

FORTH ESTUARY TRANSPORTATION AUTHORITY

***REPORT ON PUBLIC CONSULTATION
(7 SEPT – 30 NOV 2001)***

**Scottish Executive Development Department
January 2002**

FORTH ESTUARY TRANSPORTATION AUTHORITY (FETA)

CONSULTATION REPORT

1. This paper reports on the public consultation undertaken by the Scottish Executive on the draft statutory instrument (or “Order”) intended to dissolve the Forth Road Bridge Joint Board and replace it with a new body with wider powers, to be called the Forth Estuary Transport Authority (FETA). The Department would like to thank all of those who responded to this consultation for their helpful and constructive comments, and in particular the staff of, and advisers to, the Forth Road Bridge Joint Board, for their additional help in working up the technical detail of repeals and amendments to existing legislation.

INTRODUCTION

2. The Forth Road Bridge is an integral part of Scotland’s transport network. The effective operation of the bridge is critical to traffic movements in and around the Edinburgh area and to and from the North and North East. The management, operation and maintenance of the bridge is currently the responsibility of the Forth Road Bridge Joint Board, a statutory body comprised of local authority representatives from City of Edinburgh, Fife, Midlothian and West Lothian Councils.
3. At present, the bridge and its surrounding road network regularly experience significant levels of congestion during the southbound morning peak and, increasingly, during the northbound evening peak. The Road Bridge currently carries more than 60,000 vehicles per day (its notional capacity) on more than half the days of the year. Crossings in the year to March 2001 are estimated at 22.1 million. On the basis of current trends, it is forecast that daily vehicle flows will increase by a further 3.5% per annum. Such growth will seriously damage the reliability of cross-Forth travel by road, with obvious impacts on economic development, the journey to work, and accessibility of the national motorway network.
4. The present Board is limited, under the terms of the Forth Road Bridge Order Confirmation Act 1947 and subsequent Confirmation Acts, to exercising powers solely over the operation and maintenance of the Bridge itself. In establishing a new body to manage the bridge, the Executive will provide it with a broader remit and powers to allow it to prepare and implement a charging strategy for transport relating to the Bridge and to use revenues to fund expenditure on wider public transport alternatives, road works and traffic management measures relating to the crossing.

POLICY DEVELOPMENT

5. Executive policy on the Forth Road Bridge, culminating in the intended replacement of the present Bridge Board, has been informed by the work of the Forth Transport Infrastructure Partnership (Forth TRIP), which includes those local authorities currently represented on the Forth Road Bridge Joint Board, as well as Clackmannanshire and Falkirk Councils. Forth TRIP has investigated the growth in transport movements across the Forth estuary, including modelling work on traffic flow and assessment of potential road and public transport interventions.
6. The Forth Road Bridge Joint Board produces regular statistical information relating to the operation of the bridge, which it provides to the Executive and places in the public domain. The Executive has also considered ongoing demographic trends in South East Scotland that show a continued rise in population in the area, and related demand on the bridge. The Executive has also taken account of the variety of cross-cutting issues which have a bearing on the future of the bridge and surrounding area. These include the important role the bridge plays in Scottish business and industry, issues of social inclusion relating to the provision of cross-Forth public transport, and the need to consider the options for sustainable modes of transport, so setting the future of the bridge in an environmental context. The Executive recognises that there is a balance to be struck between providing an improved road network to provide for rising traffic flows, and the implementation of public transport measures that can effectively contribute to modal shift, reduce congestion and avoid generating still greater traffic increases.
7. The Executive has undertaken a significant amount of consultation to help inform its decisions on the future of the bridge. In preparing the Transport (Scotland) Bill for its passage through Parliament in 2000-01, the Executive consulted widely on all of its proposals, including those relating to the bridge. These proposals were further scrutinised during the three stages of the Bill's passage through Parliament. The Transport and Environment Committee played a major role, both in taking evidence from a broad spectrum of interested parties during Stage 1 of the Bill, and line by line debate with the Scottish Executive during Stage 2. Stage 3 brought plenary debate of all the Bill proposals in the Scottish Parliament.
8. Following Royal Assent in January 2001 and consultation with local authorities, Sarah Boyack, then-Minister for Transport and Planning, announced on 23 April the membership of the new Authority. The Authority would comprise 4 members drawn from City of Edinburgh Council, 4 from Fife Council and one member from both Perth & Kinross and West Lothian Councils. This arrangement best reflected percentage traffic share on the bridge.
9. Having prepared a draft Order to establish the new Authority, the Executive launched a public consultation on the Order on 7 September, which was completed on 30 November 2001.

SUMMARY OF CONSULTATION RESPONSES

Distribution of respondents

10. Consultation on the draft Order was announced through an Executive press release on 7 September. The consultation documents were placed on the Scottish Executive website ([attached at Annex B](#)). [Annex C](#) to this paper notes all of those who received a written invitation to comment. The Executive received 26 responses. Figure 1 shows the spread of responses.

Figure 1

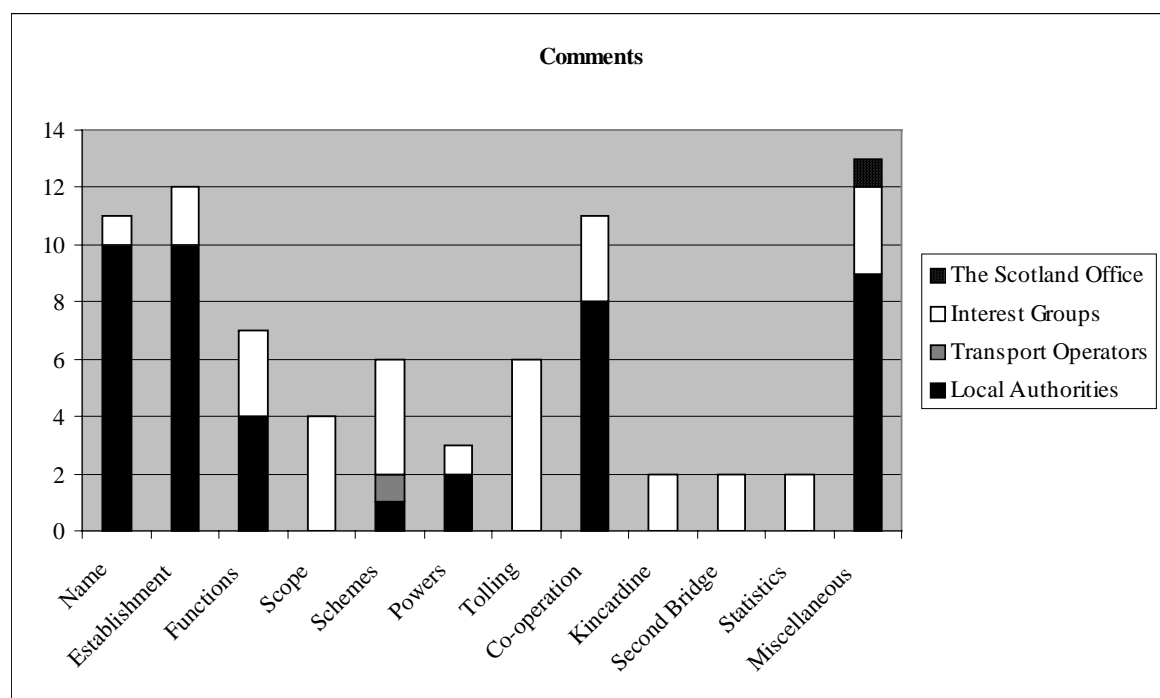
Distribution of Respondents	
Local Authorities	16*
Transport Operators	1
Interest Groups	8
The Scotland Office	1

*The sixteen local authorities include seven whose comments were represented through a joint response from the South East Scotland Transport Partnership (SESTRAN) and a response from the Forth Road Bridge Joint Board.

