

ABOLITION OF BRIDGE TOLLS (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Abolition of Bridge Tolls (Scotland) Bill introduced in the Scottish Parliament on 3 September 2007. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 1-EN.

BACKGROUND

2. This Bill is the fulfilment of the commitment in this Government's manifesto for the May 2007 elections – *A New Approach: Our first steps* – to remove the tolls on the Forth and Tay Road Bridges, as it is unacceptable and unfair to leave the two road bridges into and out of Fife as the only remaining toll bridges in Scotland. The provisions of the Bill remove this anomaly so that the entire road network in Scotland, and travellers on that network, are treated consistently and fairly.

3. This Bill accords with motion S3M-93 (as amended) agreed by the Scottish Parliament on 31 May 2007:

“That the Parliament, in accepting that the people of Fife and Tayside should not be disadvantaged by the retention of tolls on the Forth and Tay road bridges, requires that consultation aimed at bringing forward proposals leading to the removal of the tolls as soon as practicable also ensures that traffic management and safety issues on the Forth Road Bridge are dealt with and that any employees affected are treated with dignity and respect; further requires that the Government's proposals set out clearly what the financial consequences of the removal of tolls on the transport budget are and outline funding options for the vital replacement Forth crossing, and requires that, as any additional vehicle traffic increases congestion problems in Edinburgh and the wider region, existing commitments to trams and Edinburgh Airport Rail which have already been scrutinised and received parliamentary approval should not be arbitrarily delayed or cancelled and that all future major transport project proposals be properly costed, evaluated and prioritised.”

4. This Bill includes provisions for the repeal of the legislation which sets out the power of the bridge boards to demand and take tolls. Under the terms of the Forth Road Bridge (Toll Period) Extension Order 2006 the power to charge tolls on the Forth Road Bridge would expire

on 31 March 2010. The Tay Road Bridge Order Confirmation Act 1991 requires that all monies borrowed by the Tay Road Bridge Joint Board be repaid on or before 18 August 2016. Once that repayment has been completed then the power to demand tolls ceases – provided that the Scottish Ministers are satisfied that adequate provisions have been made for the management, operation and maintenance of the bridge. While it would be possible to allow the tolling powers to expire naturally under the existing legislative provisions, Ministers are committed to ending the right to demand tolls at both bridges at the same time, and as soon as is practicable. No alternative approach to primary legislation was considered able to deliver these objectives with the same degree of transparency and certainty for Parliament, the bridge authorities or bridge users.

5. This Bill also makes provision to repeal the redundant legislation that permitted the tolling of Erskine Bridge. Tolling was suspended at the Erskine Bridge on 31 March 2006, by means of the Erskine Bridge (Temporary Suspension of Tolls) Order 2006 and the power to toll at the bridge expired on 1 July 2006.

POLICY OBJECTIVES OF THE BILL

6. The primary objective of this Bill is the removal of the remaining tolls from the Forth and Tay Road Bridges as soon as practicable.

7. Section 1 of the Bill removes the powers of the Forth Estuary Transport Authority (FETA) to charge tolls on the Forth Road Bridge and removes the penalties for non-payment of those tolls.

8. Section 2 of the Bill removes the powers of the Tay Road Bridge Joint Board to charge tolls on the Tay Road Bridge and provides for repeals of provisions in consequence of that.

9. Section 3 deals with miscellaneous issues – in particular it introduces the Bill's schedules which include provision for the removal of the debt deadline at the Tay Road Bridge and repeal redundant legislation in relation to tolls on the Erskine Bridge.

CONSULTATION

10. As noted, the removal of tolls on the Forth and Tay Road Bridges is a manifesto commitment. The issue of bridge tolls was debated in the Parliament on 1 March 2006, 30 March 2006, 8 February 2007 and 31 May 2007. In June 2006 there was an open invitation for anyone to submit evidence for or against the retention or abolition of tolls on these bridges, and research into public attitudes towards the tolls has been undertaken as part of the Scottish Executive's Toll Impact Study¹.

11. During the development of the Bill, detailed consultation has been undertaken with the Forth Estuary Transport Authority and the Tay Road Bridge Joint Board. These consultations have considered legislation, finance, staffing issues and any additional requirements for traffic management at the bridges due to the removal of the toll collection equipment.

