



SCOTTISH EXECUTIVE

Enterprise, Transport & Lifelong Learning Department
Transport Division 1

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Your ref:
Our ref:

Date: 16th September 2004

Dear Consultee

ROAD USER CHARGING (OR CONGESTION CHARGING) CONSULTATION

CONSULTATION ON REGULATIONS TO BE MADE UNDER SECTIONS 49, 55, 56, 81 AND SCHEDULE 1 OF THE TRANSPORT (SCOTLAND) ACT 2001

I am writing to seek your comments on regulations to be made under the sections of the Transport (Scotland) Act 2001 as noted above. Drafts of the regulations, three sets in total, are attached.

- The Road User Charging (Liability for Charges) (Scotland) Regulations specify the persons liable for charges under a road user charging scheme;
- The Road User Charging (Penalty Charges) (Scotland) Regulations relate to the procedures involving the imposition and liability for penalty charges; examination of, and entry to, vehicles; powers of immobilisation, removal and disposal of vehicles; recovery of penalty charges in relation to removed vehicles; taking possession of vehicles; and claims by owners of vehicles after their disposal; and
- The Road User Charging (Keeping of Accounts and Relevant Expenses) (Scotland) Regulations relate to the form that the accounts of the charging scheme should take and how the net proceeds of the scheme are calculated. They will ensure that there is transparency and additionality.

Background

Section 49 of the Transport (Scotland) Act 2001 provides powers to local traffic authorities to introduce road user charging schemes in Scotland, where this can assist to achieve the objectives in that authorities local transport strategy. The Act also provides that a charging scheme may be made by two or more such authorities acting jointly. In addition, these powers apply to certain joint bridge boards. The Scottish Ministers have issued guidance for local authorities seeking to deliver integrated transport initiatives through road user charging and this can be found at:

<http://www.scotland.gov.uk/library3/transport/rucguide.pdf>.

The Act requires that a charging scheme shall be contained in an order made by the charging authority. A charging scheme shall not come into force until the order making it has been submitted to and confirmed by Scottish Ministers.

We would be very grateful if you would consider and respond to the questions in annex A of this letter. Your responses should be made in writing, preferably by e-mail to Julie.GrantSAAS@Scotland.gsi.gov.net or alternatively in writing to the address below:

Road User Charging Regulations Consultation
Scottish Executive
ETLLD: Transport: Road Pricing Team
Area 2-D (Dockside)
Victoria Quay
EDINBURGH
EH6 6QQ

Please call 0131 244 5095 for any queries regarding the consultation exercise. The closing date for the consultation is 8th December 2004.

We would be grateful if you could clearly indicate in your response which set of regulations that you are commenting on as this will aid our analysis of the responses received. If you wish to access this consultation online, go to: <http://www.scotland.gov.uk/view/views.asp>. You can telephone Free phone 0800 77 1234 to find out where your nearest public internet access point is.

We would also be grateful if you could fill out the attached responsee information form and send it in with your response.

We will acknowledge all responses received as soon as possible and copies of all responses will be made available in the Scottish Executive library by 6th January 2005. Responses will also be made available on the Scottish Executive website by 13th January 2005. Feedback on the responses will be provided within 12 weeks of the close of the consultation. The final regulations will be made in due course.

Copies of this consultation can be provided in alternative formats and community languages on request.

Yours sincerely

KIRSTY LEWIN
Roads Policy and Group Finance Division
Road Pricing Team

ROAD USER CHARGING (OR CONGESTION CHARGING) CONSULTATION

**CONSULTATION ON REGULATIONS TO BE MADE UNDER SECTIONS 49, 55, 56, 81
AND SCHEDULE 1 OF THE TRANSPORT (SCOTLAND) ACT 2001**

The Road User Charging (Liability for Charges) (Scotland) Regulations

Question:

- Are there any other circumstances in which the registered keeper should not be liable for the charge? What is your reasoning for this?

The Road User Charging (Penalty Charges) (Scotland) Regulations

Question:

- Do you agree with the procedures that we have specified to enable road user charging schemes to enforce payment of penalty charges? If not, what procedures would, in your view, be more appropriate and why?