Common themes

11. Figure 2 shows the particular issues that attracted the most significant comment.

Figure 2



Analysis of responses

General

12. The majority of respondents welcomed the establishment of the Forth Estuary Transportation Authority. Only one respondent saw the proposed Authority as unnecessary.

Name of the new Authority

13. This area received the third highest number of specific comments from respondents. Of those that commented on the name, eight suggested replacing 'Transportation' with 'Transport,' while two stated a preference for 'Firth of Forth' over 'Forth Estuary.' One commented that the title had connotations that were too similar to SESTRAN.

Establishment and constitution of the new Authority

14. This area received the most comments from respondents. One respondent expressed concern at the length of time suggested between the establishment of the Authority and the implementation of any new charging scheme. They also commented on voting and membership, suggesting additional members from the Executive and transport bodies. Another respondent recommended the Order include a provision for the pensions of transferred employees. Nine local authorities commented on the quorum, suggesting that it be four members rather than six, while an interest group suggested the Order include the power to dissolve FETA once new charging technology became available. Aberdeenshire Council suggested that one member of FETA represent the North East of Scotland.

Functions of the new Authority

15. Five respondents stressed the importance of the Order specifying management and maintenance of the bridge as the first priority for charging revenue. Another respondent favoured strengthening obligations on the new body to pursue sustainable modes of transport and one other commented that FETA would require additional staff and other resources if it were to perform both existing and wider duties.

Geographic scope of responsibility

16. Of those that responded, three called for tighter definition of the scope of FETA's activities. Conversely, one interest group was keen to see revenues being used in the widest sense possible.

Schemes that should be funded through wider expenditure powers

17. City of Edinburgh Council suggested that the upgrade of the A8000 should be a priority for the Authority, a view echoed by the Freight Transport Association, who also called for the development of Park and Ride schemes. The Institute for Transport & Logistics also advocated Park and Ride, and were enthusiastic about car-sharing schemes and transferring freight from road to rail. It also suggested converting the cycle lane/pedestrian walkway on the bridge into a bus lane. English Welsh & Scottish Railway suggested FETA should support the reopening of the Stirling – Alloa – Dunfermline railway as well as considering restricting the use of the bridge by particular vehicles at certain times of day. The Light Rail Transit Association suggested that FETA should fund as a priority light rail and public transport schemes in Edinburgh. Finally, the Scottish Association for Passenger Transport argued the case for supporting multi-modal fares, rail improvements and the A8000 upgrade.

Legal powers

18. Of those that commented on FETA's legal powers, two believed that FETA should be a roads authority. Another stated that, while it was right that FETA should be a charging authority, it would be helpful if it were not subject to the full range of obligations that are to be placed on such authorities, so it would be able to fast track improvements. In addition the Forth Road Bridge Joint Board commented that FETA should be given incidental powers, modelled on Section 66 of the Tay Road Bridge Order 1991. The Board also suggested that the procedures for making bylaws set out in Section 69 of the Local Government (Scotland) Act of 1973 should apply to FETA.

Tolling/Extension of present Forth Road Bridge tolling order

19. Responses varied among the six interest groups that commented on tolling. The Institute of Transport & Logistics were against freezing tolls until 2006, as proposed, and also called for a review of the method of collection, hoping to reduce delays on the bridge. Travelwise believed that a freeze would encourage increased use of the car, as public transport fares were likely to rise during this period. The Scottish Association for Passenger Transport advocated an increase to tolls in 2003, whilst varying the charge by time of day. It also stressed that travellers coming from Fife should not face a double charge upon passing any future charging cordon in Edinburgh. The Freight Transport Association was content with the freeze; however it emphasised that tolls should also remain reasonable beyond 2006. The Road Haulage Association also supported a freeze, and commented that freight was not suited to a toll system varied according to time of day. The Automobile Association would welcome regulations to limit maximum tolls and also sought an independent appeals process for drivers accused of avoiding tolls.

Consultation and co-operation between FETA and other bodies

20. This area received the second highest number of comments from respondents. Of those who proposed consultation requirements for FETA, three believed the Authority should be obliged to work with other authorities, bridge users and business representatives on its plans, particularly during any significant changes. Seven respondents suggested a requirement that FETA's objectives be compatible with local transport strategies and national transport policies. Aberdeenshire Council sought reassurance that FETA would consult the North East when preparing its strategy.

Kincardine Bridge

21. One respondent advocated that full use be made of the Kincardine Bridge in order to reduce traffic across the Forth Bridge. Another questioned why FETA would not have responsibility for Kincardine. The majority of respondents expressed no view.

Second Forth Road Bridge

22. Both respondents on this matter were disappointed a second Forth road crossing had been ruled out. One suggested, however, that the Authority could compensate for this by maximising the use of Kincardine and the A8000. The majority of respondents expressed no view.

Statistics

23. One respondent expressed surprise at the statistics quoted in the FETA policy memorandum, feeling the breakdown by vehicle appeared somewhat disproportionate. The other who chose to comment on this matter questioned the traffic forecasts, citing a lower projected increase, and sought further breakdowns by vehicle for clarification. All other respondents were satisfied with the statistics used.

Miscellaneous, including amendments & repeals of legislation

24. All of the thirteen respondents who commented on additional matters suggested new or amended definitions to be used in the Order or requested confirmation of definitions. Of these, two also called for amendments to legislation. The Automobile Association commented that minutes of meetings and the annual report of the Authority should be placed in the public domain.

DECISIONS TAKEN IN LIGHT OF CONSULTATION

25. The Executive has given careful consideration to all of the comments received through the consultation exercise. The Executive has accepted some of these comments and has made a number of changes to the draft Order. A copy of the revised version of the Order to be laid before the Scottish Parliament is enclosed with this [document](#). There were also a number of comments which the Executive decided not to accept, or considered to be matters that would or should be dealt with outwith the Order, whether through other legislation, guidance or regulations. A final group of comments related to matters for which the new Authority will be entirely responsible. These comments will be passed to the new body once established, to help inform the first stages of their strategy development.
26. The following paragraphs outline the key issues arising from the consultation exercise and what action the Executive has decided to take. [Annex A](#) lists all of the general comments made (some individual comments have been summarised so that they can be grouped with similar responses from other respondents). The annex provides a shorthand note of the Executive's response to each comment. Should any of those whose comments are noted in this way feel that their views have been misrepresented, or that the short response provided does not fully address the issues raised, they are invited to contact the Executive at the address quoted at the foot of this paper. Copies of all responses to the consultation are available in the Scottish Executive library.

Key Changes to the Order

27. The Executive has listened to and accepted what it considers are the two principal suggestions arising from the consultation responses. Firstly, it was clear that to many the draft Order did not offer sufficient reassurance that the **management, maintenance and operation of the bridge** would remain the first priority for FETA expenditure, despite the wider powers to be given to the new body. It has always been the Executive's intention that support for wider improvements to the Forth crossing should not prejudice continued high quality maintenance of the bridge itself.
28. Secondly, the Executive also accepts that, while it sees virtue in avoiding prescription, the Order could usefully set out more specifically **the types of wider schemes FETA should be looking to support through its wider powers**. A number of respondents suggested a form of words that might be used. The Executive has taken all suggestions into account in drawing up its own definition of the types of schemes that should be funded from charges on the bridge.
29. Article 7 of the draft Order has been recast to reflect both of these changes in approach.

