

EXECUTIVE NOTE

THE PUBLIC SERVICE VEHICLES (TRAFFIC REGULATION CONDITIONS) AMENDMENT (SCOTLAND) REGULATIONS 2008 SSI/2008/2

The above instrument was made in exercise of the powers conferred by section 60 of the Public Passenger Vehicles Act 1981 and section 7 (6) (d) of the Transport Act 1985. The instrument is subject to negative resolution procedure.

Policy Objectives

Under the system of Local Air Quality Management, local authorities have a statutory duty to identify those areas where air quality objectives will not be met and to designate these areas as Air Quality Management Areas (AQMAs). The majority of AQMAs to date have been designated as a result of road traffic emissions in urban areas. In some of these areas, buses can be a significant contributor to local emissions.

It is therefore considered appropriate to provide the option for the Traffic Commissioner for Scotland to regulate bus emissions in such areas through traffic regulation conditions, which could help to bring about improvements in air quality. The Traffic Commissioner would consider this option if requested to do so by a local authority.

Under the section 7 (4) of the 1985 Act, the Traffic Commissioner may only make Traffic Regulation Conditions where satisfied such Conditions are required in order to meet the objectives provided for in that subsection, including the reduction or limitation of air pollution.

Consultation

The following bodies have been consulted on a draft of the instrument:

Local authorities
Bus operators
SEPA
The Traffic Commissioner for Scotland

Financial Effects

The instrument may have some financial effects on bus operators whose vehicles are affected by such traffic regulation conditions. These potential effects are outlined in the attached RIA.

Andrew Taylor
Environmental Quality Directorate
Water, Air, Soils & Flooding Division

EXTENSION TO TRAFFIC REGULATION CONDITIONS APPLYING TO PUBLIC SERVICE VEHICLES – REGULATORY IMPACT ASSESSMENT

Introduction

1. This Regulatory Impact Assessment (RIA) estimates the costs and benefits of extending Traffic Regulation Conditions (TRCs) applying to Public Service Vehicles (PSVs) in Scotland. It takes account of comments received in response to a consultation exercise on similar proposals in England and Wales undertaken between July and October 2003. It should be read in conjunction with the accompanying consultation paper.

Objective

2. To reduce the environmental impact of local bus services, in terms of air pollution, where a local authority can satisfactorily demonstrate that there is an issue which cannot be effectively dealt with by other means.

Purpose and intended effect of the measures

3. The amendment to the Transport (Scotland) Act 2001 (see paragraph 2 of the consultation paper) provides, for the first time, the power to take into account and address the environmental impact of bus operations. Its principal aim is to provide local authorities, via the Traffic Commissioner for Scotland (TCS), with the power to take action against bus operations that have a disproportionate impact on the environment of a particular area.

4. The proposed regulatory change would provide the TCS with wide discretion over the content of a TRC. In practice, it is envisaged that the TCS could impose a number of practical measures to reduce or limit vehicle emissions. The two which are considered most appropriate and are presented in the consultation paper are specifying minimum Euro standards that vehicles affected by the TRC would have to meet, and requiring more frequent emissions tests on vehicles used in particular areas.

5. Maintaining bus operators' operational flexibility is also important, so that service to passengers is not adversely affected by the TRC. For example the TCS will have the flexibility to allow the occasional use of non-compliant vehicles, to take account of breakdowns and accidents. The TCS may also decide that a total ban is not justified in some areas and may wish to specify a certain percentage of total vehicle operation in the TRC that must meet the required emission standard. However, such an approach may be more difficult to enforce.

6. Ultimately the decision on what measures, if any, to impose through a TRC will be a matter for the TCS, taking into account the case put forward by the local authority concerned and any other views e.g. from bus operators affected. As TRCs are designed to deal with local problems and cover tightly defined areas it is not anticipated that the proposed new powers will be widely used, although they could be potentially effective in dealing with specific problems which have not been amenable to other solutions.

Business sectors affected

7. TRCs relate to the operation of local services within a defined area; therefore any bus operator within that area could potentially be affected. However the TCS must be convinced that the local authority has presented a convincing case for imposing the TRC in question, that the TRC is appropriate and that the positive impact of its imposition would outweigh any negative aspects. Experience to date in England and Wales, where this measure has already been introduced, suggests that the new powers would only be used in limited areas with significant problems. The majority of bus services and operators will not be affected.

Options

8. There are no other obvious measures that could address air quality problems caused by local buses, without reducing or prohibiting services in particular areas under existing powers.

Benefits

Environmental

9. Buses can be significant emitters of air pollutants, especially particulate matter and oxides of nitrogen. This is of particular concern in urban areas where buses operate in frequent and close proximity to people, and may be a major contributor to poor air quality. The proposed changes will for the first time allow air quality problems caused by buses to be directly addressed. Previously, action could only be taken by a TRC reducing frequencies or altering the routes of all local services, or by a Traffic Regulation Order (TRO) affecting certain classes of traffic. Such measures would also apply unnecessarily to vehicles that were not specifically intended to be targeted.