¹ Toll Impact Study (First Phase: Market Research Findings) – Steer Davies Gleave – February 2007

12. Given the above no further public consultation is considered necessary on the detailed provisions.

Issues identified by respondents to call for evidence

13. In June 2006, interested parties were invited to submit to the Scottish Executive any factual evidence in support of the retention or removal of tolls from the bridges. While this was an open invitation, letters were sent to around 180 individuals and organisations. Recipients included all MSPs, relevant local authorities, regional transport partnerships, bridge authorities, non-government organisations, motoring organisations and public transport representatives. The closing date for submissions was 17 August 2006. The main findings from the information received were published on the Scottish Executive website on 14 February 2007 at <http://www.scotland.gov.uk/Topics/Transport/Road/toll-bridges/Bridges>.

14. The majority of information submitted in response to the call for evidence was from respondents who objected to the continuation of tolls on either or both the Tay and Forth Bridges. This was particularly prevalent in material submitted by individuals, organisations representing the business community, and MSPs. Examples include:

- The issues of “fairness” and “equality” of treatment of people in the East of Scotland, particularly in Fife, paying bridge tolls whilst similar tolls have been discontinued on other structures such as the Skye and Erskine Bridges.
- The toll revenue being used to pay for maintenance rather than the original construction costs. (This was cited as an anomaly because the Scottish Executive pays for the maintenance of other major road bridges throughout Scotland).

15. The submissions in favour of tolls can generally be applied equally to the tolls on both bridges. Such information was submitted by environmental organisations and a passenger transport operator. Most of the issues raised related not simply to retaining the tolls, but to modifying them. Examples of the modifications proposed include:

- Varying or increasing the tolls to manage demand more effectively;
- Making public transport vehicles (in this case, buses) exempt from paying tolls.

16. Little of the information submitted – whether for or against – represents factual evidence, but was a helpful indicator of public opinion. More details about sensitivities to change were required to consider the claims made. The primary research element of the Toll Impact Study provides a guide in relation to these sensitivities and to the social impact of the tolls.

Issues identified by primary research

17. To complement the call for evidence a comprehensive programme of primary research was undertaken. The purpose of the primary research was to establish the extent to which respondents were concerned about the tolls and what impact (if any) they considered the tolls had on travelling behaviour. The research consisted of face-to-face interviews, telephone interviews, focus groups, and surveys of individuals.

18. Target groups for the primary research included a representative cross-section of bridge users, individuals who do not use the bridges, and relevant public sector organisations. Individuals, employers, transport operators, the business community, local authorities, local enterprise companies, and local economic forums etc, variously made up these target groups.

19. The findings from the research were published on the Scottish Executive website on 14 February 2007 at <http://www.scotland.gov.uk/Topics/Transport/Road/toll-bridges/Report>.

20. Across all user groups the financial cost of the tolls was considered to be insignificant and people stated their belief that removing the tolls would have no effect on the volumes of traffic on either bridge nor on the frequency of their own journeys across either bridge. In particular, businesses and freight operators stated that paying the toll was considerably cheaper than the costs of diverting to alternative routes. Target group members expressed concerns that toll collection and the design of the toll plazas were the causes of congestion at both bridges.

21. In both the user and non-user surveys the majority of respondents considered that the removal of the toll charge would have little or no impact on traffic volumes, routes chosen or modes used. Some Tay Bridge respondents who were not working or seeking work did however say they would travel more for a variety of purposes if tolls were removed. Responses suggested some additional leisure trips by individuals in this group; whereas there would be a smaller impact by people who travel for work purposes.

22. Similar findings emerged from the Forth Bridge surveys, with indications that removal of the tolls might increase the frequency of non-work travel and potentially the choice of mode for both work and non-work travel.

23. Congestion on and around both bridges was highlighted as a major concern by all user groups, and survey respondents were asked how they might respond to worsening congestion. Responses indicated that people would principally change the timing of journeys where this is possible, and some would consider using public transport. However, it was evident that people did not, in a survey situation, contemplate more radical changes such as moving house and/or place of employment in the face of worsening congestion.

Section 1 of the Bill: Forth Road Bridge

Background

24. The Forth Road Bridge was opened on 4 September 1964. Until 2002 the operation and maintenance of the Bridge was the responsibility of the Forth Road Bridge Joint Board under the terms of the Forth Road Bridge Order Confirmation Act 1947 and subsequent Confirmation Acts.

25. The functions of the Forth Road Bridge Joint Board were restricted to the operation and maintenance of the structure. Following consultation in 2001 and due process through the Scottish Parliament, the Scottish Ministers made the Forth Estuary Transport Authority Order 2002 under section 69 of the Transport (Scotland) Act 2001. That Order dissolved the Forth

Road Bridge Joint Board and set up the Forth Estuary Transport Authority in its place to operate and maintain the bridge and to have certain wider transport functions.