30. The issue of the **name** to be given to the new body attracted a number of comments. The Executive considers it important that the new body is sufficiently rebadged to draw the distinction between the current and future body, and to highlight the wide role it expects the new body to play. The Executive has accepted suggestions that the use of “Transportation” is too wordy and has revised the Order to name the new body the “Forth Estuary Transport Authority”. The Executive recognises that the suggested title of “Firth of Forth Transport Authority” may have a more Scottish flavour, but has decided to retain the use of “Forth Estuary”, as it may be clearer for parties outside Scotland and the majority of respondents were content with “Forth Estuary” appearing in the title.
31. There were a number of representations made for the **quorum** of the new Authority to be four rather than six. The rationale for a larger quorum was that the body are unlikely to meet more than 4-6 times a year and members will be able to send substitutes. However, the Executive recognises that standard practice is for bodies of this type to have a quorum of a rounded third of total members. A smaller quorum may also provide benefits in any emergency situation that may arise. On that basis, the Executive has accepted this suggestion.
32. The Forth Road Bridge Joint Board submitted a large number of technical suggestions, the majority of which have been accepted. These are shown in Annex A.

Key Suggestions not incorporated in the Order

33. A number of respondents suggested that the Order **require the new Authority to consult** a range of particular bodies. The Executive strongly agrees that the new Authority will have to consult rigorously as it develops its strategy. However, it is felt that such obligations are made clear through legislation (Part 3 of the Transport (Scotland) Act 2001) and forthcoming regulations on road user charging schemes. As a charging authority, FETA will be bound by these. Scottish Ministers will not approve proposals that it deems to have been inadequately consulted upon. The Executive has therefore decided the Order should not set additional requirements on consultation.
34. Several respondents commented on the proposal to **extend the present Forth Road Bridge tolling order till 2006**, effectively freezing tolls at current levels until that date. Some welcomed this approach, while advocating low tolls beyond 2006, while others suggested there would be benefit in tolls rising before 2006, as a means of discouraging growth in travel by car across the bridge and to ensure parity with public transport fares, which are likely to rise over this period.

35. The Executive recognises the rationale behind both of these points of view. It will be important that a balance is struck between setting tolls at a level which might help reduce growth in travel by car, and will provide sufficient funds to support the type of wider improvements FETA may wish to bring forward, but at the same time, not hindering business and industry, or those who do not have viable alternatives to the private car. The Executive believes that the new Authority will need time to establish working arrangements, research and investigate traffic flows and potential improvements, prepare and consult upon a strategy, submit proposals for a charging scheme to Scottish Ministers, put in place any practical measures necessary to improve journey time reliability and to deliver any changes in the charging regime. Extending the current tolling order till 2006 allows time for this, so the Executive has decided not to amend this section of the Order.
36. The largest number of comments received related to the establishment and constitution of the new Authority. There were several suggestions on **membership**. Membership of the new Authority was set out by the then-Minister for Transport and Planning in April 2001, following consultation with local authorities in the Forth area and CoSLA. While recognising that FETA's wider powers mean that a greater number of bodies and individuals would have a legitimate interest in the running of the Authority, the Executive considers that the balance of membership is fit for purpose. The primary responsibility of the Authority will remain the day to day management, maintenance and operation of the bridge. The Order provides places for elected representatives of the four local authorities from which the largest share of bridge traffic is drawn (and therefore those with the strongest interest in the bridge). The Executive sees advantage in establishing a streamlined Board with a limited number of members. However, it will be imperative that the Authority's policy development takes account of the widest possible range of interests. The Executive believes that the consultation requirements applicable under Part 3 of the 2001 Act and to all charging authorities, as outlined in paragraph 33, will ensure this takes place and has decided not to accept any of the suggested changes.
37. There were a range of comments on the **potential schemes** the new Authority may wish to develop as a priority. The Executive welcomes the range of ideas put forward but does not wish to make any specific reference to particular schemes in the Order. It will be for the new Authority to consult and decide upon the projects it wishes to support through its wider powers of expenditure. It will need to set out the case for funding any such schemes as part of its strategy. The Executive will pass all suggestions received to the new Authority once established.

38. Some respondents suggested the Order should define the **geographical scope** within which the new Authority would be able to use its wider powers. The Executive is clear that any schemes brought forward through a charging scheme on the bridge must have demonstrable benefits to the operation of the bridge or to improve public transport. However, it is felt that placing set geographical limits would be too inflexible. The Authority must be able to respond to changes in traffic flows and journey patterns over time. Many of those using the bridge begin their journeys a significant distance from the crossing itself. By specifying in Article 7 of the Order the types of schemes that should be brought forward, the Executive believes that in practice the vast majority of such schemes will be located in the immediate vicinity of the bridge.

OUTLINE OF NEXT STEPS

39. The revised draft Order will be laid before the Scottish Parliament in early January and will be scrutinised by both the Subordinate Legislation and the Transport and Environment Committees. As for all Draft Affirmative Statutory Instruments, the former committee will have 20 days from the date of laying in which to consider the Order. The Transport and Environment Committee have 40 days to consider the Order. The Parliament would be able to debate the Order in February. Thereafter, the intention would be to establish the new Authority in April 2002.

CONTACT DETAILS

40. Should you have any queries related to this document or the consultation exercise in general, in the first instance you should contact:

ANDREW WATSON
Scottish Executive Development Department
Area 2-D, Victoria Quay
Edinburgh
EH6 6QQ

andrew.watson@scotland.gsi.gov.uk

Scottish Executive Development Department
January 2002

ANNEX A: COMMENTS RECEIVED THROUGH CONSULTATION

41. The following table presents a summary of all comments received and a note of the Executive’s response to each.

COMMENT	FROM	RESPONSE
The Order should specify that one member of FETA should be from North East Scotland / transport bodies / Scottish Executive.	Aberdeenshire Council, Institute of Logistics & Transport	Membership of FETA was agreed before the production of the Order, following consultation with local authorities in the Forth Estuary area. Membership reflects % traffic share on the bridge and the expectation that FETA’s core responsibility will be the day to day management of the bridge.
Order should ensure that North East is consulted by FETA when it is preparing its strategy.	Aberdeenshire Council	The Executive agrees that the Forth Road Bridge is strategically important to the North East and that the area should be involved in any consultation on the FETA strategy. However, obligations on consultation are covered by legislation and regulations on charging schemes. These will apply to FETA as a “charging authority” as defined by Part 3 of the Transport (Scotland) Act 2001. Scottish Ministers will not approve a scheme that has not been fully consulted upon.
Order should ensure that bridge users and business representatives are consulted by FETA when it is preparing its strategy.	Automobile Association	The Executive agrees that bridge users and business should be involved in any consultation on the FETA strategy. However, obligations on consultation are covered by legislation and regulations on charging schemes. These will apply to FETA as a “charging authority” as defined by Part 3 of the Transport (Scotland) Act 2001. Scottish Ministers will not approve a scheme that has not been fully consulted upon.

COMMENT	FROM	RESPONSE
Order should specify the geographical and functional scope of FETA's activities more tightly, to maintain link with bridge users.	Automobile Association, Light Rail Transit Association	The Executive agrees that the FETA strategy, as for any charging scheme, must demonstrate transparently the links between a charge and the benefits for those paying that charge. Such a requirement was set out in Part 3 of the Transport (Scotland) Act 2001. This should not, and does not, impinge upon the flexibility available to any charging authority in deciding how and where it will direct expenditure.
The Order should specify management, maintenance and operation of the bridge as the first priority for charging income.	Automobile Association, City of Edinburgh Council, Forth Road Bridge Joint Board, Perth & Kinross Council, Road Haulage Association.	This has always been the Executive's policy intention, but it is accepted that the Order could set this out more explicitly. Article 7 of the Order has been amended accordingly.
Order should define more clearly the wider uses of charging income to be open to FETA.	Automobile Association, City of Edinburgh Council, Confederation of Passenger Transport, Forth Road Bridge Joint Board, Perth & Kinross Council, SESTRAN.	The draft Order reflected the Executive's wish to afford FETA a high level of flexibility. However, the Executive recognises a consensus view that greater definition would be helpful and has amended Article 7 of the Order accordingly.
Expect minutes of meetings and annual report to be placed in public domain.	Automobile Association	This is the case for the present Forth Road Bridge Joint Board and will apply to FETA once established.
Seek independent appeals process for drivers accused of avoiding tolls.	Automobile Association	Avoiding tolls is a criminal offence. Drivers accused of this are subject to the same rights of appeal as for other criminal offences.

