

Business and Regulatory Impact Assessment

Title of Proposal

The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2015

Purpose and intended effect

- **Background**

The Scheme was introduced on 1 April 2006 by the National Bus Travel Concession Scheme for Older and Disabled Persons(Scotland) Order 2006 (“the 2006 Order”). This followed an agreement reached by the then Scottish Executive and the Confederation of Passenger Transport (CPT) on behalf of bus operators, for the delivery of an unrestricted free national bus travel scheme for eligible passengers at agreed levels of payment to the industry. The reimbursement arrangements were originally set out in SSI 2006/107. In 2010, new arrangements were agreed with CPT covering 2010/11 to 2012/13 and set out in SSI 2010/140. Arrangements for 2013/14 and 2014/15 were agreed with CPT in 2013 and set out in SSI 2013/114. In January 2015, agreement was reached with CPT on new reimbursement terms for 2015/16 and 2016/17. This Order is to put these into effect.

- **Objective**

The purpose of this Order (“the amendment Order”) is to enable the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) (“the Scheme”) to continue into 2015/16 and 2016/17 by setting out the reimbursement terms for bus operators carrying concessionary passengers. The new rates of reimbursement will be 57.1% in 2015/16 and 56.9% in 2016/17. Total payments will be capped at £202m in 2015/16 and £212m in 2016/17.

- **Rationale for Government intervention**

The National Bus Concessionary Travel Scheme for Older and Disabled Persons provides an entitlement to free bus travel for people over 60 or meeting certain disability related criteria. This is believed to deliver social and health benefits by enabling people more easily to access services and visit friends and relatives. In line with EU rules relating to transport state aids, operators can be reimbursed for the costs of participating in such a scheme so as to leave them no better and no worse off from doing so. The reimbursement rates to ensure this are informed by an economic model and negotiation with the main industry trade body on key assumptions on fares growth and future journey numbers.

Through the Scottish Government national performance framework, concessionary travel contributes to national outcomes: “We live in well-designed, sustainable places where we are able to access the amenities and services we need” and “Our public services are high quality, continually

improving, efficient and responsive to local people's needs".

Consultation

- **Within Government**

We have consulted with colleagues in Transport Scotland who administer the scheme, and who are in regular contact with bus operators. Transport Analytical Services have supported negotiations with the bus industry and updated the economic model and provided forecast information to ensure these were reflected in the agreement reached. Finance colleagues have been consulted about relevant budgeting and elements of forward planning for resources and cost of the scheme.

- **Public Consultation**

As the proposal extends the scheme for two years, without altering eligibility for a bus pass, no changes are proposed to the scheme which might have an impact on the general public. The potential for changes in the reimbursement rate to have a wider impact on bus companies and their commercial services has been taken into account in selecting reimbursement rates, which meet the Scheme aim of leaving bus operators "no better and no worse off".

- **Business**

Negotiations have taken place with CPT, which represents about 80% of the bus industry in Scotland in terms of numbers of journeys. A two year agreement has been reached, consistent with the economic model discussed in 2012/13 with CPT. At that time, the model and agreement was discussed with a wide range of smaller bus operators, not represented by CPT. The agreement includes budget caps to limit the risk to Scottish Government budgets. The caps are unwelcome to the industry though set at levels which are believed to be consistent with the aim to leave the bus operators no better and no worse off as a result of carrying concessionary passengers. All bus operators participate in the scheme, and have received written information about the extension of the scheme for the next two years. A review of this model is planned to take place in 2016/17, when further consultation with the industry will be undertaken.

Options

Option 1 – Do nothing, total reimbursement remains as in 2014/15.

If the budget and reimbursement rate were left unchanged from 2014/15, rather than reflecting up to date forecasts of fare growth and journey growth, the government would face criticism that the scheme did not meet the condition of leaving bus operators "no better and no worse off". Although the nominal reimbursement rate would be slightly higher than proposed in the amendment Order, the unchanged cap would almost certainly be exceeded significantly, causing commercial losses to operators which could affect services. This would be unacceptable to the industry and the Scottish Government would be criticised for under-funding the scheme.

Benefit: this option would save money, but damage the reputation of the National

Concessionary Bus Travel Scheme and the economic performance of bus service providers.

Cost: Up to £192 million in 2015/16 and £192 million in 2016/17

Option 2 – Agree new reimbursement rates by updating the economic model agreed in January 2013 using assumptions for annual growth in fares claimed and journey numbers of 4.5% and 1% respectively.

Update the agreed model as follows (agreed with industry): (i) update indices for inflation and cost increases taking into account current economic forecasts, forecasts of industry costs and general inflation; and (ii) assume annual fares growth of 4.5% and annual journey growth of 1%, based on historical changes. This results in the proposed reimbursement rates of 57.1% in 2015/16 and 56.9% in 2016/17 and uplift in the concessionary travel budget caps to £202 million and £212 million and is in keeping with the agreed economic model, using agreed indices for inflation and cost increases.

Benefit: this option extends the duration of the scheme with agreement of bus operators, is consistent with the agreed economic model and allows a realistic budget to be set. Older people and those with disabilities will continue to benefit from free bus travel. Bus operators will benefit from stability and two years of funded concessions.

Cost: Up to £202 million in 2015/16, and £212 million in 2016/17.

Option 3 – Agree reimbursement rates as in option 2 but using assumptions for annual growth in fares claimed and journey numbers (For example of 3% and 0% respectively).