Tolling

26. The right conferred on the then Joint Board to demand tolls by the Forth Road Bridge Order Confirmation Act 1958 was to end (in accordance with section 46 of the Act) on 28 May immediately following the expiration of thirty years from the opening of the bridge. However section 46 of the 1958 Act permitted the then Secretary of State to extend the tolling period by order upon application by the then Joint Board for such longer period as he specified in the extension order.

27. The toll period has been extended by a number of Orders, the last of which was the Forth Road Bridge (Toll Period) Extension Order 2006 which extended the toll period until the 31st March 2010.

28. The toll charges were last revised in The Forth Road Bridge (Revision of Tolls) Order 2005. Vehicles displaying a badge issued by a local authority under powers in the Chronically Sick and Disabled Persons Act 1970, and motorcyclists, cross the bridge without charge. Owners of cars and goods vehicles who use the crossing on a regular basis may pre-purchase a quantity of journeys across the bridge at a discount. Vehicles are charged for crossing the bridge northbound as follows:

Cars and goods vehicles under 3.5 tonnes	£1.00
Buses constructed to carry less than 16 passengers	£1.00
Cars, goods vehicles under 3.5 tonnes, etc pre-paid with discount	£0.90
Buses built for more than 16 passengers	£1.40
Goods vehicles over 3.5 tonnes	£2.00
Goods vehicles over 3.5 tonnes pre-paid with discount	£1.30
Vehicles requiring an escort across the bridge	£26.00

Policy objectives

29. The initial construction costs of the Forth Road Bridge and all major and routine maintenance costs of the Bridge since its construction have been met by the tolls charged to the users of the Bridge. The Scottish Ministers consider that further tolling for the purposes of funding bridge maintenance or for the purposes of restricting demand is unfair when such charges are not applied to major bridges generally in Scotland.

30. The policy objectives for the Forth Road Bridge are:

- that the right to demand tolls is removed as soon as practicable;
- that traffic management and safety issues at the Bridge are dealt with;
- that any employees affected are treated with dignity and respect.

Consideration

31. Removing the right to demand tolls as soon as practicable will require FETA to be provided with an alternative source of income. That source of income will be increased grants

by the Scottish Ministers under section 70 of the Transport (Scotland) Act 2001. A Memorandum is being drawn up between the Scottish Ministers and FETA to that effect

32. FETA will retain the responsibility for the management, maintenance and operation of the Forth Road Bridge. FETA will remain the roads authority for the Bridge and for those sections of the approach roads to the Bridge set out in Schedule 2 to the Forth Estuary Transport Authority Order 2002. FETA will remain responsible for traffic control on the bridge and for any necessary traffic orders as set out in section 9 of the 2002 Order.

33. Traffic management arrangements and any necessary changes to the road or junction layouts at the southern end of the Forth Road Bridge once the tolls have been removed have been considered by FETA and the City of Edinburgh Council – who each have relevant duties as roads authorities – in consultation with officials from the Scottish Executive. Proposals are being drawn up to deal with the potential traffic issues. The cost of amendments to the current road layouts and traffic controls will be met by the Scottish Executive.

34. Any employees affected are employees of FETA and the terms and conditions of employment are matters for FETA. Nevertheless the Scottish Executive has discussed the impact on employees and fully agrees that affected employees be treated with dignity and respect. The redundancy costs are included in the projections discussed in the Financial Memorandum.

Section 2 of the Bill: Tay Road Bridge

Background

35. The Tay Road Bridge vested in the former Tay Road Bridge Joint Board by virtue of the provisions in the Tay Road Bridge Order 1962 and was opened to traffic on 18th August 1966.

36. All the Tay Road Bridge Orders 1962 to 1985 were revoked by the Tay Road Bridge Order Confirmation Act 1991. The 1991 Act consolidated the provisions of the preceding applicable legislation that were still appropriate and set up the current Tay Road Bridge Joint Board.

Tolling

37. The current tolls on the Tay Road Bridge were set in the Tay Road Bridge (Revision of Tolls) Order 1995. Vehicles displaying a badge issued by a local authority under powers in the Chronically Sick and Disabled Persons Act 1970, and motorcyclists, cross the bridge without charge. Tolls for other vehicles are as follows:

Cars and goods vehicles under 3.5 tonnes	£0.80
Buses constructed to carry less than 16 passengers	£0.80
Buses constructed to carry more than 16 passengers	£1.40
Goods vehicles exceeding 3.5 tonnes	£2.00

38. The existing Tay Road Bridge Joint Board still has debts that have not been cleared by the toll income. While an element of this debt is attributable to the original construction costs of

the bridge, the remainder has been incurred through borrowing to meet the costs of works set out in the Tay Road Bridge Orders 1962 to 1985 and of other capital works since. The 1991 Order requires that the Board should pay back all such borrowing by August 2016 – fifty years after the opening of the Bridge to traffic – and that, subject to the Scottish Ministers being content with the arrangements then entered into for the continued maintenance of the Bridge, tolling should then cease.

