

## Business and Regulatory Impact Assessment

### **Title of Proposal**

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

### **Purpose and intended effect**

- **Background**

The Scottish Government aims to deliver environmental protection and minimise environmental impacts by measuring, monitoring and managing transport impacts on air quality, whilst complying with statutory air quality limits. However, despite reducing air pollution in Scotland in recent years, hotspots of poor air quality remain in our towns and cities.

“Cleaner Air for Scotland: The Road to a Healthier Future (CAFS)”, published in 2015, is Scotland’s Air Quality Strategy. The strategy sets out how the Scottish Government and its partners propose to reduce air pollution and fulfil Scotland’s legal responsibilities as soon as possible.

The Scottish Government is committed to working with local authorities to introduce LEZs in our four biggest cities between February 2022 and May 2022. The LEZ Leadership Group<sup>1</sup> consider this the earliest possible opportunity to introduce the public health initiative. Previously, LEZs were planned to be introduced in these four cities between 2018 and 2020, as stated in its Programme for Government (PfG) 2017, but this was delayed due to the impact of Covid-19. The most recent indicative timeline is a commitment by all partners to work as quickly as they can to introduce LEZs at the earliest juncture. This work is being led by Transport Scotland, the national transport agency of the Scottish Government.

In the PfG 2017, as well as introducing LEZs into our four biggest cities, the Scottish Government also committed to introducing LEZs by 2023 into all other Air Quality Management Areas (AQMAs), where the National Low Emission Framework (NLEF) appraisals advocate such mitigation.

The Transport (Scotland) Act 2019 was passed by the Scottish Parliament on 10th October 2019 and received Royal Assent on 15th November 2019. The Act makes provision for the creation, operation, enforcement, amendment and revocation of LEZs in Scotland. LEZ regulations are then created to implement the provisions set out in the Act.

This BRIA accompanies the regulations being formally presented to parliament. As stated in the introduction, a BRIA assesses the likely costs,

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<sup>1</sup> Transport Secretary Michael Matheson, Climate Change Secretary Roseanna Cunningham and representatives from Glasgow City Council, The City of Edinburgh Council, Dundee City Council, Aberdeen City Council, Public Health Scotland & SEPA.

benefits and risks of the regulation that may have an impact on various sectors. Whilst a number of the key national levers will be determined via regulations, it is likely that the geographical scale and (vehicle) scope of specific LEZ schemes will vary at a local level as local authorities design and operate their own LEZs. Localised LEZ specificities will influence the associated impacts for business and industry therefore it is key that these are assessed at a local level by local authorities. This final BRIA has been drafted following the partial BRIA which was conducted in 2018 when the Act was at Bill stage.

There have been several rounds of consultation regarding LEZs (see section on consultation below for further detail), including an initial consultation between September – November 2017 and another consultation between December 2019 – February 2020. The expected impacts outlined in the partial BRIA were derived from responses to this 2017 consultation.

An early version of the regulations were available to the consultees engaged during the 2019-2020 consultation. The development of the regulation means consultees engaged during the most recent consultation had access to more information regarding the LEZ compared to the 2017 consultation, including specific information such as emissions standards, exemptions and penalty charges. As a result, businesses and organisations have been more easily able to describe potential impacts they may experience. The extra detail provided in the consultation responses allows the final BRIA to examine each aspect of the policy instruction in more detail than was previously possible in the partial BRIA.

- **Objective**

LEZs are a form of vehicle access regulation which sets an environmental limit on certain road spaces, to improve air quality by allowing access to only the cleanest vehicles, particularly at locations where air quality does not meet Scottish legal objective values.

- **Rationale for Government intervention**

CAFS states that, in Scotland in 2010, fine particulate matter was associated with around 2,000 premature deaths and around 22,500 lost life-years across the population. The impact of poor air quality on health has been estimated to cost around £15 billion per year whilst the total annual cost of air pollution to the UK's economy may be as much as £54 billion. At the same time, Scotland is yet to achieve full compliance with the EU (2008/50/EC) and Scottish legal requirements for air quality<sup>2</sup>. Scotland is facing legal (environmental), health and social justice challenges around air pollution, where non-compliance with domestic and European air quality legislation is due predominantly to road-

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<sup>2</sup> The 2008 ambient air quality EU directive (2008/50/EC) sets legally binding limits for major air pollutants that are known to have a significant impact on human health. This 2008 directive replaced most of the earlier EU air quality legislation and was made law in Scotland through the Air Quality Standards (Scotland) regulations 2010.

based emissions.

## **Consultation**

- **Within Government**

The content in the regulations for LEZs have been developed in a collaborative way with extensive contributions from officials across the Scottish Government and associated public bodies, including, but not limited to: Roads Directorate (Transport Scotland); Low Carbon Economy Directorate (Transport Scotland); Bus, Accessibility and Active Travel Directorate (Transport Scotland); Environmental Quality Directorate (Scottish Government); Scottish Government Legal Directorate; Scottish Government Planning and Environmental Appeals Division (DPEA); Scottish Government Directorate for Justice; and Scottish Environment Protection Agency (SEPA).

- **Public Consultation**

### Summary of 2017 consultation

The first consultation specifically related to LEZs, 'Building Scotland's Low Emission Zones<sup>3</sup>', helped to inform the LEZ policy making process that subsequently helped to shape substantive elements of the LEZ component of the Act. In total, 967 responses were received (225 Substantive responses, 732 Campaign responses and 10 Campaign Plus responses). The responses where respondents gave their own views and did not use any Campaign text were classified as "substantive". The 225 substantive responses were received from 101 organisations and 124 individuals.

