

STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

SCREENING REPORT

**The Low Emission Zone (Emission
Standards, Exemptions and Enforcement)
(Scotland) Regulations 2021, and
The Low Emission Zone (Scotland)
Regulations 2021**

January 2021

STEP 1 – DETAILS OF THE PLAN

Responsible Authority:

Scottish Government

Title of the plan:

Low Emission Zone (LEZ) Regulations under the Transport (Scotland) Act 2019.

What prompted the plan:
(e.g. a legislative, regulatory or administrative provision)

The Scottish Government is not compliant with European and domestic air quality regulations across a number of locations in Scotland, predominantly due to road-based transport emissions and pollutants.

The Programme for Government (PfG) 2018 committed to the introduction of LEZs into Scotland's four biggest cities between 2018 and 2020 and into Air Quality Management Areas by 2023 where National Low Emission Framework appraisals support this approach. Plans to implement LEZs were paused temporarily due to the COVID-19 outbreak but work has now restarted and an indicative timeframe to introduce LEZs across Scotland's four largest cities has been agreed. It is proposed that LEZs be introduced across Glasgow, Edinburgh, Dundee and Aberdeen between February 2022 and May 2022.

The Transport (Scotland) Act 2019 contains provisions on seven topics, including Low Emission Zones. Part 2 of the Act contains provisions that will enable the creation, and civil enforcement, of LEZs by local authorities and allows Scottish Ministers to set nationally consistent standards on matters including, but not limited to, emission standards, penalties, and exemptions. This plan will comprise a nationally consistent LEZ standards which will be outlined in Regulations in tandem with Guidance. The Regulations are vital in delivering successful, fair and equitable LEZs.

Plan subject:
(e.g. transport)

Transport

Screening is required by the Environmental Assessment (Scotland) Act 2005.

An SEA is required, as the environmental effects are likely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

Based on Boxes 3 and 4, our view is that:

Section 5(3)

Section 5(4)

An SEA is not required, as the environmental effects are unlikely to be significant: Please indicate below what Section of the 2005 Act this plan falls within

Section 5(3)

Section 5(4)

Contact details:

Colin Anderson
Jacobs
Project Manager - Water & Environment
95 Bothwell Street, Glasgow, G2 7HX
Colin.Anderson@jacobs.com

Date:

26/11/20

STEP 2 – CONTEXT AND DESCRIPTION OF THE PLAN

Context of the Plan:

The Transport (Scotland) Act 2019 has set legislation, among other things, relating to Low Emissions Zone. Details relating to specific powers for Scottish Ministers to require Local Authorities to set up and implement LEZ were to be described in the form of secondary legislation.

The proposed LEZ Regulations (and Guidance) is that secondary legislation which sets nationally consistent standards specifying the form of a LEZ scheme and the implementation of a LEZ scheme. It also sets powers for Scottish Ministers to establish, enforce and amend the scheme. LEZ regulations are supported at the national level by strategies such as the National Transport Strategy (NTS), and Cleaner Air for Scotland (CAFS). At the regional and local levels regulations are supported by regional and local transport strategies, as well as strategic and local development plans.

Description of the Plan:

The LEZ Regulations enable Scottish Ministers to set nationally consistent emission standards, exemptions and penalty charges based on vehicle classification, and to make provision for or in connection with the enforcement of low emission zone schemes

These regulations and their supporting policies will ultimately help mitigate air pollution that is predominantly caused by road transport at a number of hotspots in Scotland's towns and cities.

The primary objectives of LEZs are to help improve air quality, and to contribute towards reducing climate change emissions. In addition, there may be additional benefits to introducing LEZs, including (but not limited to); improve road network operations that help to tackle congestion amongst other outcomes; encourage modal shift to active travel and public transport, and support placemaking to improve town and city spaces in order to create attractive places to live, work and visit.

What are the key components of the plan?