The Road User Charging (Keeping of Accounts and Relevant Expenses) (Scotland) Regulations

Question:

- Do you agree with the duties on charging authorities that we propose in these regulations? If not, what would be a suitable alternative and why?

Access to consultation responses

We will make all responses available to the public in the Scottish Executive Library by 12 October 2004 and on the Scottish Executive consultation web pages unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Address:

Title of consultation: **CONSULTATION ON REGULATIONS MADE UNDER SECTIONS 49, 55, 56, 81 AND SCHEDULE 1 OF THE TRANSPORT (SCOTLAND) ACT 2001 (ROAD USER CHARGING)**

1. Are you responding as:

an individual

on behalf of a group or organisation

2. Do you agree to your response being made public (in SE library and/or on SE website)?

Yes

No

*Where you have ticked yes above, we will publish your full response including your name (and address, where provided). If you **do not** wish these **personal** details (name and address) to be published, please tick this box:*

Are you content for the Scottish Executive Transport Group to contact you again in the future for consultation [or research] purposes?

Yes

No

2004 No.

TRANSPORT

**The Road User Charging (Liability for Charges) (Scotland)
Regulations 2004**

<i>Made</i> - - - -	2004
<i>Laid before the Scottish Parliament</i>	2004
<i>Coming into force</i> - -	2004

The Scottish Ministers, in exercise of the powers conferred by sections 49(4)(b), and 81(2) of the Transport (Scotland) Act 2001(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Road User Charging (Liability for Charges) (Scotland) Regulations 2004 and shall come into force on 2004.

Interpretation

2.—(1) In these Regulations—

“charging area” means, all roads in respect of which the charging authority, or either (or any) of the charging authorities, are the local traffic authority or such part thereof as may be specified in a charging scheme;

“hiring agreement” has the same meaning as in section 66(8) of the Road Traffic Offenders Act 1988(2);

“the Registration and Licensing Regulations 2002” means the Road Vehicles (Registration and Licensing) Regulations 2002(3);

“vehicle” means motor vehicle; and

“vehicle-hire firm” has the same meaning as in section 66(8) of the Road Traffic Offenders Act 1988.

(2) For the purposes of these Regulations the registered keeper shall be presumed to be the owner of a vehicle registered under the Vehicle Excise and Registration Act 1994(4).

Liability of registered keeper for charges

3.- Under section 49(4) of the Transport (Scotland) Act 2001 charges imposed in respect of any motor vehicle by a charging scheme shall be payable by the registered keeper unless regulation 4 applies.

(1) 2001 asp 2.
(2) 1988 c.53.
(3) S.I. No. 2002/2742.
(4) 1994 c.22

Liability of persons other than the registered keeper for charges

4.—(1) In this regulation—

- (a) “relevant vehicle” means a vehicle in respect of which a charges is imposed by a charging scheme arising out of its having been used or kept on a road in a charging area designated by the scheme as a road in respect of which a charge is imposed; and
- (b) “relevant time” means the time at which a relevant vehicle was so used or kept on that road.

(2) The persons liable to pay charges imposed in respect of any motor vehicle by a charging scheme are—

- (a) where the relevant vehicle is not registered under the Vehicle Excise and Registration Act 1994, charges shall be payable by the person by whom the relevant vehicle was used or kept on a road at the relevant time;
- (b) where at the relevant time the relevant vehicle was kept by a person who was a vehicle trader as defined by regulation 20(6) of the Registration and Licensing Regulations 2002 and that person was not the registered keeper, charges shall be payable by that person;
- (c) where before the relevant time the registered keeper had notified the Secretary of State in writing, in accordance with regulation 21, 22, 23, 24, or 25 of the Registration and Licensing Regulations 2002, that there had been a change in the keeper of the relevant vehicle so that it was no longer kept by him, charges shall be payable by the person by whom the vehicle was kept at the relevant time;
- (d) where at the relevant time—
 - (i) the registered keeper of the relevant vehicle was a vehicle-hire firm;
 - (ii) the relevant vehicle was hired from that firm under a hiring agreement; and
 - (iii) the person hiring it had signed a statement of liability acknowledging that the person accepts liability for any charges incurred under a charging scheme during the currency of the hiring agreement;charges shall be payable by the hirer of the vehicle.