COMMENT	FROM	RESPONSE
Would welcome provision / regulations to control, freeze or limit maximum tolls.	Automobile Association, Freight Transport Association, Road Haulage Association	It will be for FETA to set out in its strategy the case for varying toll/charge levels and the benefits or otherwise for those paying the charge. The Executive would not wish to prevent FETA from being able to react to any unforeseen changes in circumstance by placing limits on tolls/charges.
Recommend A8000 upgrade should be a top priority, after management/maintenance	City of Edinburgh Council, Freight Transport Association, Institute of Logistics & Transport, Scottish Association for Passenger Transport	It will be a matter entirely for FETA to consult and decide upon any schemes it wishes to support. Views expressed on potential schemes will be passed to FETA once established.
FETA quorum should be 4 members	City of Edinburgh Council, Forth Road Bridge Joint Board, SESTRAN	The Executive accepts this suggestion and has amended the Order accordingly.
FETA should be a roads authority under the Roads (Scotland) Act 1984, for roads defined by the boundaries of the existing speed limit Order on the Bridge.	City of Edinburgh Council, Forth Road Bridge Joint Board, SESTRAN	The Executive accepts that this definition provides FETA with necessary additional powers and has amended the Order accordingly.
New body should be titled the Forth Estuary “Transport” rather than “Transportation” Authority	City of Edinburgh Council, SESTRAN	The Executive agrees that there are benefits to shortening the name of the new Authority and has amended the Order accordingly.

COMMENT	FROM	RESPONSE
Would prefer 'Firth of Forth' rather than 'Forth Estuary' Transportation Authority.	Fife Council, Forth Road Bridge Joint Board	The Executive would prefer to stick as closely to the original wording used in the draft Order, as the majority of respondents were content with that name.
Order should include requirement for FETA to consult with transport operators / other local authorities during early stages of any proposed changes.	Confederation of Passenger Transport, Institute of Logistics & Transport	The Executive agrees it will be vital for operators and other local authorities to be involved in any consultation on the FETA strategy. However, obligations on consultation are covered by existing charging legislation and forthcoming regulations on charging schemes. These will apply to FETA as a "charging authority" as defined by Part 3 of the Transport (Scotland) Act 2001.
Seek to ensure scope for varying charges on the bridge at certain times / exemptions or discounts for efficient users of road space.	Confederation of Passenger Transport	The terms of the Order mean that FETA would be able to do this.
FETA should support reopening of Stirling – Alloa – Dunfermline railway.	EWS	It will be a matter entirely for FETA to consult and decide upon any schemes it wishes to support. Views expressed on potential schemes will be passed to FETA once established.
FETA should consider restricting use of bridge by particular vehicles at certain times of day.	EWS	This would be a matter for FETA to decide once established.
Must be ensured that Authority is adequately resourced to perform both existing and wider duties.	Fife Council	Any assessment of whether additional resources are required, and whether the Executive should be involved in meeting these requirements, will be a matter for FETA to consider once established. At this early stage, the Executive would not wish to commit resources, but will be open-minded to any proposals that might be forthcoming.

COMMENT	FROM	RESPONSE
Recommend that the Order include a provision that the Lothian Pension Fund is the appropriate superannuation fund for transferred employees.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Expand the definition of bridge in Article 2 to “the whole existing undertaking owned or managed by the existing Board”	Forth Road Bridge Joint Board ¹	The Executive accepts this suggestion and has amended the Order accordingly.
If above accepted, Article could refer to “the bridge” rather than the “road spanning the bridge”.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Article 7(1) should provide for FETA modifying byelaws made by existing Board.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Apply to FETA the procedures for making byelaws set out in Section 202 of Local Government (Scotland) Act 1973	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Article 8 description of road may need to be clarified, as road carrying the bridge is unclassified.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Expand Article 9 to give FETA incidental powers, modelled on Section 66 of Tay Bridge Order.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Delete “the council” from Article 10(c)	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.

¹ N.B. article numbers cited in the Bridge Board response relate to the consultation draft of the Order.

COMMENT	FROM	RESPONSE
Clarify position on exemptions – add reference to no tolls being chargeable in respect of a vehicle displaying a badge issued by a local authority under Section 21 of the Chronically Sick and Disabled Persons Act 1970.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Retain Section 100 of the 1947 Act to provide for exemption from rates	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Retain Section 101 of the 1947 Act to give power to Ministers to cause a local inquiry in respect of any of FETA’s functions.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Provide FETA with powers to occupy and acquire land, if it accorded with its functions.	Forth Road Bridge Joint Board	The Executive has decided not to accept this suggestion, on the basis of legal advice and in the belief that, as the members of the new Authority already have these powers, they would be able to undertake the occupation of lands as required. However, there would be an opportunity to review the position once FETA has prepared a strategy, if it appeared that there were going to be significant problems in implementing particular proposals.
Retain powers in Section 9 of 1960 Order on provision and management of car parks, cloakrooms, information bureaux, toilets and refreshment rooms.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Repeal Section 43(2) of the FRB Order 1958, as it serves no function.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.

COMMENT	FROM	RESPONSE
Repeal of Section 67 of the 1947 Order concerns power to run discount schemes. These powers need to be retained in some form.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Reference to amendments/repeals of existing legislation should refer to the “Forth Road Bridge Orders” rather than to “FRB Order Confirmation Acts”	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Local Authority Accounts (Scotland) Regulations 1985 applicable to new Authority? If so, delete para 7 of Schedule 1.	Forth Road Bridge Joint Board	The Executive accepts this suggestion and has amended the Order accordingly.
Note that effective operation of the bridge not limited to traffic movement but also to social, economic and environmental wellbeing.	Institute of Logistics & Transport	The Executive recognises the wider benefits that may accrue from the establishment of FETA but considers that the only requirements that should be set out in the Order, in relation to schemes that should be supported, should relate directly to those paying to use the bridge. Any future charging strategy would of course be strengthened if it could demonstrate wider benefits flowing from particular schemes.
Feel traffic growth has serious implications – efforts must be made to encourage use of public transport, transfer freight to rail and encourage car-sharing.	Institute of Logistics & Transport, Scottish Association for Passenger Transport	The Executive agrees with these objectives. FETA will be able to support efforts in each of these areas, but it will be for the body itself to decide if, how and when it might wish to do so.

COMMENT	FROM	RESPONSE
Express surprise at statistics cited in policy memorandum – suggest there has been a reduction in traffic growth and queried the breakdown of traffic by vehicle.	Institute of Logistics & Transport, Scottish Association for Passenger Transport	The Executive stands by the statistics used in the policy memorandum, which are drawn from the report prepared by the General Manager of the Bridge on traffic flows. While it is correct that the most recent yearly figures show an increase of 1.4%, the average increase over the last 12 years show an average increase of 3.5%. The statistics on the types of vehicle using the bridge are drawn from the same source and refer to the average of the 2000 and 2001 figures.
FETA should expand Park and Ride facilities.	Institute of Logistics & Transport	It will be a matter entirely for FETA to consult and decide upon any schemes it wishes to support. Views expressed on potential schemes will be passed to FETA once established.
Suggest revenues be used in the widest sense for maximum benefit.	Institute of Logistics & Transport	The Executive considers that the Order allows the new Authority the flexibility to support the fullest range of schemes that may deliver benefits to bridge users.
Express concern at delay between establishment of body and assumption of responsibilities	Institute of Logistics & Transport	Although the Executive recognises the need to take action as soon as possible to address traffic problems at the Forth crossing, the new Authority will need time to establish working arrangements, research and investigate traffic flows and potential improvements, prepare and consult upon a strategy, submit proposals for a charging scheme to Scottish Ministers and put in place any practical measures necessary to deliver any change in the tolling regime.