The proposals define secondary regulations relating to the following topics expanding on details relating to Part 2 of the Transport (Scotland) Act 2019, supported by policies for each topic. Key components are as follows:

i. Emission Standards

Proposed policy text provides further information relating to Section 6 (4) (a) of the Act, which specifies emission standards for each vehicle type that can be driven on a road within an LEZ.

ii. Exemptions

Proposed policy text provides further information relating to Section 6 (4)(b) of the Act setting out national exemptions for vehicles to which a penalty charge notice will not apply when driving within a LEZ. In addition to national exemptions, time-limited exemptions can also be

issued by local authorities (as per Section 17 of the Act). These are not to be stated in within Regulation, but will covered under LEZ Guidance, to provide advice on which vehicle types or uses could be considered for a time-limited exemption.

iii. Penalty Charges

Proposed policy text provides further information relating to Section 6 (4)(c) to enable the Scottish Ministers to set penalty charges based on the vehicle class (e.g. car versus heavy goods vehicle), set the level of penalty charge, and set out the circumstances in which penalty charges can be subject to a discount or surcharges, to escalate the penalties over time.

In Section 7(4) proposed new policy text provides further details on persons who are not registered keeper of a vehicle who may face penalty charges.

iv. Enforcement

Section 8 enables the Scottish Ministers, by regulations, to make provision for or in connection with the enforcement of low emission zone schemes. In addition, provision may be made for creating offences and about the records to be produced by or in connection with approved devices. The maximum penalty that may be provided for in regulations for creating offences is, on summary conviction, a fine not exceeding level 5 on the standard scale.

Details of the LEZ enforcement regime are outlined within the Regulations, with the general principles of the LEZ enforcement regime covering:

- The manner in which a penalty charge notice will be enforced;
- The issuing of a Penalty Charge Notice (PCN) or the issuing of a further PCN following cancellation of the original PCN and the records that must be produced by or in connection with approved devices;
- The timing and manner of payment of a penalty charge;
- Reviews and appeals process;
- The enabling of local authorities to enter into arrangements with any person in connection with the exercising of the LEZ enforcement regime.

v. Prior Consultation

In Section 11 (e) proposed new text list outlines additional 'other persons' whom local authorities must consult before a local authority asks the Scottish Ministers to approve the making, amendment or revocation of a LEZ.

vi. Section 12(6) and (7). Examination of proposals

Section 12 allows either the local authority proposing the LEZ, or the Scottish Ministers, to appoint a reporter to carry out an examination into a proposal for a LEZ. It also gives the Scottish Ministers a regulation making power to prescribe the procedures for examinations, and to make provision about financial matters associated with examinations. The proposed policy provides further information in relation to who may be appointed to carry out an examination under Section 12 and the procedures for examinations.

vii. Ministers power to regulate process.

The regulations made under Section 13 set out the procedural requirements relating to the establishment, amendment or revocation of a low emission zone scheme. This regulation allows for flexibility of LEZ's.

viii. Approved devices

Section 21(1) provides the power to the Scottish Ministers to specify the approved devices to be used for or in connection with the operation and enforcement of a low emission zone scheme. The proposed policy provides further information in relation to the certification of an approved device and the statutory requirements of an approved device.

ix. Accounts

Section 28 provides the power for the Scottish Ministers, by way of regulations, to make provision about the keeping of accounts by local authorities relating to low emission zones and make provision about what may, or must, be done jointly where a low emission zone scheme is made jointly.

Have any of the components of the plan been considered in previous SEA work?

Yes. The Transport (Scotland) Bill (now Transport (Scotland) Act 2019), among other things considered LEZ provision. It concluded that the driver of the LEZ provisions is the improvement of air quality within specified urban areas. As such the provisions were considered to have the potential for environmental effects.

The Bill had considered the following components, relating to LEZ provision:

- Emission standards
- Exemptions
- Penalty charges;
- Enforcement;
- Powers to set up and regulate LEZ process; and
- Accounts.

Consideration of SEA requirements for LEZ was undertaken and it was concluded that whilst the Bill's provisions provide a framework for

establishing and operating a LEZ, it is not in itself prescriptive of the detail of individual LEZs in terms of their location, nature, size or operating conditions. It advised that these should be defined separately by local authorities as part of the development of each LEZ proposal. It considered that it was more appropriate to consider environmental effects at a local level where required.

Other strategies where LEZ components were discussed, in part were:

- The second National Transport Strategy (NTS) - published in 2020, this set a long-term vision for transport policies and a framework for enhancing the transport system in Scotland. An SEA was undertaken and published alongside the NTS.
- The National Low Emissions Framework (NLEF) – this is a key element of the delivery of CAFS which will support the creation and delivery of Scotland’s Low Emissions Zones by providing an appraisal process for local authorities to support implementation of transport interventions to improve air quality. The NLEF approach will support:
 - consideration of options that reflect specific, localised situations
 - targeting locations where exceedances of air quality criteria are occurring or are likely to occur
 - flexibility for local authorities to influence the specific vehicle class or classes that are the primary contributors to poor air quality in their area

The NLEF was subject to an SEA and a screening report was published in 2019.