(3) The date on which the registered keeper shall be taken for the purposes of these Regulations to have notified the Secretary of State as mentioned in paragraph (2)(c) shall be the date on which service on the Secretary of State is to be taken to have been effected in accordance with paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament Order 1999(5) of—

- (a) in a case where regulation 21 of the Registration and Licensing Regulations 2002 applies, the information specified in regulation 21(2)(b) of those Regulations;
- (b) in a case where regulation 22 of the of the Registration and Licensing Regulations 2002 applies, parts of the registration document in accordance with regulation 22(2)(b) of those Regulations;
- (c) in a case where regulation 23 of the Registration and Licensing Regulations 2002 applies, notification in accordance with regulation 23(2) of those Regulations;
- (d) in a case where regulation 24 of the Registration and Licensing Regulations 2002 applies, the information and declarations in accordance with regulation 24(5)(a) of those Regulations; or
- (e) in a case where regulation 25 of the Registration and Licensing Regulations 2002 applies, notification in accordance with regulation 25(1)(a).

St Andrew's House,
Edinburgh

2004

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the persons liable for charges for road user charging schemes, under section 49(4) of the Transport (Scotland) Act 2001.

EXECUTIVE NOTE

The Road User Charging (Liability for Charges) (Scotland) Regulations 2004 (S.S.I. 2004/***)**

The above instrument was made in exercise of the powers conferred by section 49(4)(b) and 81(2) of the Transport (Scotland) Act 2001. The instrument is subject to negative resolution procedure.

Policy Objectives

The Scottish Executive report “Scotland’s transport future – the transport white paper” was published in June 2004 and set out the vision for Scotland’s transport future. The challenge is to transform Scotland’s transport making it more reliable, accessible and customer friendly. It must deliver high quality services to passengers and business. The importance of transport is increasing. In Scotland’s transport future we set out our proposals.

Increasing traffic levels are causing environmental problems, congestion, delays and unpredictable journeys. Even where good alternatives exist, too few people are leaving their cars at home. Doing nothing will simply cause problems for future generations. Road user charging is a critical part of demand management, associated with driving on a particular road at a particular time. It acknowledges that road space is a scarce resource to be shared fairly. It can tackle congestion, raise transport revenues for infrastructure and address environmental impacts.

The legislation for charging schemes is enabling legislation. It sets out the statutory framework for road user charging schemes. This enables a local authority to introduce a charging scheme on roads for which it has responsibility.

These regulations specify those persons - other than the registered keeper of a vehicle who is already specified in the Act - who are liable for charges under road user charging schemes.

Financial Effects

The instrument has no financial effects on the Scottish Executive or Local Government.

Regulatory Impact Assessment

There has been no Regulatory Impact Assessment (RIA) undertaken in respect of the regulations. The making of the regulations in themselves will have no impact upon Scottish businesses. The regulations merely set out the framework within which a local authority that wishes to implement a charging scheme must operate. It is up to individual local authorities whether or not they wish to implement such a scheme.

SCOTTISH STATUTORY INSTRUMENTS

2004 No.

TRANSPORT

**The Road User Charging (Penalty Charges) (Scotland)
Regulations 2004**

<i>Made</i> - - - -	2004
<i>Laid before the Scottish Parliament</i>	2004
<i>Coming into force</i> - -	2004

The Scottish Ministers, in exercise of the powers conferred by sections 55(1) and (2), 56(1), (2) and (4) and 81(2) of the Transport (Scotland) Act 2001(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Road User Charging (Penalty Charges) (Scotland) Regulations 2004 and shall come into force on 2004.

Interpretation

2.—(1) In these Regulations—

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

“authorised person” means, a local authority, an employee of a local authority, a constable or any other person authorised in writing by a charging authority to act as an authorised person for the purposes of these Regulations;

“the charging area” means, all roads in respect of which the charging authority, or either (or any) of the charging authorities, are the local traffic authority or such part thereof as may be specified in a charging scheme;

“custodian” in relation to a vehicle removed under these Regulations means—

- (a) if the vehicle has, in accordance with regulation 9 been delivered to the charging authority, that authority; or
- (b) if the vehicle has been so delivered to another person authorised by the charging authority to keep vehicles so removed in his custody, that other person;

“hiring agreement” has the same meaning as in section 66(8) of the Road Traffic Offenders Act 1988(b);

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984(c);

“outstanding” in relation to a penalty charge shall be construed in accordance with regulation 8(2);

(a) 2001 asp 2.
(b) 1988 c.53.
(c) 1984 c.27.

