# EXECUTIVE NOTE

# DRAFT : THE NATIONAL BUS TRAVEL CONCESSION SCHEME FOR OLDER AND DISABLED PERSONS (SCOTLAND) AMENDMENT ORDER 2010

This order amends Article 11 and 12 of the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 ("the 2006 Order"). The amendment Order is subject to affirmative resolution procedure.

## Policy Objectives

The purpose of this amendment Order is to set the capped level of funding underpinning the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland), established by the 2006 Order ("the Scheme"), in 2010-11 of £174.2m, 2011-12 of £180m and 2012-13 of £187m, and to amend the current reimbursement rate of 73.6% to a new reimbursement rate of 67% of the average adult single fare.

The amendment Order also introduces a change in information that operator must provide to Scottish Ministers in order to receive reimbursement in terms of the Scheme. From the day the Order comes into effect, 'shadow fare' will be the required method of claiming reimbursement. 'Shadow fare' means that an operator records the journey made by the cardholder and records the fare equivalent for the actual journey being made by the card holder. This allows the operator to be reimbursed to reflect the actual cost of the journey.

## Consultation

Following the completion of the review of the National Bus Travel Concession Scheme and publication of the review report in May 2009, the Institute for Transport Studies ("ITS") from the University of Leeds were invited to undertake work to improve the evidence base for setting the reimbursement rate paid to operators under the scheme in time for the '2010-11 financial year and to inform funding decisions for the next Spending review period'.

The full specification for ITS was drawn up in consultation with and with the full agreement of the Confederation of Passenger Transport (CPT) who are the recognised representative voice of the bus industry, and the focus for consultation on national legislation. The emerging findings took account of the data provided by CPT and the bus industry more generally. Ongoing discussions have taken place between the industry and Scottish Government officials to agree both the reimbursement rate and the consequential capped level of funding for the 2010-11, 2011-12 and 2012-13 financial years.

The move to shadow fare as the required method of claiming reimbursement was one of the agreed recommendations from the review report. CPT were involved in the review and contributed to the working groups and the final drafting of the report itself.

**Financial Effects**

The scheme has a capped level of funding of £174.2m for the 2010-11 financial year. This is some £13.2m less than the previous year. However this change is in line with the principle that operators are 'no better and no worse off' through taking part in the scheme than they would be if no scheme were to exist. This covers revenue forgone and any additional costs that they incur, and reasonable profit.

The 2006 Order has been amended in such a way as to outline the capped level on funding for the next three financial years.

**Date of implementation**

The agreement with CPT is for the three years commencing 1 April 2010, and operators understand that the changes are due to be implemented from that date. The commencement provision in the Order has been drafted to allow for implementation on 1 April, or on the day after the Order is made, should that be later than 1 April.

**Regulatory Impact Assessment**

The Regulatory Impact Assessment (RIA) supports the changes within the amendment Order. It can be accessed at www.Scotland.gov.uk

February 2010

**Regulatory Impact Assessment (RIA)**

1. The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2010

**Purpose and Intended effect**

**Objectives**

2. The purpose of this Order ("the amendment Order") is to set the capped level of funding underpinning the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) ("the Scheme"), for 2010/11; to amend the current reimbursement rate of 73.6% to a new reimbursement rate of 67% of the average adult single fare; and to introduce a change in information that operators must provide to Scottish Ministers in order to receive reimbursement in terms of the Scheme.

3. From the day the Order comes into effect, 'shadow fare' will be the required method of claiming reimbursement. 'Shadow fare' means the fare equivalent for the actual journey being made by the card holder. The operator records the journey made by the cardholder and records the shadow fare. This allows the operator to be reimbursed to reflect the actual cost of the journey.

**Background**

4. The Scheme was introduced on 1 April 2006 by the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 ("the 2006 Order"). This followed an agreement reached by the then Scottish Executive and the Confederation of Passenger Transport (CPT), on behalf of bus operators, for the delivery of an unrestricted free national bus travel scheme for eligible passengers at agreed levels of payment to the industry. There was also a commitment by both parties to maintain the Scheme for seven years, and that a major review would be undertaken during year 3 of its operation. This review constitutes that undertaking.