In terms of your response to Boxes 7 and 8 above, set out those components of the plan that are likely to require screening:

It is considered that screening is not required for the following Regulation and policy components:

- i. Exemptions – Although the exempt vehicles are likely to emit GHG gases and other air pollutant, it is anticipated that these vehicles constitute a minor proportion of road vehicles, therefore no significant environmental effects are envisaged from the proposals.
- ii. Penalty charges – As the proposals focus on the administration of charges and discounts, there will be no environmental effects resulting from the proposals.
- iii. Consultations – As the provisions focus on listing further consultees who should be involved with LEZ scheme related proposals, no environmental effects are envisaged.
- iv. Enforcement – As proposals relate to enforcement, including administering penalty charges and appeals, no environmental effects are envisaged.

- v. Devices - As the proposals relate to use of technology and devices to monitor and administer LEZ, no environmental effects are envisaged.
- vi. Accounts - As the proposals relate to administration of accounts relating to LEZ, no environmental effects are envisaged.

It is considered that the following components of the regulations and guidance require screening:

- vii. Emission standards – Provides nationally consistent standards for each possible vehicle type such as cars, LGVs and HGVs. As such the provisions are considered to have the potential for environmental effects.

STEP 3 – IDENTIFYING INTERACTIONS OF THE PLAN WITH THE ENVIRONMENT AND CONSIDERING THE LIKELY SIGNIFICANCE OF ANY INTERACTIONS (Error! Reference source not found.)

Plan Components	Environmental Topic Areas that may be affected									Explanation of Potential Environmental Effects	Explanation of Significance	
	Biodiversity, flora and fauna	Population and	Soil	Water	Air	Climatic factors	Material assets	Cultural	Landscape			Inter-
Emission standards	✓				✓	✓		✓		✓	By defining LEZ boundaries, air quality improvements are likely in places where high levels of air pollution are recorded. This is primarily achieved by excluding the most polluting vehicles (based on their emissions) that emit pollutants of concern (for example NO2). By specifying Euro Emission standards for vehicles, CO2 emissions reduction is likely from vehicles that achieve higher Euro emission standards, by comparison to lower Euro emission standards, thus addressing factors that cause climate change. Improved air quality in turn can lead to better	The proposal on emission standards may result in improved air quality at places where air pollution is an issue but whether the design of LEZ combined with the standards will shift pollution to other geographies or disperse emissions that will not result in causing pollution will be principally dictated by the design of individual LEZs. While the emission standards prescribe vehicle types that are permitted for use within LEZ and details on the process and how LEZ scheme should operate are laid out, the regulations and policies themselves do not specify details such as LEZ location, nature, or size

		<p>opportunities to breathe clean air, positively affecting all members of public, particularly those who are vulnerable such as children, elderly and pregnant women. Conversely by restricting vehicle entry onto areas with worse air quality records, there is potential for traffic to be displaced into areas out with the LEZ which could lead to increased emissions in these areas. Such displacement will vary dependent on LEZ boundary, road layout and alternate options available and on the purpose of trips undertaken. These variables must be studied on a case by case basis, supported by evidence such as traffic modelling (to identify potential alternate routes and then determine if congestion will indeed occur).</p> <p>Additionally, there may be cumulative negative effects on the townscape within and</p>	<p>of areas where these should be designed. These will be defined separately by local authorities as part of the development of each LEZ proposal. As a result, it is considered more appropriate to consider environmental effects at a local level where required.</p> <p>Emission standards proposed are to establish consistent national standards but due to the strategic level of the proposals, it is not prescriptive about the location and geographical extent of LEZs. This will be determined by individual local authorities for their case. To study their environmental effect on individual cities and towns and their hinterland, details on the scheme itself and on specific geography will be required to determine if significant environmental effects indeed will occur or not.</p> <p>The conclusion is that the proposed regulations and supporting policies themselves will not lead to causing significant environmental effects. When LEZ is designed and enforced</p>
--	--	---	---

STEP 4 – STATEMENT OF THE FINDINGS OF THE SCREENING

Summary of interactions with the environment and statement of the findings of the Screening:

(Including an outline of the likely significance of any interactions, positive or negative, and explanation of conclusion of the screening exercise.)