“penalty charge” means a charge imposed by a charging scheme by virtue of regulation 3;
“the Liability for Charges Regulations 2004” means the Road User Charging (Liability for Charges) (Scotland) Regulations 2004;
“the Registration and Licensing Regulations 2002” means the Road Vehicles (Registration and Licensing) Regulations 2002(a);
“vehicle” means motor vehicle; and
“vehicle-hire firm” has the same meaning as in section 66(8) of the Road Traffic Offenders Act 1988.

(2) For the purposes of these Regulations the registered keeper shall be presumed to be the owner of a vehicle registered under the Vehicle Excise and Registration Act 1994(b).

Imposition of penalty charges

3.—(1) A charging scheme may provide that a penalty charge shall be imposed in respect of a vehicle where—

- (a) the vehicle has been used or kept on a road in the charging area to which the scheme applies;
- (b) the vehicle falls within a class in respect of which a charge is imposed by the charging scheme;
- (c) the road is a road in respect of which a charge is imposed by the charging scheme;
- (d) events have occurred by reference to the happening of which a charge is imposed by the charging scheme; and
- (e) the charge has not been paid in full within the time and in the manner in which it is required by the charging scheme to be paid.

(2) A charging scheme may further provide that penalty charges shall be imposed in respect of any or all of—

- (a) the release of a vehicle from an immobilisation device fitted to it in accordance with regulation 8;
- (b) the removal of a vehicle in accordance with regulation 9;
- (c) the storage and release from storage of a vehicle so removed; and
- (d) the sale or destruction of a vehicle so removed.

(3) A charging scheme shall specify the time and manner in which a penalty charge is to be paid and may provide that the amount of a penalty charge—

- (a) is to be reduced by such proportion as may be specified in that behalf in the scheme if it is duly paid within such time and in such manner or circumstances as may be so specified; or
- (b) is to be increased by such proportion as may be specified in that behalf in the scheme if it is not paid within such time and in such manner or circumstances as may be so specified.

Liability for penalty charges

4.—(1) In this regulation—

“penalty charges” means those charges imposed pursuant to paragraph (1) of regulation 3 or paragraphs (1)(a) of each of regulation 7 and regulation 9.

(2) Penalty charges shall be payable by the registered keeper or those other persons liable to pay charges in terms of Regulations 3 and 4 of the Liability for Charges Regulations 2004.

(a) S.I. No.2002/2742.
(b) 1994 c.22

Examining vehicles

5. A charging scheme may confer power on an authorised person to examine a vehicle for the purposes of section 56(1) of the Act.

Entering vehicles

6.—(1) Subject to paragraph (2) any person on whom power is conferred by virtue of regulation 5 may enter a vehicle for the purposes of section 56(2) of the Act.

(2) The power conferred by paragraph (1) shall not be exercised by an authorised person who is not a constable, except in the presence of a constable.

Power to immobilise vehicles

7.—(1) A charging scheme may make provision for any case in which an authorised person has reason to believe that, in respect of a vehicle which is stationary on a road in a charging area—

- (a) the vehicle is being used or kept on that road in contravention of the scheme; or
- (b) there are such number of penalty charges outstanding with respect to the vehicle as may be specified in that behalf in the scheme,

and that such other circumstances apply as may be specified in the scheme.

(2) The charging scheme may provide that an authorised person or a person acting under the direction of the authorised person may—

- (a) fit an immobilisation device to the vehicle while it remains in the place where it is found; or
- (b) move the vehicle, or require it to be moved, to another place on that road or another road and fit an immobilisation device to the vehicle in that other place. A vehicle so moved may be driven, towed or otherwise moved by an authorised person, or a person acting under his direction, by such means as are reasonable in the circumstances and any necessary steps may be taken in relation to the vehicle in order to facilitate its moving.

(3) Where an immobilisation device is fitted to a vehicle in accordance with this regulation, the charging scheme shall provide that the person fitting the device shall also fix to the vehicle an immobilisation notice—

- (a) indicating that the device has been fitted to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;
- (b) stating that the vehicle may only be released from the device by or under the direction of an authorised person;
- (c) stating that the notice must not be removed or interfered with except by or on the authority of an authorised person; and
- (d) specifying the steps to be taken to secure its release including the penalty charges outstanding and the person to whom and the means by which those charges may be paid.

Release of immobilised vehicles

8.—(1) Where a charging scheme makes provision for the immobilisation of vehicles the scheme shall provide that, where an immobilisation device is fitted to a vehicle in accordance with the scheme, the person fitting the device shall also fix to the vehicle an immobilisation notice indicating that the vehicle shall be released by or under the direction of an authorised person—

- (a) if all outstanding penalty charges, or such outstanding penalty charges as the relevant charging scheme may prescribe for the purposes of this sub-paragraph, are paid to the charging authority;
- (b) if any penalty charge imposed by the relevant charging scheme for the release of the vehicle from the immobilisation device is paid; and

- (c) where at the time the device is fitted the vehicle is being kept on a road in the charging area in circumstances where a charge is payable, if that charge is also paid to the charging authority.
- (2) For the purposes of these Regulations a penalty charge is “outstanding” if–
- (a) it is a penalty charge imposed by a charging scheme in respect of the use or keeping of the vehicle in question in the charging area to which the scheme relates;
 - (b) it has not been paid and is not subject to an outstanding appeal.
- (3) For the purposes of paragraph (2)(b) a penalty charge is “subject to an outstanding appeal” if–
- (a) representations have been made to the charging authority under Regulations made by the Scottish Ministers under section 64(2) of the Act and the authority has not notified its decision with respect to the representations; or
 - (b) an appeal has been made to an adjudicator under those Regulations and the appeal has not been determined.

Power to remove vehicles

9.—(1) A charging scheme may make provision for any case where an authorised person has reason to believe that in respect of a vehicle which is stationary on a road in a charging area–

- (a) the vehicle is being used or kept on that road in contravention of the scheme;
- (b) there are such number of penalty charges outstanding with respect to the vehicle as may be specified in that behalf in the scheme; or
- (c) an immobilisation device has been fitted to the vehicle in accordance with regulation 7 and the outstanding penalty charges have not been paid in accordance with regulation 8,

and that such other circumstances apply as may be specified in the scheme.

(2) A charging scheme may provide that, in such a case, the authorised person or a person acting under his direction, may remove the vehicle and deliver it to the custodian.

(3) A vehicle removed by virtue of paragraph (2) may be driven, towed or removed by an authorised person, or a person acting under his direction, by such means as are reasonable in the circumstances and any necessary steps may be taken in relation to the vehicle in order to facilitate its removal.

Sale or destruction of removed vehicles

10. The charging scheme shall enable the custodian of a vehicle delivered, as mentioned in regulation 9(2), to dispose of the vehicle by selling it or dealing with it as scrap, as the custodian thinks fit.

Recovery of penalty charges in relation to removed vehicles

11.—(1) The charging scheme shall provide that where a vehicle has been removed and delivered to the custodian, in accordance with regulation 9(2), the custodian may recover (without prejudicing the charging authority's rights to recover such amounts in full from those persons liable, pursuant to regulation 4) from the person who was the registered keeper of the vehicle when the vehicle was removed the penalty charges prescribed by the scheme for–

- (a) its removal in accordance with regulation 9;
- (b) its storage and release from storage; and
- (c) if the vehicle has been disposed of, its sale or destruction.

(2) Where, by virtue of paragraphs (1)(a) and (b), any sum is recoverable in respect of a vehicle, the custodian shall be entitled to retain custody of it until that sum is paid.

Taking possession of a vehicle

12.—(1) A charging scheme shall specify that a person (“the claimant”) may take possession of a vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under regulation 10, if the conditions specified in paragraph (2) are satisfied.

(2) The conditions are that—

- (a) the claimant satisfies the custodian that the claimant is the registered keeper of the vehicle or authorised by the registered keeper to take possession of the vehicle;
- (b) all outstanding penalty charges in respect of the vehicle are paid to the charging authority; and
- (c) any penalty charges imposed by the charging scheme in respect of the removal or the storage and release from storage of the vehicle are paid.