39. The scale of the major works of improvement or renewal that have been undertaken is illustrated by the works carried out during the last 20 years². In addition forthcoming major works include protection of the piers against shipping impact.

40. Whilst some of these major works have been supported by grant from the Scottish Executive, the costs of such works to the Tay Road Bridge Board has clearly been onerous. The cost of major works of repair undertaken to the Bridge since its opening is some ten times the cost of the original structure.

Policy objectives

41. The Scottish Ministers consider that tolling for the purposes of maintenance or for the purposes of demand management is unfair when direct tolling for these purposes is not applied generally to bridges or other roads in Scotland. In the case of the Tay Road Bridge, the Scottish Ministers consider that although the Tay Road Bridge Joint Board is not free of debt, that position is substantially due to the scale of the major works that have been undertaken to maintain the Bridge.

42. The policy objectives for the Tay Road Bridge are:

- that the right to demand tolls is removed as soon as practicable;
- that traffic management issues at the Bridge are dealt with;
- that any employees affected are treated with dignity and respect.

Consideration

43. Removing the right to demand tolls as soon as practicable will require the Tay Road Bridge Joint Board to be provided with an alternative source of income. That source of income will be increased grants by the Scottish Ministers under section 70 of the Transport (Scotland) Act 2001. A Memorandum is being drawn up between the Scottish Ministers and the Joint Board to that effect.

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• Replacement of Inspection gantries and runway beams	£2.5 million
• Repairs to concrete columns	£4.5 million
• Carriageway expansion joints	£1.5 million
• New Toll Plaza and equipment	£0.5 million
• Major repainting	£5.5 million
• Refurbishment of Central Walkway	£4.5 million
• Box Girder Strengthening	£4.0 million
• Bearing replacement	£18.0 million

44. The Tay Road Bridge Joint Board will retain the responsibility for the management, maintenance and operation of the Tay Road Bridge. The Joint Board will remain the roads authority for the Bridge and for sections of the approach roads to the Bridge. The Joint Board will retain its powers to regulate traffic on the Bridge and these approach roads as set out in section 65 of the Tay Road Bridge Order 1991.

45. Traffic management arrangements at the Dundee approach to the Tay Road Bridge once the tolls have been removed have been considered by the Joint Board and Dundee City Council – who each have relevant duties as roads authorities – in consultation with officials from the Scottish Executive. Proposals to deal with the potential traffic issues are being drawn up that will integrate with other changes being undertaken as part of the Waterfront development in Dundee. The cost of amendments to traffic controls and the road layout due to the removal of tolls on the Bridge will be met by the Scottish Executive.

46. Any employees affected by the measures set out in this Bill – as it affects the management of the Tay Road Bridge – are employees of the Tay Road Bridge Joint Board and the terms and conditions of employment are matters for the Joint Board. Nevertheless the Scottish Executive has discussed the impact on employees and agrees that affected employees be treated with dignity and respect. The redundancy costs are provided for from Tay Board's general reserve funds.

Section 3 of the Bill: Minor and consequential amendments and repeals

Background

47. Section 3 introduces schedules 1 and 2 which provide for minor amendments and repeals consequential on the abolition of tolls, and repeal redundant enactments relating to the Erskine Bridge.

48. The schedules include provision for the removal of the debt deadline at the Tay Road Bridge. This technical repeal relates to the original financing arrangement for the Tay Road Bridge Joint Board. It was linked to the collection of tolls, and to the application of toll revenues under section 41 of the Tay Road Bridge Order Confirmation Act 1991. The abolition of tolls has a direct impact on this, and the repeal is necessary to facilitate proper financial arrangements to support the future operation of the bridge. The repeal of this provision has been sought by the Tay Road Bridge Joint Board on a number of occasions, notably in the Board's response to an earlier (2005) consultation on tolls and the management of the tolled bridges.

49. The Erskine Bridge is the responsibility of the Scottish Ministers. The relevant roads serving the Bridge are already trunk roads (for the purposes of section 5 of the Roads (Scotland) Act 1984) for which accordingly the Scottish Ministers are the roads authority for the purposes of that Act.