This has similar consequences to Option 1 – “Do nothing”. The reimbursement rates are influenced by forecasts of fare growth and journey growth, and given that they are assumptions, could have been set at lower rates. Fares growth of 3% and no change in journeys would result in a budget of £196 million in 2015/16 and a rate of 57.5%, but would risk breaching the budget cap at the end of the reimbursement year if the assumptions turn out to be unrealistic, and potentially damage cash flow of some bus operators. This would cause hardship to some operators and not meet the aim of the scheme to leave operators no better and no worse off as a result of carrying concessionary passengers. The Scottish Government would be criticised for under-funding the scheme.

Benefit: Lower cost of the scheme resulting in savings to the Scottish budget.

Cost: Up to £196 million in 2015/16, and £203 million in 2016/17.

Sectors and groups affected

The sectors most affected by the changes in the amendment Order are the bus industry and bus passengers (both concessionary and commercial).

Benefits

The nature of the scheme means that bus operators are left no better and no worse off as a result of their participation in the scheme.

Costs

	2015/16	2016/17	
Option 1	Up to £192m	Up to £192m	Risk not meeting aim of being “no better and no worse off” for bus operators.
Option 2	Up to £202m	Up to £212m	“No-better and no-worse off” preferred option.
Option 3	Up to £196m	Up to £203m	Lower fare rises and no journey growth but could be unrealistic. Risks the budget cap being breached due to fare rises and increased journeys.

Scottish Firms Impact Test

There are around 225 bus operators in Scotland participating in the Scheme and consideration of potential impacts on the bus industry are a key part of any negotiations. Transport Scotland has maintained regular contact with participating bus operators prior to and since the outset of the scheme in 2006. Given this ongoing contact and our negotiations with CPT, any additional face to face discussion with business would have been disproportionate to the level of impact. Smaller operators’ views on the scheme were taken into account, and information has been shared with all participant operators.

Competition Assessment

The Scottish Government does not consider that the proposed changes in the amendment Order will have any impact on competition. Using the Competition and Markets Authority guidance we have concluded that the proposals will not directly or indirectly limit the range of suppliers and neither is it likely that it will limit the ability of suppliers to compete or reduce suppliers incentives to compete vigorously. Furthermore, given the local nature of services being supplied by the bus industry, there will be no impact on competition within the UK or elsewhere.

Test run of business forms

No changes will be made to forms as a result of this Order.

Legal Aid Impact Test

Legal Aid does not apply to these regulations.

Enforcement, sanctions and monitoring

Transport Scotland is responsible for the administration of the scheme and compliance with the requirements as detailed within the amendment Orders and SSI 2006/107, the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 (see legislation.gov.uk).

Implementation and delivery plan

The amendment Order is subject to affirmative resolution procedure and will require to be approved by the Scottish Parliament. The amendment Order will detail the capped level of funding underpinning the Scheme, £202m in 2015/16 and £212m in 2016/17, and introduce the new reimbursement rates of 57.1% in 2015/16 and 56.9% in 2016/17. The amendments will be effective from 1 April 2015.

• Post-implementation review

The Scottish Government will continue to monitor the evidence for determining the reimbursement rate. Discussions will take place with CPT and key stakeholders to ensure any future reimbursement rate can be agreed with the industry representatives to sustain benefits of the National Concessionary Bus Travel Scheme. A formal review of the reimbursement model has been agreed with CPT and will take place in 2016/17.

Summary and recommendation

In summary, the preferred option (Option 2) agrees a two year settlement with bus operators, with new reimbursement rates of 57.1% in 2015/16 and 56.9% in 2016/17, and capped budgets of £202m and £212m respectively. This enables the Scheme to continue to provide free bus travel, at any time of day, over any distance, for eligible cardholders, for the next two years.

We now wish to introduce regulation to amend the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 and introduce fair and sustainable rates of reimbursement for the scheme.

• Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	- Key social benefit to older and disabled people may be at risk if bus operators feel the scheme is underfunded. - Greater risk of breaching the budget	- Cost of up to £192m in 2015/16 (saving of up to £10m relative to option 2) - Greater risk of failing to meet the aim of the Scheme to leave bus operators

	cap and not reimbursing bus operators at the end of the financial year.	no better and no worse off for carrying concessionary passengers
2	<ul style="list-style-type: none"> - Agreement based on updating model agreed with the industry in January 2013 - Uprated for current inflation, fuel cost and other costs to the industry - Maintains sustainable benefit to older and disabled people - Renews the National Concessionary Travel Scheme as key part of the social wage 	<ul style="list-style-type: none"> - Cost of up to £202m in 2015/16 and £212m in 2016/17 - As agreed with bus industry - Meets aim of the Scheme to leave bus operators no better and no worse off for carrying concessionary passengers - Based on realistic assumptions of 4.5% fare rises per annum and 1% journey growth, consistent with historic industry trends - Reflecting recent economic forecasts for inflation and costs to the industry.
3	<ul style="list-style-type: none"> - not likely to be agreed with the bus industry based on 3% fare growth - this level of fare increase is lower than past industry trends - risks breaching the budget cap at the end of the financial year - does not provide stability to the National Concessionary Bus Travel Scheme 	<ul style="list-style-type: none"> - cost of up to £196m in 2015/16. Cost saving relative to option 2. - based on 3% fare rises per annum and 0% journey growth - risk of breaching the budget cap and causing hardship to smaller bus operators

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

**Derek Mackay
Minister for Transport and Islands**

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