The 732 Campaign responses received during the consultation period were in response to a Campaign orchestrated by Friends of the Earth Scotland. These respondents were provided with suggested text online which was submitted electronically and resulted in nearly all Campaign responses being identical. Respondents had the opportunity to amend the suggested text provided by Friends of the Earth Scotland prior to submitting, which resulted in 10 respondents answering additional questions. These responses were classified as "Campaign Plus" responses. These were analysed with the remainder of the Campaign responses as the additional comments did not differ significantly from the views contained within the overall Campaign text.

The 225 substantive responses to the aforementioned Public Consultation were from both organisations and individuals. Response types from organisations included academic/ research, business industry, professional/ trade body, public body, third sector, and community groups.

Whilst the consultation responses indicate that there is support for the introduction of LEZs in Scotland (97.8% of responding organisations supported the principle of LEZs to help improve Scottish air quality), there are aspects of the policy that would be of greater impact or importance to

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<sup>3</sup> Transport Scotland, 2017, Building Scotland's Low Emission Zones – A Consultation, [https://consult.gov.scot/transport-scotland/buildingscotlands-low-emission-zones/supporting\\_documents/Low%20Emission%20Zones%20Consultation%202.pdf](https://consult.gov.scot/transport-scotland/buildingscotlands-low-emission-zones/supporting_documents/Low%20Emission%20Zones%20Consultation%202.pdf)

Organisations and Businesses than Individuals. These include: ·

- financial costs for altering/upgrading their vehicle fleet to meet forthcoming LEZ emission standards within the grace periods adopted by local authorities,
- the risk of penalties for entering LEZs with non-compliant vehicles and the impact on the attractiveness of their service to customers as a result of increased costs to paying customers (to cover the cost of vehicle fleet upgrades), ·
- and/or the movement of customers away from a LEZ area

#### Summary of 2019-20 consultation

Following the completion of the partial BRIA and the Bill receiving Royal Assent in November 2019, further consultation was undertaken regarding the development of the specific LEZ regulations under the Act. The second public consultation ‘Scotland’s Low Emission Zones: regulations and Guidance<sup>4</sup>’ was conducted between the 13th December 2019 and the 24th February 2020.

In total, 306 responses were received, all of which were ‘substantive’. These were from both organisations and individuals, with 72 responses from organisations (24%) and 234 responses from individuals (76%). Of those substantive responses from organisations, 59 have been utilised within this BRIA due to their relevance in assessing impacts to businesses and the third sector. Due consideration to the impacts experienced by individuals is included within the Consumer Assessment Section.

The consultation finds that sentiment towards Scotland’s shift to zero or ultra-low emission city centres by 2030 is vastly positive and Low Emission Zones are generally considered as an appropriate vehicle to help facilitate this change. While some stakeholders raise objections to the implementation of LEZs in general, the majority of issues raised during the consultation relate to the particulars included within the regulation proposals provided for the consultation.

Whilst less than half of individuals agreed with the proposed present-day emission standards for Scottish LEZs, 70% of organisations agreed with the standards. However, 33% of organisations suggested more extreme measures were required to tackle the air quality problem and 18% commented that the regulation proposals are targeting the wrong vehicles. In a question regarding vehicle exemptions, 73% of respondents suggested alternative exemptions to those included within the proposals.

Sentiment towards the penalty charge structure that was consulted on was largely negative. Of the 54 organisations who responded to the relevant question in the consultation, 30 believed the base level and subsequent tiers of penalty charge were not appropriate. Of the respondents who disapproved

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<sup>4</sup> Transport Scotland, 2020, Scotland Low Emission Zone Consultation 2019-2020 Analysis Report, <https://www.transport.gov.scot/publication/scotland-low-emission-zone-consultation-2019-2020-analysis-report/>

of the penalty charge structure, one third cited an excessive charge for HGVs and PSVs as their reasoning, while 17% would prefer a flat rate charge. Dissatisfaction towards the magnitude of the HGV penalty charge may be coming from businesses who are reliant on HGVs for their operations. The Freight Transport Association, who can be considered as somewhat representative of the haulage industry, believe that penalty charges for HGV's are disproportionately high.

The surcharge structure that received the most support from organisations engaged was a 'staggered' progression, with the tier level increased for every 3 infringements of a LEZ. 55% of the organisations who answered this question selected this as their preferred option. Of the organisations which selected this option, 75% did so because they believe it to be the 'simplest rule'. This suggests that, for many of the stakeholders, clarity is a fundamental requirement for the surcharge structure.

It is clear from the consultation that the proposed LEZ enforcement regime is positively viewed by the organisations who were consulted, with nearly 90% of responses agreeing with the general principles. A key trend identified by the responses to question 43 of the consultation was the demand for enforcement to be consistent across regimes. Another trend identified through the consultation is the belief that support is needed for local authorities to enforce LEZs.

Impacts on businesses and the third sector have been identified throughout the consultation responses. It is evident that many organisations expect cost increases due to the purchase of electric vehicles, while 9% of organisations anticipate a reduction in footfall in the city centre. The consultation responses also highlighted concern for smaller businesses, with 23% of organisations mentioning the expected detrimental impact on small and medium enterprises (SMEs).