50. The Erskine Bridge was first opened to traffic on 2 July 1971. The power to levy tolls at the Bridge is set out in section 1 of the Erskine Bridge Tolls Act 1968. Under section 4(1) of the 1968 Act tolling was to cease 20 years after the Bridge opened. However, section 4(3) enabled the Secretary of State, and later the Scottish Ministers, to extend by order the tolling period by

5 years. Further extension orders could be made consecutively. The original 20 year period was extended in 1991 and 1996.

51. During early 2000 the Scottish Executive had reviewed the position with regard to tolling at the Erskine Bridge, and in August 2000 the Scottish Ministers concluded that the tolling period should be extended for a further 5 years from 2 July 2001. Due to an administrative error the instrument necessary to achieve this was not laid before the Scottish Parliament prior to that date. The Erskine Bridge Tolls Act 2001 therefore restored the position on tolling to the point it would have been at on 1 July 2001 had this error not been made. The Bill for the Erskine Bridge Tolls Act 2001 was introduced as emergency legislation to re-enact the power to levy tolls and was retrospective in nature.

52. Following the previous administration's Tolled Bridges Review, Ministers decided to lift the tolls on the Erskine Bridge. It was announced on 1 March 2006 that the Scottish Ministers would stop collecting the tolls from midnight on 31 March 2006.

53. To regulate the lifting of tolls in the short term a Toll Suspension Order under section 6 of the 1968 Act was made. That had the effect of suspending tolls from 1 April until midnight on 1 July 2006. The tolling powers expired on 2 July 2006. It is therefore no longer possible to levy tolls at the Erskine Bridge without further primary legislation, along the lines of the 2001 Act, authorising the collection of tolls.

54. Against that background the underlying legislation should now be repealed as a matter of statute law revision given that a suitable legislative vehicle has arisen. None of the provisions of the 1968 and 2001 Acts requires to be retained for the future operation of the bridge. The operation of the road (and accordingly the bridge carrying it) are covered already by the regime set out in the Roads (Scotland) Act 1984 in the same way as any other road and bridge for which the Scottish Ministers are roads authority.

Policy objectives

55. The policy objectives are to remove the debt deadline at the Tay Road Bridge, and to repeal the underlying redundant legislation in respect of tolling of the Erskine Bridge by the repeal of the Erskine Bridge Tolls Act 1968 and the Erskine Bridge Tolls Act 2001 (and certain related subordinate legislation).

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal opportunities

56. The provisions of the Bill are not discriminatory on the basis of gender, race, age, disability or religion or sexual orientation.

Human rights

57. The provisions of the Bill are not prejudicial to human rights.

Island communities

58. The provisions of the Bill have no direct effect on island communities.

Local government

59. The provisions of the Bill do not alter the management and maintenance arrangements at either the Tay or the Forth Road Bridges other than to remove the right to demand tolls. The Bill does not introduce any new role for the relevant local authorities which would be in addition to their existing role as members of the respective bridge authorities (that role remaining the same other than in relation to tolls).

Business

60. Businesses should benefit from a direct reduction in transport costs from the abolition of the road tolls and – in so far as the abolition of the tolls reduces the cost of travel to work – an increased catchment area from which to attract their employees.

61. However it is likely that additional off-peak trips across the two bridges will have some impact on the journey times of business road users during those off-peak times.

Sustainable development

62. The broad environmental impacts that may result from the removal of the bridge tolls have been quantified by using strategic and local transport models and an economic model.³

63. The modelling indicated that removing the tolls would result in lower travel costs with more jobs becoming accessible from Fife and more residents of Fife becoming employed. However very little change in job numbers was predicted in Fife so this increased employment would result in an increase in commuting from Fife.

64. The modelling predicted that there would be more road traffic and more time spent travelling. This would result in a small net increase in local emissions and increased carbon dioxide emissions from the additional traffic. It was predicted that changes to traffic routes could result in larger increases in local emissions in areas such as Fife and Dundee with reductions elsewhere.

65. The predicted increase in traffic would be unlikely to result in a discernible change in traffic noise but could reduce the visual amenity at each road bridge and have an adverse affect on journey ambience for road users.

66. Economic modelling indicated that there was likely to be no increase in jobs in Edinburgh due to the abolition of the tolls on the two road bridges. However the abolition of tolls could result in some increased commuting into Edinburgh if existing residents of Edinburgh moved to Fife whilst retaining their jobs in Edinburgh.

³ Toll Impact Study – Steer Davies Gleave – August 2007

This document relates to the Abolition of Bridge Tolls (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 3 September 2007

67. The Scottish Executive will continue to consider and where feasible support improvements to Park and Ride and public transport that could help reduce any increased time spent travelling in Fife, Dundee and the Lothians.

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