(3) On giving the claimant possession of a vehicle pursuant to this regulation, the custodian shall give the claimant a statement of the right of the registered keeper (or the person in charge of the vehicle at the time it was immobilised or, where it was not immobilised, it was removed) to appeal, pursuant to regulations made by the Scottish Ministers under section 64(1) of the Act, of the steps to be taken in order to appeal and of the address to which representations made as mentioned in those Regulations should be sent.

A member of the Scottish Executive

St Andrew’s House,
Edinburgh

2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations deal with the procedures relating to the imposition of penalty charges for road user charging schemes, under sections 55 and 56 of the Transport (Scotland) Act 2001. The Regulations cover requirements about the imposition and liability for penalty charges, examination of, and entry to vehicles, powers of immobilisation, removal and disposal of vehicles, recovery of penalty charges in relation to removed vehicles, taking possession of vehicles and claims by owners of vehicles after their disposal.

EXECUTIVE NOTE

The Road User Charging (Penalty Charges) (Scotland) Regulations 2004 (S.S.I. 2004/****)

The above instrument was made in exercise of the powers conferred by section 55(1) and (2), 56(1), (2) and (4) and 81(2) of the Transport (Scotland) Act 2001(a). The instrument is subject to negative resolution procedure.

Policy Objectives

The Scottish Executive report “Scotland’s transport future – the transport white paper” was published in June 2004 and set out the vision for Scotland’s transport future. The challenge is to transform Scotland’s transport making it more reliable, accessible and customer friendly. It must deliver high quality services to passengers and business. The importance of transport is increasing. In Scotland’s transport future we set out our proposals.

Increasing traffic levels are causing environmental problems, congestion, delays and unpredictable journeys. Even where good alternatives exist, too few people are leaving their cars at home. Doing nothing will simply cause problems for future generations. Road user charging is a critical part of demand management, associated with driving on a particular road at a particular time. It acknowledges that road space is a scarce resource to be shared fairly. It can tackle congestion, raise transport revenues for infrastructure and address environmental impacts.

The legislation for charging schemes is enabling legislation. It sets out the statutory framework for road user charging schemes. This enables a local authority to introduce a charging scheme on roads for which it has responsibility.

This set of regulations deals with the procedures relating to imposition and liability for penalty charges; examination of, and entry to vehicles; powers of immobilisation, removal and disposal of vehicles; recovery of penalty charges in relation to removed vehicles; taking possession of vehicles; and claims by owners of vehicles after their disposal.

Financial Effects

The instrument has no financial effects on the Scottish Executive or Local Government.

Regulatory Impact Assessment

There has been no Regulatory Impact Assessment (RIA) undertaken in respect of the regulations. The making of the regulations in themselves will have no impact upon Scottish businesses. The regulations merely set out the framework within which a local authority that wishes to implement a charging scheme must operate. It is up to individual local authorities whether or not they wish to implement such a scheme.

ETLLD Transport 1:2
April 2004

(a) 2001 asp 2.

SCOTTISH STATUTORY INSTRUMENTS

2004 No.

TRANSPORT

The Road User Charging Schemes (Keeping of Accounts and Relevant Expenses) (Scotland) Regulations 2004

<i>Made</i>	2004
<i>Laid before the Scottish Parliament</i>	2004
<i>Coming into force</i>	2004

The Scottish Ministers in exercise of the powers conferred by section 81(2) and paragraphs 1 and 4(3) of Schedule 1 to the Transport (Scotland) Act 2001^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road User Charging Schemes (Keeping of Accounts and Relevant Expenses) (Scotland) Regulations 2004 and shall come into force on2004.

Interpretation

2. In these Regulations:

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

“charging authority” has the same meaning as in section 49(5) of the Act;

“charging scheme” has the same meaning as in section 49(5) of the Act;

“proper accounting practices” means those accounting practices which fall within one or more of the following-

(a) those which the charging authority is required to observe by virtue of any enactment;

(b) those which have been specified in guidance issued for the purposes of that enactment by the Scottish Ministers;

(c) those which, whether by reference to any generally recognised, published code or otherwise, are regarded as proper accounting practices to be observed in the keeping, preparation and publication of accounts of a charging authority;

but in the event of a conflict in any respect between the practices within paragraph (a) above and those within paragraph (b) or (c) above, only those within paragraph (a) are

^(a) (asp 2.).

to be regarded as proper accounting practices in that respect and in the event of a conflict in any respect between those within paragraph (b) and paragraph (c) above, only those within paragraph (b) are, in that respect, to be so regarded.