1. The Programme for Government (PfG) 2018 committed to the introduction of LEZs into Scotland's four biggest cities between 2018 and 2020 and into Air Quality Management Areas by 2023 where National Low Emission Framework appraisals support this approach. Plans to implement LEZs were paused temporarily due to the COVID-19 outbreak but work has now restarted and an indicative timeframe to introduce LEZs across Scotland's four largest cities has been agreed. It is proposed that LEZs be introduced across Glasgow, Edinburgh, Dundee and Aberdeen between February 2022 and May 2022.
2. Part 2 of the Transport (Scotland) Act 2019 contains provisions that will enable the creation and/or amendment of Low Emission Zones (LEZ) and its enforcement by Scottish Ministers and local authorities and allows Scottish Ministers to set nationally consistent standards on matters including, but not limited to, emission standards, penalties, and exemptions.
3. The purpose of this is to set nationally consistent LEZ standards which are set within LEZ Regulations and their supporting guidance. The Regulations are vital in delivering successful, fair and equitable LEZs.
4. By establishing consistent standards and mechanisms to implement LEZ, the regulations and supporting policies will support local authorities to introduce and operate LEZs in Scottish towns and cities where air quality improvements are required.
5. In 2015, the Scottish Government published their air quality strategy, Cleaner Air for Scotland, which set out their vision for Scotland to have the best air quality in Europe. This included commitments across a number of areas including health, placemaking, climate change, communication, legislation & policy and transport. Scotland adopted the Climate Change (Emissions Reductions Targets) (Scotland) Act 2019 which commits Scotland to

achieve net zero carbon by 2045. Transport will play an important role in achieving this target and in responding to the climate emergency. Scottish Government are currently undertaking consultation on publication of Cleaner Air for Scotland 2 which will set out revised commitments with respect to air quality.

6. The LEZ Regulations will form secondary legislation to the Transport (Scotland) Act 2019 and will support Scottish Ministers in delivering specific components of the Act i.e., Low Emission Zones. These regulations set the details on how Scottish Ministers or a local authority can define, establish and deliver LEZ, which in turn will drive achievement of wider government strategies and commitments including CAFS. It also provides regulation making powers to Scottish Ministers on matters relating to regulating the process of implementing and amending LEZ, allowing for consideration of feedback. Examples of other strategies that have discussed LEZ include the NTS and NLEF, all of which were subject to assessment under the 2005 Act.
7. Proposed regulations contain provisions relating to: Emission Standards for various types of vehicles; Future Emission Standards; Exemptions; Penalty Charges; Prior Consultation; Enforcement; Ministers powers to regulate process; Approved devices; Account keeping by local authorities.
8. Many of the components of the Regulations and their supporting policies relate to procedural matters involved in implementing LEZ, which are not considered to have any environmental impact. Those components that propose emission standards and vehicle types will be subject to review and consideration under the 2005 Act to test if they have potential to give rise to significant environmental effects.
9. This assessment identified that specific sections of the regulations and associated policies i.e., Section 6 (4)(a) Emission Standards required screening, but upon further examination it is concluded that evidence must be considered on a case by case

basis, at a city level or at a local level to understand the environmental impacts, including that on air quality and population and human health impacts. In summary, effects may vary depending on the spatial context, air quality status in that geography and the scope for traffic related pollution to be shifted elsewhere from an LEZ area.

Summary / Conclusion

10. At a national level, the regulations will establish consistent standards and consistent method to establish and operate LEZs in Scotland. It will provide a range of powers for Scottish Ministers and local authorities to implement and to operate LEZs in their areas, however environmental impacts associated with these powers will depend on environmental conditions in each context and whether LEZs will shift air pollution to areas outside LEZ. Any specific actions resulting from these secondary regulations will be considered for their environmental impacts as they are developed on a case by case basis and screened in accordance with the Environmental Assessment (Scotland) Act 2005 to determine whether an SEA is required.
11. It is therefore concluded that the LEZ Regulations are not likely to have any significant environmental impact.

When completed send to: SEA.gateway@scotland.gsi.gov.uk or to the SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ.