

Final Business and Regulatory Impact Assessment

Title of Proposal

The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2019

Purpose and intended effect

- **Background**

The National Bus Travel Concession Scheme for Older and Disabled Persons (“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 a 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 (set out in SSI 2013/114), for 2015/16 and 2016/17 in 2015 (set out in SSI 2015/133), for 2017/18 in 2017 (set out in SSI 2017/71) and for 2018/19 in 2018 (set out in SSI 2018/98).

In December 2018, agreement was reached with CPT on new reimbursement terms for 2019/20. This Order is to put these into effect.

- **Objective**

The purpose of this Order (“the 2019 Amendment Order”) is to enable the Scheme to continue into 2019/20 by setting out the reimbursement terms for bus operators carrying concessionary passengers. The new rate of reimbursement will be 56.5% in 2019/20. Total payments will be capped at £213.65m in 2019/20.

- **Rationale for Government intervention**

The Scheme provides an entitlement to free bus travel for people age 60 and over or meeting certain disability related criteria. By enabling people more easily to access services, leisure facilities, and interact with others, card holders tell us it delivers social and health benefits through reduced social isolation, greater independence and improved physical and mental wellbeing from increased activity. In line with Scheme objectives, and in order to comply with EU rules on state aid, operators are reimbursed for the costs of carrying concessionary passengers so as to leave them no better and no worse off through their participation in the Scheme. 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 the National Outcomes: “We are healthy and active.” And “We respect, protect and fulfill human rights and live free from discrimination.”

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 for resources and cost of the Scheme.

- **Public Consultation**

The proposal extends the Scheme for a further year. It makes no changes to who is eligible for the scheme or what benefits it confers.

There was a separate public consultation published in August 2017 on options to ensure the continuing sustainability of the Scheme. In August 2018 the Scottish Government confirmed that there would be no change to the age of eligibility for the Scheme, which would remain at 60. The Scottish Government also confirmed that it would make a minor amendment to make disabled children aged under 5 eligible for a companion card under the Scheme.

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 the CPT, which represents about 80% of the bus industry in Scotland in terms of numbers of journeys. A one year agreement has been reached, consistent with the economic model discussed in 2012/13 with CPT.

The agreement includes a budget cap to limit the risk to Scottish Government budgets. The cap is not welcomed by the bus industry though set at a level which is 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 in Scotland participate in the Scheme and have been informed about the proposed reimbursement terms for 2019/20.

Work to review the economic model used to determine reimbursement terms is ongoing and further consultation with the industry will be undertaken.

Options

Option 1 – Do nothing, total reimbursement remains as in 2018/19.

In the absence of uprating of the Scheme reimbursement rate and budget cap as proposed in the 2019 Amendment Order, the Scheme would not meet the condition of leaving bus operators “no better and no worse off” and operators would suffer reduced income which could affect services. If the budget cap was maintained at its present level, the effective reimbursement rate – i.e. allowing for capping of payments towards the end of the financial year – would be unacceptable to the industry. This would be inconsistent with the scheme objectives as it would not fairly compensate bus operators for carrying concessionary passengers, and potentially leave them worse off from their participation in the scheme.

Benefit: This would have a lower budget cost for the scheme. However, this option would damage the reputation of the Scheme and the economic position of bus service providers, and hence the services available to bus users.

Cost: £202.1 million in 2019/20

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% and 0% respectively.

Update the agreed model as follows: (i) uprate indices for inflation and cost increases taking into account current economic forecasts, forecasts of industry costs and general inflation; and (ii) assume average annual fares growth of 4% and annual journey growth of 0%. This results in the proposed reimbursement rates of 56.5% in 2019/20 and a concessionary travel budget cap of £213.65 million and is in keeping with the agreed economic model, using agreed indices for inflation and cost increases.

Benefit: This option extends for one year the duration of the Scheme. It has the 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 with only a minor change to the reimbursement rate from the previous year and a further year of funded concessions. This option has been agreed with the CPT.

Cost: £213.65 million in 2019/20.

Option 3 – Agree reimbursement rates using CPT’s initial forecasting of fares and journeys in 2019/20.

The reimbursement rates are influenced by forecasts of fare growth and journey growth, as well as inflation forecasts. CPT initially proposed that fares would increase by 4.0% in 2019/20, and journey numbers increase by 0.5%, giving a proposed reimbursement rate of 56.7%.

Benefit: Transport Scotland agrees with the principle of uprating indices previously used, and with the fare increase, but believes that a more realistic forecast, given recent trends, is for journey numbers to be flat. Unduly inflating the expected journey numbers would slightly increase the budget cap but this might set unrealistic expectations.

Cost: £213.67 million in 2019/20.

Sectors and groups affected

The sectors most affected by the changes in the 2019 Amendment Order are the bus industry and bus passengers (both concessionary and fare paying).

Benefits

The Scheme is intended to leave bus operators no better and no worse off as a result of their participation in it.

Costs

	2019/20	
Option 1	£202.1m	This level of budget would result in practice in an unrealistic reimbursement rate. There would be a risk not meeting the objective of leaving bus operators “no better and no worse off” and a risk to the credibility of the agreed economic model for updating the scheme and of the utility of that model for future negotiations.
Option 2	£213.65m	Preferred option consistent with scheme objectives to leave bus operators “no-better and no-worse off” through their participation in the scheme.
Option 3	£213.67m	Based on bus industry forecasts of increases to fares and journeys, Transport Scotland, believes that a more realistic forecast is for journey numbers to be flat.

Scottish Firms Impact Test

There are around 220 bus operators in Scotland participating in the Scheme. Transport Scotland has had regular contact with participating bus operators since the outset of the Scheme in 2006 and consideration of potential impacts on the bus industry is a key part of any discussions. Therefore the Scottish Firms Impact Test was not carried out. This would have been impractical given the agreement reached following confidential negotiations with CPT, the trade industry body. CPT acts on behalf of member operators, which between them provide 80% of the local bus services in Scotland, and information has been shared with all participant operators.

Competition Assessment

The Scottish Government does not consider that the proposed changes in the 2019 Amendment Order will have any impact on competition. It is not considered likely that the proposals will directly or indirectly limit the range of suppliers, 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 the 2019 Amendment 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 2006 Order (as amended).

Implementation and delivery plan

The 2019 Amendment Order is subject to affirmative resolution procedure and so will require to be approved by the Scottish Parliament. The 2019 Amendment Order will detail the capped level of funding underpinning the Scheme, namely £213.65 million in 2019/20, and provide for a reimbursement rate of 56.5% in 2019/20. The amendment will be effective from 1 April 2019.

- **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 the benefits of Scheme. A review of the reimbursement model under the Scheme has been agreed with CPT and is ongoing. If there are changes made to the Scheme, for instance eligibility changes, we will also review their impact upon the model.

Summary and recommendation

In summary, the preferred option (Option 2) agrees a one year settlement with bus operators, with a new reimbursement rate of 56.5% in 2019/20 and a capped budget of £213.65m. This enables the Scheme to continue to provide free bus travel on the

current basis for the next year.

We now wish to introduce regulation to amend the 2006 Order 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	<ul style="list-style-type: none"> - Key social benefit to older and disabled people. - Risk of not being agreed with the bus industry. 	<ul style="list-style-type: none"> - Cost of up to £202.1m in 2019/20. - Greater risk of failing to meet the aim of the scheme to leave bus operators no better and no worse off for carrying concessionary passengers. - Risk due to not applying the agreed terms of the economic model.
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. - Value to average user of the scheme of £260. - Renews the National Bus Travel Concession Scheme for Older and Disabled Persons as a key part of the social wage. 	<ul style="list-style-type: none"> - Cost of up to £213.65m in 2019/20. - 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 assumptions of 4% fare rises per annum and 0% journey growth, consistent with current industry trends. - Reflecting recent economic forecasts for inflation and costs to the industry.
3	<ul style="list-style-type: none"> - Use of industry forecast of a 0.5% increase in journeys, which is higher than Transport Scotland's forecasts based on current industry trends. 	<ul style="list-style-type: none"> - Cost of up to £213.67m in 2019/20. - Reimbursement rate of 56.7%. - Based on industry-derived forecasts for fare rises and journey growth.

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:

**Michael Matheson
Cabinet Secretary for Transport, Infrastructure and Connectivity**

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