5. On 4 July 2008, John Swinney MSP, Cabinet Secretary for Finance and Sustainable Growth, announced the commencement of the review. The review was a jointly sponsored project between the Transport Directorate (TD) and Transport Scotland (TS), the national transport agency for Scotland managing the concessionary travel scheme. A Steering Group comprising representatives from TD, TS and CPT was established to direct, scrutinise, and approve all stages of the review process.

6. The report from the review was published in May 2009. Two of the key recommendations have led to the changes required through the amendment Order namely:

- That all operators not on a flat fare be required to move to a single method (shadow fare) of claiming reimbursement based on smartcard technology as it is fully rolled out; and

- That an independently led examination should commence on fare discounts and the addition for cost to report in time for setting the reimbursement rate for the 2010/11 financial year and to inform funding decisions for the next Spending review period.

7. The primary reason to move to 'shadow fare' through the integrated technology was to obtain data transfer integrity which would allow for payments to operators based on what data is obtained from their ticket machines by Transport Scotland. This involves the issue of electronically chipped cards to card holders, installation of electronic ticketing machines on buses and remote access to data recorded by those electronic ticketing machines by Transport Scotland. The installation of electronic ticketing machines is therefore a deterrent in the first instance to those who might look to fraudulently make use of the Scheme.

8. Following the completion of the review of the Scheme and publication of the review report in May 2009, the Institute for Transport Studies from the University of Leeds was invited to undertake work to improve the evidence base for setting the reimbursement rate paid to operators under the Scheme in time for the '2010-11 financial year and to inform funding decisions for the next spending review period'.

9. The terms of reference were established following consultation and with the full agreement of CPT. The emerging findings took account of the data provided by CPT and the bus industry more generally.

**Consultation**

*Within Government*

10. We have consulted with colleagues in Transport Scotland who administer the Scheme.

*Bus Industry*

11. Ongoing discussions have taken place between the CPT, on behalf of bus operators and Scottish Government officials to agree both the reimbursement rate and to determine the consequential capped level of funding for the 2010/11 financial year. This has followed on from the work undertaken during the review period.

*Public Consultation*

12. Due to the nature of the changes being proposed there has been no direct consultation within the general public although consideration of the impact of a change in the reimbursement rate and its implication on Government funding for the bus industry in Scotland formed part of the wider consideration going forward. Consultation has taken place with CPT and with the Chief Executive Officers from 4 of the 5 main bus operators in Scotland. There has been no public consultation as the consultation with CPT has led to an agreement that operators would seek to broadly maintain mileage and minimise fare increases over the period of the agreement, while recognising that there are many external factors that could affect these

**Options**

Option 1: Retain the Status quo on the Reimbursement rate and do not move to 'shadow fare'

13. Fundamental to the Scheme is the principle that operators are 'no better and no worse off' (as set out in article 12(1) of the 2006 Order) through taking part in the Scheme than they would be if no Scheme were to exist. During the review of the Scheme it was clear that there was some uncertainty that the reimbursement rate applied was reflective of that principal and as a consequence further work was commissioned to improve the evidence for setting the reimbursement rate. That work is to be published in a report which clearly evidences a change in the existing rate to reflect the 'no better or no worse off principle'. In the circumstances, doing nothing would be contrary to the key principle underpinning the Scheme and would undermine our related intention to address the wider need to ensure sustainability of the Scheme in the longer term.

Option 2: Delay implementation of the changes

14. One of the key aims of introducing smart card technology in tandem with the move to 'shadow fare' is to ensure greater accuracy of payments to operators as well as beginning to address opportunities for fraudulent claims and misuse of concessionary travel. Delaying the introduction of the technology would send out the wrong message and would not discourage abuse of the Scheme.

Option 3: Introduce a revised reimbursement rate to be paid to operators within the capped level of funding (also set out within the amendment Order) and the requirement that 'shadow fare' is the required method of claiming reimbursement

15. This option ensures that the Scheme retains the principle that operators are 'no better and no worse off' by introducing a reimbursement rate evidenced through recent and detailed research which has allowed the determination of an appropriate level of capped funding. The move to 'shadow fare' ensures that the operators embrace the use of Scottish Government funded smart card technology; that progress can be made to tackle any fraudulent use of the Scheme; and removes current variations in operation and replaces them with a standardised, simple and more accurate method of obtaining data from operators for reimbursement.