COMMENT	FROM	RESPONSE
Comments on toll freeze till 2006, ranging from concern that this will inhibit FETA's ability to promote public transport alternatives to suggestion of toll increase in 2003.	Institute of Logistics & Transport, Scottish Association for Passenger Transport, Travelwise.	Current Executive policy is that all bridge tolls should be frozen at current levels. The principle of charging schemes dictates that new or increased charges should be brought to bear only when there are demonstrable related benefits to those paying the charge or, in the case of tolled bridges, where the costs of maintaining the bridge outweigh existing tolling levels. The level of tolls on the Forth Road Bridge is set by the Forth Road Bridge (Toll Period) Extension Order 1997. The Order extends this to 2006. It would be possible for FETA to vary tolls before that date by proposing the Executive amend this legislation, but there would need to be extremely strong reasons for doing so.
Suggest FETA convert cycle lane/walkway into bus lane	Institute of Logistics & Transport	It will be a matter entirely for FETA to consult and decide upon any schemes it wishes to support. Views expressed on potential schemes will be passed to FETA once established.
Even number of members means either Chair has casting vote or there should be an uneven number.	Institute of Logistics & Transport	The Convenor of FETA will have a casting vote.
FETA must review method of toll collection to minimise delays.	Institute of Logistics & Transport	It will be a matter entirely for FETA to decide whether they would wish to undertake such a review. Views expressed will be passed to FETA once established.

COMMENT	FROM	RESPONSE
FETA title (and implied role) too similar to SESTRAN	Light Rail Transit Association	The Executive recognises that there are some similarities between the name and implied role of FETA and SESTRAN. This partly reflects the fact that both bodies are charged with delivering integrated transport solutions within overlapping areas of responsibility. The Executive does not consider this a strong enough reason to change the name, given that the majority of respondents were content.
FETA should fund light rail and PT schemes in Edinburgh	Light Rail Transit Association	It will be a matter entirely for FETA to consult and decide upon any schemes it wishes to support. Views expressed on potential schemes will be passed to FETA once established.
Disappointed that 2 nd bridge ruled out	Road Haulage Association	The Executive does not consider a 2 nd Forth crossing appropriate at this time. It would be incompatible with an integrated transport policy; it would encourage inappropriate use of the car for short journeys, including commuting. It would have a detrimental effect on the environment. Furthermore, such a development would be very expensive and could only be funded through charges very much higher than current tolls.
The Order does not present any competence issues.	Scotland Office	The Executive agrees.
Para 5(5) superfluous given maximum number of members from each authority is 4.	Scotland Office	The Executive agrees and has amended the Order accordingly.
Question non-inclusion of Kincardine.	Scottish Association for Passenger Transport	The Executive has already consulted on this issue. The consensus view was that FETA should not be responsible for the Kincardine Bridge. The Executive is delivering a programme of improvements at Kincardine and will liaise with the new Authority as appropriate.

COMMENT	FROM	RESPONSE
Order should include power to dissolve FETA when new charging technology available.	Scottish Association for Passenger Transport	The Executive recognises the potential advances in charging technology that may come to bear in the medium term. However, it should be for FETA to decide in the first instance how they might react to such changes. Scottish Ministers will retain the power to dissolve FETA, by Order, should there be any strong case for doing so.
Order should specify no double charge on bridge and Edinburgh city centre.	Scottish Association for Passenger Transport	The Executive strongly supports the notion of avoiding a double charge for those crossing the Forth Road Bridge and any Edinburgh charging cordon, and has made such representations to both the present Forth Bridge Board and City of Edinburgh Council. However, it will be a matter for the Council and FETA to decide how they wish to implement any charging schemes and how to address the relationship between them. The Executive would expect charging proposals from either body to address this sufficiently and will take account of the issue when considering whether or not to approve such proposals.
Would favour strengthening obligations on new body to pursue sustainable modes.	Travelwise	The Executive recognises the advantages in FETA supporting sustainable modes of transport. However, by specifying such an approach in legislation, one might risk limiting the options available to the new body. The Executive considers that changes made to the Order subsequent to this consultation, which specify that wider uses of revenue should aim to reduce congestion and promote public transport, will in practice provide for the promotion and development of sustainable modes. It will be for FETA to determine the balance between roads and public transport improvements and set out the case for such measures in its charging strategy.

ANNEX B: DRAFT ORDER AND CONSULTATION PAPER ISSUED ON 7 SEPTEMBER 2001

ESTABLISHMENT OF THE FORTH ESTUARY TRANSPORTATION AUTHORITY: CONSULTATION ON DRAFT ORDER

1. This paper sets out the Scottish Executive's policies for improving and sustaining the effective operation of the Forth Road Bridge through the establishment of a new Forth Estuary Transportation Authority, traces the development of this policy and related legislation, and introduces at Annex A a draft of the Order that will establish the new Authority.

Policy Background

2. The Forth Road Bridge is an integral part of Scotland's transport network. The effective operation of the bridge is critical to traffic movements in and around the Edinburgh area and from and to the North and North East. The management, operation and maintenance of the bridge is the responsibility of the Forth Road Bridge Joint Board, a statutory body comprised of local authority representatives.
3. At present, the bridge and its surrounding road network regularly experience significant levels of congestion during the southbound morning peak and, increasingly, during the northbound evening peak. The Road Bridge currently carries more than 60,000 vehicles per day (its notional capacity) on more than half the days of the year. Crossings in the year to March 2001 are estimated at 22.1 million. On the basis of current trends, it is forecast that daily vehicle flows will increase by a further 3.5% per annum. Such growth will seriously damage the reliability of cross-Forth travel by road, with obvious impacts on economic development, the journey to work, accessibility to Edinburgh and its surrounding area and to the national motorway network.
4. In 2000/2001, the percentage modal split on the bridge was as follows:

Transport mode	Percentage share of bridge traffic*
Cars, light vehicles etc	91.34%
Heavy vehicles	6.14%
Exempt vehicles	1.17%
Buses	0.72%
Motor Bicycles etc	0.63%
Escorted vehicles	under 0.1%

*N.B. traffic counts relate to northbound crossings only

5. Between 80-90% of vehicles crossing the Bridge have a single occupant.

6. The present Board is limited under the terms of the Forth Road Bridge Order Confirmation Act 1947 and subsequent Confirmation Acts to exercising powers solely over the operation and maintenance of the Bridge itself. In establishing a new body to manage the bridge, the Executive will provide it with a broader remit and powers to allow it to prepare and implement a strategy for transportation relating to the Bridge and to use revenues to fund expenditure on public transport alternatives, road works and traffic management measures relating to the crossing.
7. The Scottish Executive does not favour a second Forth Road crossing. It would be incompatible with the integrated transport policy; it would encourage inappropriate use of the car for short journeys, including commuting. It would have a detrimental effect on the environment. Furthermore, such a development would be very expensive and could only be funded through charges very much higher than current tolls.
8. In 2000 the Executive set out its intention in the consultation paper *The Integrated Transport Bill: The Executive's proposals* to replace the Forth Road Bridge Joint Board with a new body able to discharge wider powers, with a view to developing:-

“a more integrated approach to the strategic transportation planning of the Bridge, traffic using the Bridge, public transport alternatives and related road traffic routes across the Forth”.