While concerns were raised regarding the negative impact LEZs may have on certain business costs, the outlook towards other potential costs was positive. The implementation of a new LEZ could reasonably be expected to impact job creation, particularly in the short term. However, fewer than 10% of organisations anticipated a negative impact on job opportunities. Similarly, while the high cost of switching to compliant vehicles is expected to change inter-city mobility patterns, fewer than 5 organisations anticipate that:

- businesses would find it difficult to recruit -
- a reduction in trade would cause businesses to close or move out of the LEZ -
- it would take time for businesses to adapt, or -
- there will be reduced footfall in city centres

These findings suggest that businesses recognise the costs associated with upgrading vehicle stock ahead of time and have concerns about the impact on SMEs. However, they do not anticipate commonly heralded business costs such as reduced city centre footfall or challenges in recruitment. Overall, organisations are supportive with few foreseeing detrimental impacts.

## LEZ Workshops

In May 2019, Transport Scotland organised workshops to engage with stakeholders. The workshops provided stakeholders the opportunity to provide input on aspects of the LEZ ranging from penalty charge options, engagement requirements, LEZ objectives, exemptions and appeals. The results<sup>5</sup> from this process fed into the development of LEZ regulations and guidance.

- **Business**

Engagement via the consultation and/or via one-to-one meetings has been undertaken with a number of organisations on the subject of LEZs including (but not limited to):

- Scottish Environmental Protection Agency (SEPA)
- Confederation of Passenger Transport (CPT)
- Society of Motor Manufacturers & Traders (SMMT)
- Road Haulage Association (RHA)
- Freight Transport Association (FTA)
- Glasgow Chamber of Commerce
- Edinburgh Chamber of Commerce
- Federation of Small Businesses Scotland (FSB)
- Scottish Taxi Federation

## **Options**

### Option No.1: Do Nothing

#### **Sectors and groups affected**

If LEZs are not introduced, then LEZ access restrictions would not occur and businesses would adopt a business as-usual approach. Notwithstanding, the air pollution mitigation actions outlined in existing Air Quality Action Plans for certain cities would still be sought with these actions perhaps having a degree of impact on business and industry (these are out-with the scope of this BRIA on LEZs). The policy benefits and legislative compliance elements outlined above – in relation to creating LEZs - would not be realised by wider society and the general public (and sub-groups of the public with particular susceptibility to poorer air quality) if a 'Do Nothing' approach was adopted.

#### **Benefits**

The Do Nothing option would maintain the status quo. Whilst vehicle owners undertaking an economic activity (if State Aid definitions are applied here) would not

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<sup>5</sup> i Transport Scotland, 2019, Low Emission Zones in Scotland Regulations and Guidance Workshops, <https://www.transport.gov.scot/publication/lowemission-zones-in-scotland-regulations-and-guidance-workshops/>

need to adapt or upgrade fleets – and thus avoid the associated disruption caused by change which could arguably be described as a benefit – the Scottish Government would not be achieving the legal air quality objectives in the quickest possible time. Beyond the strict legislative compliance issue, the Do Nothing option does not help to achieve or deliver wider societal health and environmental benefits.

### **Costs**

If LEZs are not implemented, then there would be no implementation costs beyond the transport-related actions already outlined in Air Quality Action Plans. By not achieving its legally obligated air quality objectives in the quickest possible time, the Scottish Government would be open to legal challenge.

### Option No.2: Implement LEZs immediately in a prescribed manner for certain vehicle types

#### **Sectors and groups affected**

Business and Industry groups would be significantly impacted by this option. A very strong theme emerging from engagement with the business sector has been the need for preparation, planning, proportionality and pragmatism in relation to LEZs (as noted above, there is a general agreement on the principle of LEZs but delivered in a managed manner). An immediate implementation of LEZs without due consideration of grace periods or other flexibility would result in significant economic hardship and a seismic shift in the ability of both businesses and customers to enter a city centre using their existing vehicle fleet composition.

The above is noted with acknowledgment of Mr Justice Garnham's clear steer during 2016, 2017, and 2018 (albeit in relation to the UK Governments air quality plan) on the need to address illegal levels of air pollution in the quickest time possible.

### **Benefits**

Whilst Option No.2 would be a literal interpretation of the aspiration to improve air quality in the quickest possible time (with clear and obvious environmental and health benefits), it would be extremely challenging in terms of the business sector's ability to adapt. In effect, it would not be feasible to maintain economic activity and comply with the LEZs. Fleet operators have described to Transport Scotland officials the engineering actions required to reduce the exhaust emissions from their fleet as '...offering no tangible benefit to our bottom line, or to service we provide to our customer'.

### **Costs**

No consideration has been given to the specific implementation costs associated with this option. However, it is assumed to be significantly higher than the costs outlined for Option No.3.

### Option No.3: Implement LEZs within a grace period framework with flexibility for local authorities to decide on scale and scope.

## **Sectors and groups affected**

This option would see the general public (and sub-groups of the public with particular susceptibility to poorer air quality) benefit from associated improvements in air quality. It would also allow implementation in a proportionate manner to enable those affected (such as businesses and individuals) to adapt and alter their practices within the grace periods proposed within the Act, whilst still working within the test of 'addressing air pollution in the quickest possible time'.

The Act has been framed in a manner to allow for, amongst other things, a core grace period of one to four years, exemptions for certain vehicles and during certain times and events, local flexibility in terms of geographical scope and the ability for emission standards and enforcement measures (using approved devices) to be set via regulations after parliamentary and public scrutiny.

