

**46A.** Nothing in this Order shall extend to authorise any tolls to be demanded or received in respect of:—

- (a) a police vehicle, identifiable as such by writing or markings on it or otherwise by its appearance, if being used for police purposes;
  - (b) a vehicle which is exempt from vehicle excise duty under—
    - (i) paragraph 4 (fire engines),
    - (ii) paragraph 6 (ambulances),
    - (iii) paragraph 18 (vehicles adapted for invalids),
    - (iv) paragraph 19 (vehicles for use by or for certain disabled people), or
    - (v) paragraph 20 (vehicles used for carriage of disabled people by recognised bodies),
- of Schedule 2 to the Vehicle Excise and Registration Act 1994(14).

**Refusal or failure to pay tolls**

**46B.—(1)** A person who without reasonable excuse refuses or fails to pay, or who attempts to evade payment of, a toll which that person is liable to pay by virtue of the toll orders commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If it appears to a person employed for the purpose of collecting tolls that a person has, without reasonable excuse, refused or failed to pay a toll which is due to be paid by virtue of the toll orders, the person collecting tolls may refuse to permit the person so in default to use the bridge, and may with such assistance as necessary, stop and prevent the person so in default from using the bridge.”.

*The Forth Road Bridge (Toll Period) Extension Order 1997*

3. In article 2 of the Forth Road Bridge (Toll Period) Extension Order 1997(15) “of 5 years” shall be omitted and “expiring on 31st March 2006” shall be substituted.

SCHEDULE 4

Article 16(2)

REPEALS

<i>Short Title</i>	<i>Extent of Repeal</i>
Forth Road Bridge Order 1947	The Whole Order, other than sections 2, 4(1)(a), the definitions of “bridge” and “Joint Board” in section 4(1)(b) and section 101

(13) 1958. c.vi.

(14) 1994 c. 22.

(15) An Order made on 30th January 1997.

<i>Short Title</i>	<i>Extent of Repeal</i>
Forth Road Bridge Order Confirmation Act 1950 (c.xxiv)	The Whole Act
Forth Road Bridge Order Confirmation Act 1954 (c.x)	The Whole Act
Forth Road Bridge Order 1958	The Whole Order including section 43(2) with the exception of sections 1,2, 30 and 34 and the remainder of Part V Tolls
Forth Road Bridge Order Confirmation Act 1960 (c.iii)	The Whole Act
Forth Road Bridge Order Confirmation Act 1961 (c.xxi)	The Whole Act

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which is made under section 69 of the Transport (Scotland) Act 2001, dissolves the Forth Road Bridge Joint Board (“the existing Board”) and replaces it with a new body to be known as the Forth Estuary Transport Authority (“the Authority”). The Authority will be able to fund road and public transport measures that will improve travel across the Forth. The Authority is constituted with effect from 1st April 2002.

Article 3 of the Order dissolves the Forth Road Bridge Joint Board.

Article 4 transfers all property, rights or liabilities of the Board to the new Authority.

Article 5 provides for the transfer of the existing Board’s staff’s pension arrangements to the Authority.

Article 6 and Schedule 1 constitutes the Authority and provides the name, membership and appointment arrangements of the Authority.

Article 7 specifies the functions of the Authority.

Article 8 enables the Authority to vary existing and make new byelaws.

Article 9 provides that the Authority is to be a roads authority under the terms of the Roads (Scotland) Act 1984 and Schedule 2 specifies the area for which it will be responsible.

Article 10 provides for a general transfer of functions from the existing Board to the Authority.

Article 11 enables the Authority to operate discount schemes on the bridge by compounding for payment of tolls.

Article 12 enables the Authority to operate facilities incidental to the bridge.

Article 13 provides for the bridge to be exempt from rates.

Article 14 provides the Authority with incidental powers to undertake any action required for the effective discharge of its functions.

Article 15 provides for the transfer of responsibilities and obligations for actions taken by the present Board to the new Authority and make other incidental provisions.

Article 16 and Schedules 3 and 4 modify and repeal enactments relating to the existing Board to provide for the operation and establishment of the Authority. This includes the extension of the present Forth Road Bridge tolling order till 31st March 2006.