The Transport (Scotland) Act 2001

9. The Transport (Scotland) Act 2001 (hereafter referred to as “the Act”) received Royal Assent in January 2001.
10. Section 69 of the Act provided enabling powers to the Scottish Executive for the dissolution by Order of the Forth Road Bridge and Tay Road Bridge Joint Boards, and their replacement with new bodies with wider powers. At this time, the Executive does not intend to dissolve the Tay Road Bridge Joint Board. However, the Act provides the Executive with the flexibility to respond to future traffic challenges on the Tay crossing.
11. An Order under Section 69 of the Act may:
 - Dissolve a Joint Board;
 - Transfer to a newly established body such property, rights and liabilities as may be specified in the Order;
 - Confer on a new Board such functions in connection with the bridge as may be specified in the Order;
 - Delegate to a new Board such functions, relating to transport across the river spanned by the bridge, of the constituent authorities as may be specified in the Order;
 - Make provision for the transfer of staff from a dissolved Board to a successor body;
 - Make provision regarding liability for pensions, allowances or gratuities which would otherwise have been the responsibility of the dissolved Board; and

- Amend, repeal or revoke enactments as appears to be necessary.
12. Under the terms of the Act, the new body will be deemed a local traffic authority in relation to any road carried by the bridge. In effect, this means that the new body will become a “charging authority” for the purpose of collecting charges on the bridge, as determined by the terms of Part 3 of the Act. The Executive recently published a guidance note on the implementation of charging schemes, which can be found at <http://www.scotland.gov.uk/library3/transport/rucguide.pdf>.

Membership of the Forth Estuary Transportation Authority

13. Following consultation with local authorities and CoSLA, the Minister for Transport and Planning announced on 23 April 2001 that the new body will comprise 4 members of City of Edinburgh Council, 4 members of Fife Council, 1 member of Perth and Kinross Council and 1 member of West Lothian Council. This arrangement best reflects percentage traffic share on the bridge.
14. The Minister also announced her intention that the new body is established by 1 April 2002.

Other issues

15. At an early stage in the process, the option of also making the new Authority responsible for the Kincardine crossing was considered, given the need for close operational linkages between the bridges. Following consultation and debate this option is not being progressed. The Scottish Executive remains responsible for the Kincardine crossing and is taking forward the construction of a new bridge, improvements to the existing bridge and an eastern bypass for Kincardine. It will liaise with the new Authority.
16. The existing Forth Road Bridge tolling order expires on 28 May 2003 but the tolling period will be extended by the proposed Order under Section 69. The extension is to allow the new Authority to develop its role, to propose and consult on its strategy for the management, maintenance and operation of the Bridge (including the proposed charge for its use), to seek the approval of Scottish Ministers and to promote and introduce its strategy, including investment and charging proposals. The new Authority will need time in which to decide upon its working arrangements, conduct such research as it deems necessary, and develop and consult upon its strategy. The draft Order therefore extends the present tolling order to 31 March 2006. Tolls will remain at existing levels until that date.

The draft Order

17. The draft Order establishing the Forth Estuary Transportation Authority and extending the tolling order is attached at Annex A. The remainder of this paper explains the effects each part of the Order will have and clarifies the policy intentions behind them. The approach taken to the Order has been to repeal almost all of the existing legislation relating to the present Board, as it is not relevant to the operation of the Authority. However, elements relating to tolling and finance have been amended and retained where appropriate.

Article 1: This provides for the Authority to be established on 1 April 2002.

Article 2: This clarifies the interpretation of key terms used throughout the Order.

Article 3: This provides for the dissolution of the Forth Road Bridge Joint Board on 31 March 2002.

Article 4: This provides for the transfer of all property, rights or liabilities of the Forth Road Bridge Joint Board to the Forth Estuary Transportation Authority on 1 April 2002. This includes pensions. It also provides for the transfer of employees from the Board to the Authority. The intention is for there to be a seamless transfer.

Article 5: This provides for the membership of the Authority, as set out and explained in paragraph 11 above.

Article 6: This provides for the Authority to fund from its revenues transport improvements related to the bridge, above and beyond the power to spend on the management and maintenance of the bridge. The management and maintenance of the bridge is the first priority for expenditure. As drafted, the Order does not specify that this should be so. Instead, the Authority would be responsible for determining the spread of expenditure, both of annual revenue and any annual or cumulative surplus.

Article 7: This provides the Authority with the power to make byelaws necessary to the operation of the bridge and provides for existing byelaws (which are currently being updated) to continue to have effect after 1 April 2002.

Article 8: This provides for the Authority to raise a local traffic order on the bridge. Currently, this must be done jointly by City of Edinburgh and Fife Councils. This change will ensure that such orders can be raised by the Authority as quickly as it needs to.

Article 9: This provides for the transfer of functions from the Board to the new Authority.

Article 10: This provides for the transfer of all legal proceedings, contracts, agreements, deeds, bonds, instruments and other documents relating to the property, rights and liabilities of the Board to the Authority.

Article 11: This provides for the modification of existing legislation relating to the Forth Road Bridge Joint Board to take effect, with regard to the operation of the Authority.

Schedule 1: This provides for the working arrangements of the Authority, such as for appointments of members, periods of office, the election of a convenor and vice-convenor, the appointment of officials to the Authority, voting, the quorum, establishing committees and accounts.

Schedule 2: This specifies the extent of the road for which the Authority will act as local traffic authority.

Schedule 3:

Section 3(2) This brings exemptions to tolls on the bridge up to date and in line with other toll bridges in Scotland by amending the Forth Road Bridge Order Confirmation Act 1958. The main benefit of this is that current legislation on exemptions pre-dates more recent developments and does not cover some modern definitions of vehicles such as ambulances and other emergency services. The Schedule also provides for the Authority to enforce the payment of tolls on the bridge and updates the amount it can fine those who refuse to pay.

Section 3(3) The final part of the Schedule extends the present tolling order for the bridge until 31 March 2006. The present tolling order is due to expire in May 2003. The rationale for this extension is set out in paragraph 16 above.

Schedule 4:

This provides for the repeal or otherwise of legislation relating to the present Board.

Conclusion

18. Comments are invited on all aspects of the draft Order and the policies set out in this memorandum.

Scottish Executive Development Department
Transport Division 1

7 September 2001

CONSULTATION DRAFT OF THE ORDER DATED 07/09/01

Draft Order made by the Scottish Ministers, laid before the Scottish Parliament under section 81(4)(a) of the Transport Act 2001 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENT

2001

ROADS AND BRIDGES

The Forth Estuary Transportation Authority Order 2002

Made

Laid before Parliament

Coming into force

The Scottish Ministers, in exercise of the powers conferred on them by section 69 of the Transport (Scotland) Act 2001⁽²⁾ and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Forth Estuary Transportation Authority Order 2002.

(2) This Order shall come into force on 1 April 2002.

Interpretation

2. In this Order, unless the context otherwise requires:—

“the Act” means the Transport (Scotland) Act 2001;

“appointed day” means 1st April 2002;

“the Authority” means the joint board constituted by of article 5 of this Order;

“bridge” means the Forth Road Bridge;

“Constituent local authorities” means City of Edinburgh Council, Fife Council, Perthshire & Kinross Council and West Lothian Council;

“existing board” means the Forth Road Bridge Joint Board constituted in terms of the Forth Road Bridge Order Confirmation Act 1947⁽³⁾

⁽²⁾ (asp 2);

⁽³⁾ 1947 c.4

“the toll orders” means the Forth Road Bridge (Toll Period) Extension Order 1997^a and the Forth Road Bridge (Revision of Tolls) Order 1997^b

Dissolution of existing board

3. The existing board shall be dissolved.

Transfer of property, rights and liabilities to the Authority

4.—(1) All property, rights or liabilities of the existing board shall transfer to and vest in the Authority.

