

EXECUTIVE NOTE

DRAFT: The Transfer of Functions from the Strathclyde Passenger Transport Authority and the Strathclyde Passenger Transport Executive to the West of Scotland Transport Partnership Order 2006

1. The above instrument will be made in exercise of the powers conferred on the Scottish Ministers by sections 10(1) and 52(4) of the Transport (Scotland) Act 2005 (asp 12). This instrument is subject to the affirmative resolution procedure.

Policy Objectives

2. The Transport (Scotland) Act 2005 fulfilled commitments given in the White Paper, *Scotland's transport future*, to bring a new approach to the delivery of transport infrastructure and services in Scotland. Part 1 of the Act provides a statutory basis for regional transport partnerships and enables them to receive and exercise transport functions conferred on them by the Scottish Ministers. These provisions aim to meet the commitment, given in the *Partnership Agreement*, to develop effective regional transport delivery partnerships.

3. Section 1 of the Transport (Scotland) Act 2005 places a duty on the Scottish Ministers to create regional transport partnerships covering the whole of Scotland and to make provision for their membership and constitution. This duty was fulfilled through the Regional Transport Partnership (Establishment, Constitution and Membership) (Scotland) Order 2005 that was approved by Parliament on 23 November 2005 and came into force on 1 December 2005.

4. The White Paper also included, at paragraph 5.22, a commitment to “see a strong regional transport partnership in the west of Scotland to which SPT’s powers would transfer”. Section 10 of the 2005 Act gives powers to the Scottish Ministers to transfer, by order, to a regional transport partnership any statutory function relating to transport they think fit. This proposed order is based on that provision and will fulfil the objective set out in the White Paper

Consultation

5. The following consultation on the instrument has taken place:

5.1 Section 10(8) of the Transport (Scotland) Act 2005 requires the Scottish Ministers, before making an Order such as this, to consult the Transport Partnership concerned, its constituent councils and such other persons as the Scottish Ministers think fit.

5.2 On 8 December 2005 the Scottish Executive sent a draft version of the Order and this Note for consultation to the West of Scotland Transport Partnership, the 12 local authorities that are members of the Partnership, Strathclyde Passenger Transport Authority (SPTA), Strathclyde Passenger Transport Executive (SPTE) and Westrans. A copy of this letter was sent by the Minister to the Convener of the Local Government and Transport Committee.

6. Comments were received from 5 respondents. The West of Scotland Transport Partnership supported the Executive's objective and SPTE supported the proposal to use a general approach to transfer all SPTA and SPTE's powers to the Transport Partnership. Both bodies expressed concern that the order as drafted did not adequately address the transfer of administrative powers and the continued application of some legislative provisions. Particular concern was expressed that one reading of the illustrative list of functions given in section 10(5) of the 2005 Act could lead to a narrow interpretation of a "function relating to transport".

7. Following further discussions, an additional paragraph 3(2) has been added to the draft order to address these concerns. It is the Executive's view that the intention of Parliament in including section 10(5) was not to limit the application of section 10 and that Parliament, in approving this part of the 2005 Act, did so in the knowledge that the Executive's intention to use these provisions for the transfer of SPTA and SPTE's functions to the new Transport Partnership.

Financial Effects

8. The financial impacts of the creation of regional transport partnerships were set out in the financial memorandum to the Transport (Scotland) Bill 2004 and in the Executive Note accompanying The Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005.

9. The financial memorandum to the Transport Bill identified that there would be transitional costs associated with the transfer of functions from SPTA and SPTE to the new West of Scotland Transport Partnership. These were estimated at a maximum of £1m and will be met by the Scottish Executive. Discussions are ongoing between the Scottish Executive, SPTE and the West of Scotland Transport Partnership, on the precise level of transitional funding required.

Richard Hadfield
Scottish Executive Enterprise, Transport and Lifelong Learning Department
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