## **Benefits**

The benefits of LEZs under Option No.3 are succinctly summarised in the Transport (Scotland) Bill Policy Memorandum paragraphs 35 and 36, which state that: -

- The policy intention is to enable local authorities to introduce (subject to the approval of the Scottish Ministers) low emission zones in Scotland, to help mitigate air pollution that is predominantly caused by road transport in Scotland's towns and cities. Designation of an area as a low emission zone puts in place an access restriction scheme for that area by reference to specified vehicle emission standards. Only vehicles meeting or exceeding those emission standards (which will be set nationally by the Scottish Ministers) will be permitted to drive within low emission zones. -
- Low emission zones will help to protect human health; support the achievement of, and progress beyond, compliance with Scottish and European air quality legislative requirements, whilst contributing to improvements in road network operations and helping to tackle congestion (in tandem with other transport policies); encourage modal shift towards active travel and public transport; and support placemaking to improve town and city spaces in order to create attractive places to live, work and visit.

One of the goals of a LEZ will be to help encourage modal shift and accelerate the move to low emission vehicles, thereby improving air quality. The provisions in the Act are seeking a pragmatic approach that would enable local authorities to adopt a phased and proportionate approach, thus providing businesses and individuals with a period of time to prepare and adapt.

Option No.3 also provides the option for the Scottish Government to provide financial support to business. For example, in terms of wider support for the bus sector in particular, the Bus Emission Abatement Retrofit (BEAR) programme is seeking to help bus operators bring their vehicles in line with future emission standards. BEAR Phase 1, 2 and 3 have been successfully carried out through financial years 2017/18, 2018/19, and 2020/21 respectively by Transport Scotland.



Through the Scottish Green Bus Fund, the Scottish Government also offered the Scottish Ultra-Low Emission Bus Scheme (SULEBS), between August and September 2020, to assist with the purchase of new LEZ compliant vehicles. Consultees that highlighted concerns about funding, such as Xplore and FirstGroup PLC, were successful in obtaining support, demonstrating that Transport Scotland is addressing concerns surrounding LEZs. Other financial support is provided relevant to LEZ (both businesses and customers) such as electric vehicle loans (funded by Transport Scotland), Disposal Grants, Retrofit Grants, low carbon transport business loans, and Switched on Taxis Loan.

## **Costs**

The costs of implementing a LEZ scheme will vary depending upon its geographical location, area of coverage and vehicles included within the scope. This will depend on each local authority's LEZ design; an approach the Act and regulations provide for. Whilst it is appreciated that there could be significant costs to industry and business which use or rely on vehicles which do not meet LEZ emissions standards, precise costs and impacts to business, industry and individuals cannot be quantified at this stage. It is recognised that on-going assessment of LEZs is required as designs develop and analysis at local levels provide more detailed insight into impacts.

In terms of the costs associated with the implementation and on-going management of LEZs, there is no fixed or established formula or mechanism to precisely apportion the cost to both National and Local Governments. The Financial Memorandum accompanying the Bill originally introduced to Parliament in 2018 draws on research by Jacobs consultants commissioned by Transport Scotland. A supplementary Financial Memorandum was provided at Stage 2 but there were no significant changes to the policy, therefore the cost estimates did not change. The potential cost windows for different sizes of LEZ schemes (per council, in 2017 prices) over a ten year period are shown in the table below although such costs may need to be refined as further evidence becomes available, especially at a local level where the design of LEZs influences cost significantly.

<b>LEZ Size</b>	<b>Area (km<sup>2</sup>)</b>	<b>Cost (£m)</b>
Small	0.5	4.2 – 5.6
Medium	1.5	9.9 – 14.1
Large	3	17.5 – 26.0

## **Scottish Firms Impact Test**

The implementation of any scheme to restrict certain vehicles from specific locations, such as city centres, has the potential to impact on a very wide variety of those connected with business and industry, from micro sized businesses to large multi-national businesses. It is highly likely that there would be impacts on logistics, delivery haulage, infrastructure operations, the service industry and public transport sectors. Likewise, businesses which rely on road-based vehicles to support or

underpin their income include, but are not limited to, the retail, hospitality and tourism sectors.

Due to the broad range of bodies affected, it is challenging to quantify the detailed impact on specific businesses and their activities. However, the recent consultation and other direct engagement with businesses, trade bodies and organisations, offers insight into the impacts anticipated by stakeholders. The feedback gleaned from engagement allows the identification of opportunities and concerns from the groups who will be affected by the regulation. This feedback is summarised below.

As highlighted above, specific implementation and associated impacts will continue to be assessed and consulted on as progress towards roll-out takes place at the local level.

### Businesses

Relevant impacts raised by each business engaged during consultation are detailed in this section. Key themes which have been identified based on common responses to the consultation include the following. -

- Concern over the capital costs incurred by businesses when upgrading commercial fleets to compliant vehicles, particularly for SMEs. -
- Belief that emissions policy is applied inconsistently – some industries feel disproportionately penalised. -
- Doubt regarding the feasibility of implementation timelines – some businesses feel they need more time to adapt. -
- Concern over the potential for future changes to emissions standards - advanced signalling is required to help investment planning. -
- Support for the nationally consistent standards established by the regulation.

It should be noted that, due to the high number of responses from public service operators, an additional theme appeared regarding the potential inability to maintain service provision without fare increases. Public service operators stated that capital cost impacts may compromise business viability if sufficient support was not made available.

### ***Central Taxis***

The consultation response from Central Taxis can be considered as somewhat representative of taxi operators across Scotland. The response highlights concern over potential increases in business costs for local taxi operators, including the high cost of LEZ compliant vehicles. There are currently only three available compliant vehicles, costing £40k-£60k. Central Taxis state that these high costs, which must be paid for by the individual owner operator, mean that many taxi drivers are “now suffering hardship due to the overheads”.