(2) Without prejudice to the generality of paragraph (1) above the employees of the existing board shall transfer to and become employees of the Authority. Such transfer shall be a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981^(c).

Constitution of joint board

5.—(1) There is hereby constituted a joint board consisting of 10 members to be appointed from the membership of the constituent local authorities as follows:—

- (a) 4 shall be appointed by City of Edinburgh Council;
- (b) 4 shall be appointed by Fife Council;
- (c) 1 shall be appointed by Perthshire and Kinross Council; and
- (d) 1 shall be appointed by West Lothian Council.

(2) The joint board shall be incorporated with a common seal and shall be known as the Forth Estuary Transportation Authority.

(3) Schedule 1 to this Order (which contains provisions with respect to the election and tenure of members of the Authority and meetings and proceedings of the Authority) shall have effect.

Functions of the Authority

6.—(1) The Authority shall be responsible for the management, maintenance and operation of the road spanning the bridge and for developing and, where the Authority thinks appropriate, funding from its revenue such public transport alternatives, road works, traffic management measures and other schemes necessary to improve the operation of the bridge.

^(a) S.I

^(b) S.I

^(c) S.I

Byelaws

7.—(1) The Authority may make byelaws—

- (a) for preventing injury or damage to the bridge;
- (b) for regulating the conduct of persons using the bridge;
- (c) for the management regulation direction and control of traffic using the bridge;
- (d) for prohibiting certain classes of vehicle from using the bridge; and
- (e) for providing that the bridge may be temporarily closed to traffic for repairs or in cases of emergency or for other reasons considered necessary by the Authority

(2) The byelaws shall be authenticated by being sealed with the common seal of the Authority and signed by the clerk of the Authority and shall not have effect until they are confirmed by the Scottish Ministers.

(3) Without prejudice to the generality of Article 9 below any byelaws made by the existing board prior to the coming into force of this Order shall continue to have effect after the appointed date as though made by the Authority.

Functions delegated to the Authority

8. The function of a traffic authority under section 84(1) of the Road Traffic Regulation Act 1984^a to make an order imposing a speed limit in respect of that part of the principal road known as the A90 spanning the bridge, more particularly described in Schedule 2 to this Order is hereby transferred to the Authority.

General functions

9.—(1) The functions exercisable by the existing board immediately before the appointed day under any enactment shall, on or after the appointed day, transfer to and be exercisable by the Authority.

(2) So far as may be necessary for the purpose or in consequence of the exercise or function by the Authority by virtue of paragraph (1) above, any enactment and any other instrument or document shall be read as if reference to a joint board (however described) were or included references to the Authority.

Incidental and supplementary provisions

10. Without prejudice to Article 9 above, anything done before 1st April 2002 by, or on behalf of, or in relation to, the existing board for the purposes of or in connection with the property, rights and liabilities transferred by article 4 of this Order shall, on and after 1st

^a 1984 c.27 as amended by the Roads (Scotland) Act 1984 (1984 c.54)

April 2002, be treated as having been done by, or on behalf of, or in relation to, the Authority and—

(a) any legal proceedings by the existing board, or in relation to which it is a party, for the purposes of, or in connection with, the said property, rights and liabilities may be continued by, or in relation to, the Authority; and, accordingly references to the existing board in any process or other document issued, prepared or employed for the purposes of any such proceedings before any court, tribunal or other body shall be taken as referring to the Authority;

(b) every contract or agreement whether written or not, to which the existing board is a party for the purposes of, or in connection with, the said property, rights and liabilities shall have effect in relation to such property, rights and liabilities as if the Authority was the party thereto in place of the existing board and as if for each reference therein to the existing board there was substituted a reference to the Authority;

(c) every deed, bond, instrument and other document relating to the said property, rights and liabilities shall have effect in relation to such property, rights and liabilities as if, where the existing board is a party thereto the council was substituted as that party and as if for each reference therein to the existing board there was substituted a reference to the Authority,

Amendments and repeals

11—(1). Schedule 3 which makes modifications of enactments) shall have effect

(2) The enactments specified in Schedule 4 are repealed to the extent specified in that Schedule.

St Andrews House Edinburgh

Date

A Member of the Scottish Executive

SCHEDULE 1

Appointment of members of the Authority and period of office

1.—(1) Subject to sub-paragraph 2 below, each of the members first appointed as members of the Authority shall hold office from and after the appointed day until the first meeting of the authority which appointed that member after the next ordinary election of councillors of that authority.

(2) The members of the Authority other than the first members shall be appointed by each constituent local authority at the first meeting of that authority after the ordinary election of councillors of that authority.

(3) Subject to sub-paragraph 5 below, the members of the Authority other than the first members shall hold office for the period from the date of their appointment until the first meeting of the constituent local authority appointing them after each ordinary election of councillors.

(4) The proceedings of the Authority shall not be invalidated by any vacancy or vacancies among its members or by any defects in the method of appointment of any of its members.

(5) Any member of the Authority may be represented at any meeting of the Authority by a substitute member appointed in accordance with sub-paragraph (6) below).

(6) A constituent local authority may, subject to sub-paragraph (8) below, appoint one of its members to be a substitute member for any member of the Authority who is also a member of that constituent local authority.

(7) A substitute member shall have the same powers at a meeting of the Authority as the member whom he is representing would have had at that meeting.

(8) A person may not be appointed as a substitute member of the Authority if he is a member of the Authority.

Cessation of membership of the Authority

2.—(1) On any member of the Authority ceasing to be a member of the constituent local authority which appointed him he shall cease to be a member of the Authority.

(2) A member of the Authority may resign his membership at any time. Such resignation shall—

(a) be in writing;

(b) be intimated to the head of the paid service of the constituent local authority by which he was appointed and to the clerk to the Authority; and

(c) take effect on the date on which the clerk to the Authority receives such intimation or on such later date as may be specified in that intimation.

(3) A member of the Authority who resigns his membership shall cease to be a member of the Authority on the date on which his resignation takes effect.

(4) A member of the Authority shall cease to be a member of the Authority if and when the constituent local authority by which he was appointed so decides.

(5) If any person ceases to be a member of the Authority, the constituent local authority which appointed him shall as soon as possible appoint a member in his place unless in the opinion of the constituent local authority the appointment should be deferred until the next appointment of members of the Authority.

Convenor and vice-convenor

3.—(1) The convenor of the Authority shall be—

(a) for the period 1st April 2002 to 30th June 2003 selected by the Authority from one of the 4 members appointed by City of Edinburgh Council;

(b) for the period 1st July 2003 to 30th June 2005 selected by the Authority from one of the 4 members appointed by Fife Council;

(c) from 1st July 2005 onwards the convenor shall be selected by the Authority on a two year rotational basis from the 4 members of City of Edinburgh Council followed by the 4 members of Fife Council.

(2) The vice-convenor of the Authority shall be—

(a) for the period 1st April 2002 to 30th June 2003 selected by the Authority from one of the 4 members appointed by Fife Council;

(b) for the period 1st July 2003 to 30th June 2005 selected by the Authority from one of the 4 members appointed by City of Edinburgh Council;

(c) from 1st July 2005 onwards the vice- convenor shall be selected by the Authority on a two year rotational basis from the 4 members of Fife Council followed by the 4 members of City of Edinburgh Council.

(3) If either the convenor or vice convenor is unable for any reason to exercise their respective functions for a period in excess of 6 months the post will be regarded as vacant and the Authority shall appoint a replacement with reference to the appointment procedures detailed at sub- paragraphs (1) and (2) above.