10. Introduction of this measure could potentially contribute to the achievement of air quality objectives in a local authority area and/or be included as a measure in an air quality action plan where an Air Quality Management Area (AQMA) has been declared.

Social

11. The resultant reduction in air pollution could greatly improve the amenity of the area affected and the quality of life of people living and working there. This could be achieved without reducing the scale and frequency of local bus services that those people may depend on.

Economic

12. Poor air quality is usually associated with congested urban centres. This can have an adverse impact on local shops and businesses, development potential and tourism. The benefits of the new measure could therefore be similar to those in the previous paragraph.

Costs

Environmental

13. The proposals have no immediate environmental costs. However, buses not meeting the standard imposed by a TRC may be deployed in other areas, thereby displacing rather than reducing air pollution. This would be a matter for the local authority concerned to consider carefully when developing a case for a TRC.

Social

14. In general terms the proposals would result in social gain, as outlined in paragraph 11. It is possible that the requirements of a TRC may deter bus operators from introducing new services or expanding existing ones in affected areas. In extreme cases, this could result in some modal shift from public to private transport. However this is a highly unlikely scenario, given that such a TRC would generally only be introduced in areas of dense population where the potential revenue from high levels of bus patronage will outweigh the disbenefits of a TRC.

Economic

15. The costs to operators of complying with a TRC under these proposed regulatory changes could vary considerably. For example, requiring more frequent emissions tests could be undertaken at relatively modest cost. However, acquiring new buses or retrofitting older ones to comply with a particular Euro standard would be considerably more expensive. For example, the typical cost for retrofitting to Euro III standard with a heavy duty diesel engine is around £15,000 to £20,000. The cost of buying and fitting a diesel particulate filter is typically between £3,000 and £6,000. A further consideration is that it may not be possible, for technical reasons, to use this technology in certain types of older vehicle.

Equity and fairness

16. In general, the proposals will have a neutral impact on affected groups. In extreme cases it could result in fare increases to pay for retrofitting or new vehicles. However newer vehicles are generally more accessible, which may benefit elderly passengers and others with reduced mobility.

Risk

17. It is clear that local authorities at present can find it difficult to regulate emissions from local buses without adversely affecting services to passengers. The proposed regulatory change will go some way towards addressing this issue. When considering the case for a TRC, the TCS is required to form a view on what would be appropriate in particular cases. This may involve some detailed consideration of the technical aspects of air quality and vehicle emissions. The UK Department for Transport has prepared guidance for the Traffic Commissioners on the subject, to help them take informed decisions that are appropriate in particular cases.

Impact on small businesses

18. On the basis of experience in England and Wales since this measure was introduced, the impact on small businesses is likely to be minor. The consultation undertaken in England and Wales sought views from the Confederation of Passenger Transport which represents, amongst others, small and medium sized operators and was in favour of the proposals.

Competition assessment

19. TRCs apply to all local bus services passing through the designated area. However it is possible that more stringent emissions standards may act as a deterrent to smaller operators running or wishing to run services in that area. Nonetheless, the size of a TRC area is likely to be relatively small in most cases and costs could be outweighed by the revenue benefits of running services in densely populated areas where there are also likely to be controls on parking and car use.

Enforcement and sanctions

20. As with all existing TRCs, failure to conform with their requirements may result in disciplinary action against the operator by the TCS. Under section 26 of the Transport Act 1985 the TCS can attach a condition to a PSV operator's licence prohibiting the licence holder from running services in certain areas. Transgressions that are more serious can result in the TRC suspending or revoking the operator's licence or reducing the number of vehicles that may be operated under it.

Monitoring and evaluation

21. It will be for local authorities to monitor and determine the effectiveness of any TRCs introduced through these proposals, as part of the Local Air Quality Management process.

Consultation

22. The proposals are currently being consulted on. The 21 responses to the consultation in England and Wales showed broad support for introduction.

Summary and recommendation

23. These proposals represent an effective means for imposing and enforcing emissions standards on local bus services in particular areas without adversely affecting overall service provision. The costs and benefits are clear but difficult to quantify at this stage, as it remains to be seen on what scale TRCs using these powers would be introduced or what precise measures the TCS would adopt. However they are only likely to be implemented in areas of real need, where a convincing case can be made. The proposed change is therefore likely to have a negligible effect on the bus industry as a whole.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Deputy Minister for Environment and Rural Development
Scottish Executive Environment and Rural Affairs Department
Date:

Contact point:

Andrew Taylor
Air, Noise and Nuisance Team
1-G(N) Victoria Quay
Edinburgh
EH6 6QQ

Telephone: 0131 244 7813