It is clear that Central Taxis believe there is a need for greater consistency in the application of emissions policy. They do not feel that the regulation proposals will be

universally applied, disagreeing with exemptions for some council or private business owned vehicles. It believes the taxi trade have been supportive of the authorities' objectives to reduce emissions (despite the financial implications) and therefore feels unduly punished by other, more lenient, standards being applied to other private and public businesses. In order to maintain equality, and prevent an unequal effect across different industries, Central Taxis suggest all businesses should be subject to the same minimum standards, with Council owned vehicles at the forefront of this

Further concern is raised regarding the necessary charging infrastructure required to service an electric taxi fleet. Central Taxis are not convinced that the infrastructure is going to develop at the rate required for a fluid transition to electric vehicles, creating operational uncertainty regarding fleet upgrades.

### ***At the Market Ltd***

At the Market Ltd, who run three farmers markets in the Edinburgh every year, are strongly opposed to the regulation proposals due to the devastating impact expected on small businesses operating in the City Centre and what they view as a "sub-optimal" method for assessing non-compliance.

At the Market Ltd strongly believe that the emission standards included within the proposals should consider mileage in their definition of compliant vehicles. It argues that infringement severity is more accurately measured by total mileage travelled than by the number of trips taken into the city centre, meaning the proposed penalty charges are unfairly impactful on those making trips of a shorter distance.

At the Market Ltd support some of the general principles of the LEZ enforcement regime, agreeing that decarbonising buses and reducing the emissions of large-scale delivery companies will help achieve Scottish environmental targets. However, it does not feel the regulation proposals target these large-scale producers. They believe that the regulation proposals place a greater regulatory burden on small businesses than large businesses. Regardless of total distance travelled per annum, all businesses that wish to operate within a LEZ incur the same cost of upgrading each vehicle to compliance. At the Market Ltd believe small businesses who make less trips into the LEZ and therefore do not gain the same value as large businesses on an upgrade cost per trip basis. It is alternatively proposed that penalty charges for commercial enterprises should be administered on a case by case basis, considering how big the company is, how much mileage they are doing and who they are servicing.

It is clear from the consultation response that At the Market Ltd feels this disproportionately high impact on small businesses will have significant effects. They point out that smaller businesses are less likely to have the resources to be able to comply immediately and may face greater difficulty in adapting their fleet to compliant vehicles. As a result, it expects forced closures of many small businesses in the city centre, including the potential termination of its own operations. It is the opinion of At the Market Ltd that the potential closure of many small local independent businesses will have an adverse impact on Scotland's tourism industry – mentioning that a lack of commercial diversity may contribute to the decline of the

industry. Increasing homogeneity is believed to be detrimental for both the tourist economy and the local population – with the closure of small businesses potentially discouraging social interaction and having an impact on the wellbeing of local residents.

### ***RAC Motoring Services***

RAC Motoring Services (hereafter RAC) are supportive of the shift towards cleaner vehicle technology and the push to improve air quality in urban locations. It favours the nationally consistent approach proposed in the consultation paper but acknowledges that some decisions may need to be taken at a local authority level in order to maximise progress towards the overarching goals.

As a representative of several recovery contractors, they believe that recovery vehicles should be granted a LEZ exemption. The RAC suggest that restrictions on older recovery vehicles would be counter-productive, stating that the reduced commercial viability of recovery services would have a negative impact on city centre emissions. Many recovery vehicles cost in excess of £100,000 and are often utilised for over 10 years. Restrictions on such vehicles may mean that many contractors would simply not be able to afford to operate within LEZ cities and could be forced out of business. The RAC believes the subsequent reduction in recovery vehicles may increase the number of stranded vehicles, increasing the likelihood of traffic collisions and the prevalence of congestion.

The RAC acknowledges that emission standards may tighten in the future to try and further combat emissions but offers the opinion that any changes to future standards must be conveyed to businesses with enough lead-in time to be allow them to upgrade their fleets. In this vein, it recommends that new standards are revisited no earlier than five years from when the first LEZs go live, with an adequate lead-in time for implementation and consultation. They must consider the average time that businesses upgrade or change their vehicles, noting that many companies operating fleets are often tied into long-term contracts to help manage costs and are unable to simply upgrade their fleets quickly. It is also noted that smaller businesses are less likely to be able to afford a newer, compliant vehicle.

### ***Renault Trucks Scotland***

Renault Trucks Scotland offered minimal response to the consultation but showed strong positive sentiment towards the regulation proposals and their objectives. The only concern voiced by Renault Trucks was the potential impact on truck dealership sites located within the boundaries of a LEZ. Broken down vehicles may need to be recovered to these sites and, therefore, there might be a very small number of specialist vehicles for which Renault Trucks would recommend the right of appeal (E.g. heavy recovery vehicles).

During the consultation it has also been highlighted that the switch to a younger fleet is likely to cause higher capital costs which some operators may be unable to fund or find it difficult to pass on to their customer.

### ***FirstGroup PLC UK (Bus Division)***

It is the opinion of FirstGroup PLC that the proposals are likely to increase the financial burdens placed on operators of local bus services. While FirstGroup PLC agree with the over-arching goal of reducing city centre carbon emissions, it feels that the proposals will not maximise the modal shift towards public transport. It believes modal shift (from private to public vehicles) is one of the most effective ways of reducing city centre emissions. It fears that the decision to set a lower emissions standard (Euro3) for motorcycles and scooters than for cars may cause individuals to travel via motorcycle rather than elect to travel by public transport. Along with an increase in inner city congestion, it is feared this would reduce revenue for public transport operators.

Alongside reduced revenue, FirstGroup anticipate a significant cost premium for bus operators as a result of the timeframes included within the proposals. Each local bus has a service life (and depreciation period) of at least 15 years. Therefore, a 2030 deadline date would effectively require any bus built since 2015 to be zero or ultra-low emissions. Considering the technology to enable FirstGroup to bring their electric buses into service has only just reached sufficient maturity (in 2019) the proposed timelines are perceived to be unfeasible.