**Costs and Benefits**

- **Sectors and Groups affected**

16. The sectors most affected by the changes in the amendment Order are the bus industry and bus passengers (both concessionary and commercial).

**Benefits**

Option 1: Retain the Status quo on the reimbursement rate and do not move to 'shadow fare'

17. There would be no benefits achieved by retaining the current position whereby the current means of claiming reimbursement by operators remains more susceptible to fraudulent use and the level of reimbursement payment is contrary to the principle that operators are 'no

better and no worse off' through taking part in the Scheme than they would be if no Scheme were to exist, as evidenced by the research commissioned by the Scottish Government.

Option 2: Delay implementation of the changes

18. Delaying implementation would not provide the bus industry with the level of financial certainty that they require going forward, and would undermine the benefits of smart card technology.

Option 3: Introduce a revised reimbursement rate to be paid to operators within the capped level of funding (also set out within the amendment Order) and the requirement that 'shadow fare' is the required method of claiming reimbursement

19. This option would allow the operators to plan for the coming financial year. It also ensures that TS and bus operators can develop a more detailed understanding of concessionary travel plans through the smart card technology. The introduction and roll out of smart card technology and shadow fare should also begin to allay current passenger concerns that some operators might not be recording journeys correctly and could potentially be seen to defraud the Scheme.

**Costs**

Option 1: Retain the Status quo on the reimbursement rate and do not move to 'shadow fare'

20. There would be no cost implications for the operator but significant cost implications for the public purse. Given the clear outcome of the recent research commissioned on the reimbursement rate, this would result in the Scottish Government reimbursing operators above the 'no better and no worse off' principle. Failure to move to 'shadow fare' would also result in the smart card technology not realising its full. Operators may be less enthusiastic to move towards using the new technology. Use of the 'shadow fare' simplifies the current choice of multiple options through standardising fare payment using accurate data which is easier to collect timeously.

Option 2: Delay implementation of the changes

21. The initial costs of the Scheme would be higher the longer the delay in implementing the changes within any given financial year. For every day that the order is delayed from coming into effect after 1 April 2010, it has been calculated that the additional costs to the scheme would be in the order of £50,000.

Option 3: Introduce a revised reimbursement rate to be paid to operators within the capped level of funding (also set out within the amendment Order) and the requirement that shadow fare' is the required method of claiming reimbursement

22. There would be no cost implications if option 3 were adopted given the above 'no better and no worse off' principle. Operators have informed Transport Scotland that there are some costs associated with reconfiguring the smart card machines and back offices to record/process shadow fare transactions as opposed to the transaction type an operator may currently be using. Further assessment indicates that the relevant changes can probably be done remotely and that no meaningful training issues arise. As a consequence the costs

involved look like being relatively modest (although a specific figure has not yet be determined). The costs will be met by Transport Scotland.

**Competition assessment**

23. The Scottish Government do not consider that the proposed changes in the amendment Order will have any impact on competition. It is not considered likely that the proposals will directly or indirectly limit the range of suppliers and neither is it considered likely that it will limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

**Enforcement, sanctions and monitoring**

24. Transport Scotland is responsible for the administration of the Scheme and compliance with the requirements as detailed within the amendment Order and SSI 2006/107 The National Bus Travel Concession Scheme Order for Older and Disabled Persons (Scotland) Order 2006.

**Implementation and delivery plan**

25. The amendment Order is subject to affirmative resolution procedure and will require to be approved by the Parliament. The amendment Order will detail the capped level of funding underpinning the Scheme for 2010/11, 2011/12 and 2012/13; introduce a new reimbursement rate of 67% of the average adult single fare; and introduce a change in information that operators must provide to Scottish Ministers in order to receive reimbursement in terms of the Scheme. All of these changes will be effective from the day following the day the Order is made, or from 1 April 2010, whichever is later.

**Post-implementation review**

26. The Scottish Government will continue to monitor the evidence basis for the determining the reimbursement rate and the implications of introducing smart card technology.

**Summary and recommendation**

27. Based on the analysis above the Scottish Government recommends the changes outlined within the amendment Order.

**Declaration and publication**

28. I have considered the Regulatory Impact Assessment and am satisfied that the balance between cost and benefit is the right one in the circumstances.

**Signed……**

**Date…….**

**Stewart Stevenson**
**Minister for Transport, Infrastructure and Climate Change**