Officers of the Authority

4.—(1) The Authority shall appoint a clerk and a treasurer.

(2) The clerk and the treasurer shall hold and vacate office as such in accordance with the terms of the instruments by which they are respectively appointed and, notwithstanding the terms of the instrument of appointment, the Authority may terminate their appointment at any time.

(3) The offices of clerk and treasurer shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(4) For the period from 1 April 2002 until a clerk and treasurer have been appointed, the persons who are clerk and treasurer for the time being shall respectively be the clerk and the treasurer to the Authority.

(5) The Authority may appoint such other staff as may be required for the discharge of the functions of the Authority under this order.

(6) Where under an agreement with the Authority, any constituent local authority places its own staff at the disposal of the Authority, the Authority shall make annually such payments as may from time to time be agreed with that authority for the services of that staff.

5.—(1) The first meeting of the Authority shall be held no later than 5 April 2002.

(2) The Authority shall hold such meetings as it shall consider necessary for the disposal of its business at such place or places as it may from time to time fix.

(3) The clerk shall send copies of the minutes of meetings of the Authority to the constituent local authorities for their information.

(4) The Authority shall have power to make or adopt standing orders regulating its procedures and business.

(5) The quorum of the Authority shall be 6 members provided that the members present shall not all be members appointed by the same constituent local authority.

(6) All questions coming or arising before the Authority shall be decided by a majority of the members of the Authority present and voting thereon at a meeting of the Authority.

(7) In the case of an equality of votes the person presiding at the meeting of the Authority shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member of the Authority to any particular office or sub-committee, in which case the decision shall be by lot.

6.—(1) The Authority may appoint from its membership such committees as it may from time to time consider necessary or desirable and may refer to such committees such matters as the Authority may from time to time specify by minute or in its standing orders.

(2) Any member of a committee of the Authority may be represented at any meeting of that committee by a substitute member appointed in accordance with sub-paragraph (3) below.

(3) A constituent local authority may, subject to sub-paragraph (5) below, appoint one of its members to be a substitute member for any member of a committee who is also a member of that authority.

(4) A substitute member shall have the same powers at a meeting of a committee as the member whom he is representing would have had at that meeting.

(5) A person may not be appointed as a substitute member of a committee if he is a member of that committee.

Accounts of the Authority

7.- (1) At the end of each financial year the Authority shall prepare and arrange for the audit of the accounts showing the income and expenditure and assets and liabilities of the Authority

(2) The accounts and audited report shall be submitted to a meeting of the Authority to be held no later than 31 October after the end of the financial year to which the accounts relate and shall if and as approved by the Authority be signed by the convenor and the clerk to the Authority.

(3) As soon as possible after the meeting of the Authority in terms of sub-paragraph 2 above the Authority shall send a copy of the accounts and auditors report to the constituent local authorities and the Scottish Ministers.

SCHEDULE 2

DESCRIPTION OF ROAD

That length of road, partly within the boundary of the City of Edinburgh Council and partly within Fife Council, from a point on the north side of the Forth Road Bridge, at the commencement of the unclassified southwards continuation of the A90, 690 metres or thereby south of the southmost abutment of the bridge over the roundabout at which the A90 crosses over the B981 to a point on the south side of the Forth Road Bridge on the A90, 160 metres or thereby north of the northmost face of the overbridge carrying the roundabout on which the A8000 and A904 meet, including those lengths of the slip roads within these points which form part of the A90 and give access to and from the above roundabout on the south side of the Forth Road Bridge, a distance measured along the said length of road approximately 3.15 kilometres.

SCHEDULE 3

MODIFICATION OF ENACTMENTS*Forth Road Bridge Order Confirmation Act 1958*

1. After section 46 there shall be inserted:–

“Exemptions

46A. Nothing in this Order shall extend to authorise any tolls to be demanded or received in respect of

- (a) a police vehicle, identifiable as such by writing or markings on it or otherwise by its appearance if being used for police purposes;
- (b) a vehicle which is exempt from vehicle excise duty under-
 - (i) paragraph 4 (fire engines)
 - (ii) paragraph 6 (ambulances)
 - (iii) paragraph 18 (invalid carriages)
 - (iv) paragraph 19 (vehicles for use by or for certain disabled people), or
 - (v) paragraph 20 (vehicles used for carriage of disabled people by recognised bodies),

of Schedule 2 to the Vehicle Excise and Registration Act 1994.^a

Refusal or failure to pay tolls

46B.—(1) A person who without reasonable excuse refuses or fails to pay, or who attempts to evade payment of, a toll which he is liable to pay by virtue of the toll order commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If it appears to a person employed for the purpose of collecting tolls that a person has, without reasonable excuse, refused or failed to pay a toll which is due to be paid by virtue of a toll order, the person collecting tolls may refuse to permit the person so in default to use the bridge, and may with such assistance as necessary, stop and prevent the person so in default from using the bridge.”.

^a 1994 c.

The Forth Road Bridge (Toll Period) Extension Order 1997

- (2) In article 2 delete “of 5 years” and substitute “expiring on 31 March 2006”

SCHEDULE 4

REPEALS

Chapter	Short Title	Extent of Repeal
1947 Ch. iv	Forth Road Bridge Order Confirmation Act 1947	The Whole Act
1950 c. xxiv	Forth Road Bridge Order Confirmation Act 1950	The Whole Act
1954 c. x	Forth Road Bridge Order Confirmation Act 1954	The Whole Act
1958 c. vi	Forth Road Bridge Order Confirmation Act 1958	The Whole Act with the exception of sections 30 and 34 and Part V Tolls
1960 c. iii	Forth Road Bridge Order Confirmation Act 1960	The Whole Act
1961 c. xxi	Forth Road Bridge Order Confirmation Act 1961	The Whole Act

ANNEX C: LIST OF THOSE FORMALLY CONSULTED

The Executive issued written invitations to respond to the consultation exercise to the following bodies.

- Aberdeen City Council
- Aberdeenshire Council
- Angus Council
- Argyll and Bute Council
- City of Edinburgh Council
- Clackmannanshire Council
- Comhairle nan Eilean Siar
- Dumfries and Galloway Council
- Dundee City Council
- East Ayrshire Council
- East Dunbartonshire Council
- East Lothian Council
- East Renfrewshire Council
- Falkirk Council
- Fife Council
- Glasgow City Council
- Highland Council
- Inverclyde Council
- Midlothian Council
- Moray Council
- North Ayrshire Council
- North Lanarkshire Council
- Orkney Islands Council
- Perth and Kinross Council
- Renfrewshire Council
- Scottish Borders Council
- Shetland Islands Council
- South Ayrshire Council
- South Lanarkshire Council
- Stirling Council
- West Dunbartonshire Council
- West Lothian Council
- South East Scotland Transport Partnership (SESTRAN)
- Convention of Scottish Local Authorities (CoSLA)
- SCOTS
- Scotland Office
- CBI Scotland
- Confederation of Passenger Transport (CPT)
- The Automobile Association (AA)
- RAC Foundation
- Association of Transport Co-ordinating Officers (ATCO)
- Disabled Persons Transport Advisory Committee (DPTAC)
- Freight Transport Association
- Road Haulage Association
- Transform Scotland
- Travelwise
- Scottish Association of Passenger Transport (SAPT)
- Forth Road Bridge Joint Board
- Tay Road Bridge Joint Board
- Scottish Council for Development and Industry (SCDI)
- Scottish Enterprise
- Sustrans Scotland

In addition, responses were received from: Light Rail Transit Association, Institute for Logistics and Transport, and English Welsh and Scottish Railway (EWS).