It is surmised that the potential reduction in revenue and increase in costs for public transport providers may lead to unintended consequences, namely reduced bus service provision, if sufficient safeguards (including sunset periods for older vehicles to permit affordable fleet replacement) are not built in.

The FirstGroup bus division also raise concerns over the feasibility of the DVLA database to confirm the Euro status of vehicle. It is believed that the database may not be able to accurately track vehicle retrofitting, meaning the compliance status of vehicles may be incorrect. Such inaccuracies in the database may result in penalty notices being issued and subsequently withdrawn, incurring a considerable cost to both authorities and bus service operators.

While not relating to public transport operations, FirstGroup also raised an issue regarding the shifting business demands of retail providers. The provision of free and abundant parking at out-of-town retail and employment sites will not only undermine efforts to improve air quality and achieve modal shift but will also offer an advantage to out of town retailers in comparison to inner city retailers – particularly if bus services do not run to these locations.

### ***Stagecoach***

While Stagecoach is supportive of the aims to improve air quality and public health through the introduction of Scottish LEZ's, it highlights several issues which are likely to be experienced by bus operators across the country due to the policy.

Stagecoach believe that the implementation of LEZ's will increase the costs and burdens placed on the Scottish Bus and Coach Industry. Vehicles have defined life cycles that are greater than current LEZ cycles and, in order to meet LEZ targets, operator fleet replacement rates will have to be significantly increased. Additionally, the market value of non-compliant vehicles are in decline due to the scale of air

quality improvement schemes like LEZs across the UK - further compounding the cost differential between compliant and non-compliant vehicles.

As a result, Stagecoach believe that bus operators need to be supported through their transition to low-emission vehicles. Without financial support, operators are likely to be faced with stark choices between increasing fares and/or reducing service levels. This could lead to vital services being withdrawn, or operators ceasing to operate in certain areas. The result would restrict use of public transport; an opposing effect to the objectives of LEZs.

The continued uncertainty of future BEAR programme places further financial burdens on operators. The cost of abatement equipment for older vehicles remains high and confirmation of future funding would reassure bus providers that the necessary support is available. Stagecoach highlight the need to resolve the BEAR funding problem so Scottish operators can progress fleet upgrades to Euro VI without financial penalty, bringing Scotland in line with other parts of the UK. Ensuring consistency between Scotland and the rest of the UK should lessen any negative competitiveness effects for Scottish based businesses that may have occurred otherwise.

As well as emphasising the need for funding to enable the transition, Stagecoach declares the need for a phased introduction of LEZ emission standards. It suggests that owners and operators of vehicles must be given enough time to upgrade their fleets to meet the new standards. Graduated routes to full compliance should allow operators to accelerate fleet investment in a sustainable manner that does not adversely affect passengers. Operators need clearly communicated standards within achievable and affordable timescales in order to deliver results without adversely affecting passengers, either through increased fares, reduced services, or a combination of both.

This graduated transition needs to be underlined by clear and certain policy. While it is expected that emission standards will evolve over time, the introduction of further ultra-low or zero emission standards will create uncertainty around investment decisions and may stall fleet replacement. In addition, Stagecoach stated that “differing interpretations of compliance with State Aid in different parts of the UK have put Scottish subsidiaries of group operators at a disadvantage compared to subsidiaries south of the border, affecting the competitiveness of those based in other regions.”

With regards to the level of penalty charge, Stagecoach feel bus operators are being unfairly punished relative to other vehicle types. They believe penalty charges for LEZ contraventions should apply equally across all modes in a similar manner to other national infringements (e.g. speeding). If these charges are not uniformly applied, bus operators will experience a greater cost burden than alternative transport modes, creating varied effects across the transport industry.

Stagecoach also raise qualms with the proposed LEZ exemptions, suggesting that access for buses and coaches to the main bus station in any LEZ should be enabled. There are long distance services that operate 95% of their route outside a LEZ but require access to a central terminal to complete their journey. Not permitting this

exemption would compromise the business viability of many services, despite a small percentage of operations being within the LEZ.

Stagecoach suggests the Traffic regulation Condition regime should be withdrawn due to overlap with the regulation proposals. It fears that operators breaching LEZ regulations may be subject to a financial penalty for LEZ infringement and then also subject to regulatory action by the Traffic Commissioner.

Stagecoach advocates the inclusion of the Traffic Commissioner for Scotland and Bus Users Scotland under the 'other persons' consultation list. It is the belief of Stagecoach that failure to consult these two stakeholders may create negative unintended consequences that could undermine the ability of passengers to access bus services, or for operators to provide reliable, affordable services.

### ***Xplore Dundee***

Xplore Dundee demonstrate their support for Scotland's shift towards low emission city centres through the initiatives they are already implementing across the country. They state they are already onboard with Scotland's transition and that the regulation proposals, if not adapted accordingly, may both stunt progress and endanger the business viability of public service operators.

A key concern raised during the consultation is the inequity of the proposed penalty charge system, which is perceived to fine buses and commercial vehicles excessively compared to other vehicle types. It suggests that it is intrinsically unfair that an industry which is actively investing in cutting emissions will be among the vehicles subject to stricter regulations and more excessive fines. Comparatively harsh penalties for buses relative to private vehicles could lead to increases in fares or reductions in service, contributing to a decline in public transport use and a rise in private car use - which may undermine the overall intent of LEZ imposition. In addition, Xplore Dundee suggest trains should also be subject to regulations applying to city centre LEZs.