“relevant expenses” has the same meaning as in paragraph 1 of schedule 1 to the Act.

Keeping, preparation and publication of accounts

3. A charging authority shall for the duration of the charging scheme -
 - (a) keep proper accounts, as required by proper accounting practices, for that scheme showing the income and expenditure and how the net proceeds of the scheme are calculated;
 - (b) prepare, in respect of each financial year, a statement of account in such form as required by proper accounting practices; and
 - (c) publish the statement of account, as required by proper accounting practices, in the annual accounts of the authority for the financial year.

Meaning of relevant expenses incurred in the making or operating of a scheme

4.—(1) A charging authority may deduct from the gross amount received under a charging scheme the expenses incurred in making and operating the scheme.

(2) The expenses under paragraph (1) shall include all of the costs incurred for, or in connection with, planning, procuring, implementing, maintaining, repairing, improving, administering, managing, enforcing and promoting the scheme.

(3) The costs of administering and managing the scheme under paragraph (2) shall include:

- (a) the costs incurred by the charging authority in letting a contract for the management of the whole or part of any scheme;
- (b) all legal, consultancy or other professional fees incurred by a charging authority in connection with making and operating any scheme;
- (c) the costs incurred by the charging authority in connection with any audit of the management of the whole or part of any scheme, regardless of whether or not the scheme or that part of it is managed by the charging authority or by some other person;
- (d) the costs incurred in complying with any procedural regulations governing the implementation, variation or revocation of a scheme.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
.....2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for annual accounts to be kept in relation to charging schemes made under the Transport (Scotland) Act 2001. These accounts must be kept, prepared and published in accordance with proper accounting practices. The term “proper accounting practices” is defined in regulation 2, the definition being based on that in section 12 of the Local Government in Scotland Act 2003 (asp 1). Compliance with proper accounting practices will require reference to other documents, currently any LASAAC Code of Practice which concerns Road User Charging (and subsequent revised versions). LASAAC is the Local Authorities Scotland Accounting Advisory Committee.

The Regulations also specify which costs of making and operating a charging scheme are “relevant expenses” for the purposes of Schedule 1 to the Act.

EXECUTIVE NOTE

The Road User Charging (Liability for Charges) (Scotland) Regulations 2004 (S.S.I. 2004/****)

The above instrument was made in exercise of the powers conferred by section 49(4)(b) and 81(2) of the Transport (Scotland) Act 2001. The instrument is subject to negative resolution procedure.

Policy Objectives

The Scottish Executive report “Scotland’s transport future – the transport white paper” was published in June 2004 and set out the vision for Scotland’s transport future. The challenge is to transform Scotland’s transport making it more reliable, accessible and customer friendly. It must deliver high quality services to passengers and business. The importance of transport is increasing. In Scotland’s transport future we set out our proposals.

Increasing traffic levels are causing environmental problems, congestion, delays and unpredictable journeys. Even where good alternatives exist, too few people are leaving their cars at home. Doing nothing will simply cause problems for future generations. Road user charging is a critical part of demand management, associated with driving on a particular road at a particular time. It acknowledges that road space is a scarce resource to be shared fairly. It can tackle congestion, raise transport revenues for infrastructure and address environmental impacts.

The legislation for charging schemes is enabling legislation. It sets out the statutory framework for road user charging schemes. This enables a local authority to introduce a charging scheme on roads for which it has responsibility.

These regulations specify those persons - other than the registered keeper of a vehicle who is already specified in the Act - who are liable for charges under road user charging schemes.

Financial Effects

The instrument has no financial effects on the Scottish Executive or Local Government.

Regulatory Impact Assessment

There has been no Regulatory Impact Assessment (RIA) undertaken in respect of the regulations. The making of the regulations in themselves will have no impact upon Scottish businesses. The regulations merely set out the framework within which a local authority that wishes to implement a charging scheme must operate. It is up to individual local authorities whether or not they wish to implement such a scheme.