While Xplore Dundee supports the transition, it identifies the currently proposed rate of change is a potential issue. Ideally, a bus should be able to run for up to 15 years. However, shifting to ultra-low emission zones in ten years (2030) would mean that the brand-new Euro VI vehicles it has recently acquired to be compliant with LEZs would no longer comply with ULEZ requirements, despite having 33% of their lifespan outstanding. Unless there is adequate support from the Scottish government (i.e. for the BEAR programme), or a lengthy grace period, Scottish bus operators will face financial challenges. Xplore Dundee calls for immediate clarity over State Aid and the definition of what exactly constitutes compliance with a future ULEZ. It also highlights the need for partnership with local authorities to ensure costly new infrastructure for charging vehicles and storing power can be successfully implemented within the required timeframe.

Xplore Dundee also voices concern that Scotland shifting toward ultra-low emission city centres five years ahead of the rest of the UK and the potential competitiveness impacts on businesses operating in Scotland. The earlier shift, combined with England's larger scale, may mean Scotland does not benefit from the latest (and

most reliable) developments in technology. This may place a higher cost burden on Scottish businesses than their English counterparts.

With regards to a LEZ scheme review, Xplore Dundee expressed the opinion that any review should measure changes in travel behaviours and the impact on city centre spending. As previously suggested, it is concerned that ineffective implementation of a LEZ may not create the modal shift from private to public transport that would aid emission reductions. Further concern has been voiced that changes in travel behaviours may reduce city centre spending, with consumers instead favouring retail parks. This would create a transfer in business revenue from the city centre to outside of the LEZ.

### ***Glasgow Chamber of Commerce<sup>6</sup>***

Glasgow Chamber Of Commerce (GCOC) – a business support organisation – is cognisant that the city is breaching air quality standards. GCOC recognises that there is significant work to be done to improve air quality in Glasgow and, to this end, they are engaging with Glasgow City Council on the development of the Glasgow LEZ. In principle they are in favour of a Glasgow LEZ but believe that careful consideration is required around the design in order to prevent any negative impact on Glasgow's economy, particularly around city centre tourism, retail and leisure sectors. Ultimately, GCOC want to ensure that Glasgow is a place where people want to live, visit, invest and work.

Whilst GCOC recognise the evidence that suggests LEZs improve air quality and encourage modal shift, GCOC considers it vital that environmental issues are addressed in a manner that does not impact upon sustainable economic growth. GCOC therefore are seeking a pragmatic, staggered approach to the introduction of Glasgow's LEZ (akin to LEZ implementation in Brighton, Norwich and Oxford), and they have welcomed the phased approach proposed by Glasgow City Council in March and June 2018. They want to see a LEZ that includes vehicles based on their contribution towards air pollution. GCOC have consistently called for adequate timescales and compensation for businesses to upgrade or alter their fleet.

GCOC would also encourage consideration of the unintended consequences of policy development and, in this particular case, the likely impact of changing discretionary travel on city centre tourism, retail and leisure sectors. GCOC believe that the Glasgow LEZ schemes should be considered in the context of its interaction with the city parking strategies, particularly whether some of the larger city centre multi-storey car parks will be allowed to accept cars that are not compliant with the LEZ standards once Phase 2 of the Glasgow LEZ kicks in. This is a key 'red-line' point for GCOC. Whilst GCOC are quite content with the Councils approach to on-street parking, they highlight that differential parking policies between city centres and out of town retail and leisure centres has already displaced business, with private car users perhaps being unduly incentivised to use out-of-town shopping centres (particularly for discretionary travellers).

GCOC are also concerned about the treatment of Small and Medium Sized

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<sup>6</sup> This response is from the 2018 partial BRIA.



Enterprises, in terms of those businesses who travel in and out of the forthcoming Glasgow LEZ on a regular basis for ad-hoc work.

GCOC have stressed that strong, consistent and positive communications and marketing are essential to inform all stakeholders of the LEZ requirements, to enable them to prepare and adapt. GCOC believe that they have a role to play in this communications space in tandem (or partnership) with both National and Local Governments. For example, GCOC have noted that communications with the public on the implementation of LEZs could unintentionally come across as being overly negative (given that a LEZ is an access restriction). They want to see a positive campaign to highlight alternative modes of travel into the city centre where the LEZ will be located.

### ***Edinburgh Chamber of Commerce<sup>7</sup>***

Edinburgh Chamber Of Commerce (ECOC) acknowledge that LEZs are a necessity in Edinburgh to address air pollution, but are clear that the current economic environment for business is challenging, so the introduction of an LEZ would require careful consideration of the unintended consequences. As such, ECOC would like to see the City Council undertake a BRIA for the Edinburgh LEZ to develop an evidence base around the cost, impact, risks and opportunities for businesses. ECOC would also like to participate in a role related to the development of the national strategic approach to LEZs.

They believe that LEZs have a role to play in the bigger smart city strategy to redesign Edinburgh over the next 10 to 15 years. This approach would only work if organisational silos were broken down across master-planning of various planning/infrastructure schemes including LEZs. Taking this a step further, ECOC would like businesses to adopt a paradigm shift to focus on productivity and efficiency rather than just productivity, with LEZs perhaps acting as a catalyst for such change. LEZs could also promote small or nudge changes in how businesses operate, with local SMEs located within a LEZs perhaps trialling the use of electric bikes.

Like GCOC and Federation of Small Businesses, ECOC want to see National Government financial support being provided to businesses to help fund vehicle upgrades and assist operational decision making such as LEZ operational timings that might aid or support delivery access in the city. ECOC believe that a 4-year grace period for a LEZ is reasonable.

ECOC emphasise that communications and messaging is critical “to show businesses the path to take” to get ready for LEZs and how everyone has a role to play, but at the same time warn against being overly instructional. ECOC have offered to work in partnership with the Scottish Government around LEZ communications and marketing in the lead-up to LEZ implementation. One element that ECOC want to see communicated is the identification of the various alternative modes to travel into cities with LEZs, particularly for private car users. ECOC would not want to see bus displacement of poorer emission vehicles to the outskirts of

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<sup>7</sup> This response is from the 2018 partial BRIA.

cities but were unsure whether this would become an inevitable reality or whether it could be easily avoided.

### ***Federation of Small Business Scotland<sup>8</sup>***

The Federation of Small Businesses Scotland (FSB) welcomed the Scottish Government's commitment to improve air quality, stating that SMEs are ready and willing to play their part in tackling air pollution. FSB point out that it is rare for a legislative regime (such as LEZs) to have the potential to impact on a high number of different types of businesses across Scotland.

FSB have drawn attention to the fact that SMEs provide a plethora of goods and service to homes, businesses and workplaces in potential LEZ locations. It is vital that SME's are still able to access city centres (which have LEZs) whilst transitioning their fleet to low emission vehicles. In order to do this, the FSB felt that smaller businesses will require support from both the Scottish Government and local authorities to adapt to new emission standards, including:

- Ensuring that a nationally consistent approach to LEZs is guaranteed through legislation, with a focus on emission standards and long lead-in times. .
- Setting a nationally consistent standard rate for penalties across all non-compliant vehicles.
- Providing reasonable lead-in times to allow businesses to prepare, plan, adapt, change fleets and alter investment decisions prior to LEZ enforcement starting. .
- Introducing business-friendly funding support for mitigation measures. .
- FSB would like to see a 'hardship' exemption introduced for small businesses that would be severely financially affected by replacing vehicles to meet LEZ emission standards. .
- Delivering robust communications around the introduction of LEZs, with messaging specifically targeted at SME's who are based within the Council area and beyond given the relatively small size of Scotland and the ability of SME's to travel across Scotland on a daily basis. .
- That local authorities should be transparent in the preparation of their LEZ designs. This includes local authorities considering business impact as part of the design and implementation of LEZs, perhaps through city-specific LEZ BRIAs which build upon the national Final LEZ BRIA so as to ensure that Councils consider such aspects in their planning of LEZs.

### ***Dundee City Council***

Dundee City Council believe Low Emission Zones (LEZs) could minimise the local air quality impacts of road transport and make significant contributions towards emission reductions. They do, however, seek clarity in certain sections of the proposals, where nuances are unclear and, as a result, they feel Local Authorities

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<sup>8</sup> This response is from the 2018 partial BRIA.

may struggle to consistently implement LEZ protocol.

Concern over traffic displacement is a common theme throughout consultation with Dundee City Council. While it believes LEZs have a predominantly positive environmental impact, it voices concern over localised areas of negative effects outside of the LEZ which may occur as a result of traffic displacement. It believes displacement from the LEZ is likely to increase road traffic (and road traffic noise), in areas surrounding the LEZ. These negative externalities may result in negative impacts on businesses operating in these areas.

Whilst Dundee City Council generally agree with the proposed emission standards, including the re-classification of motorcycles and mopeds as non-exempt vehicles, it seeks further guidance over the definition of 'historic' vehicles.

It highlights the adverse effect which would be experienced by businesses using historic cars on a daily basis (wedding car hire companies, historic bus tour providers etc.) were they subject to a LEZ.

Dundee City Council expects businesses to experience increasing costs as a result of necessary vehicle replacements. It believes that streams of financial assistance should be made available by the Scottish/UK governments to help reduce such financial burdens and ease the transition to compliant vehicles.

### ***Aberdeen City Council***

Aberdeen City Council laud the ambition to shift towards ultra-low emission city centres and agree with the majority of the detail included within the proposed regulation. It believes that LEZs, when used in conjunction with other complementary policies, can contribute towards achieving a number of typical local authority aims and objectives, including: health and wellbeing, placemaking, modal shift, sustainable economic growth, tourism and city centre transformation.

Aberdeen City Council have reservations regarding the complexity of the surcharge structure. While agreeing a surcharge would help discourage repeat offending, it believes businesses would be challenged with understanding whether particular vehicles/fleets were compliant/non-compliant. This complex charging structure may lead to incorrect choices in spending decisions.

The impacts businesses experience as a result of aligning their fleets with the compliance conditions are recognised by Aberdeen City Council. Greater fuel efficiency and cost savings can be considered as long-term benefits, while short-term, immediate, costs of compliance may be considered a concern to the business community. Aberdeen City Council promote further incentivisation of electric and hydrogen vehicles for private and business use, along with a scrappage incentive scheme to encourage businesses and individuals, especially those on lower incomes, to move to less polluting vehicles. Furthermore, many businesses set out long term (>10 year) financial plans and would need to factor in future fleet requirements should a zero-emission standard be introduced. Therefore, to minimise the cost burden experienced, local businesses must be promptly informed of potential policy changes.

### ***City of Edinburgh Council***

City of Edinburgh Council offer a detailed response to the consultation with generally positive sentiment. The Council agree with the proposed emission standards, the general principles of the LEZ enforcement regime and secondary objectives proposed. However, it contests some aspects of the regulation proposals, including the approach to penalty charging.

City of Edinburgh Council does not agree with the penalty values or the tiered surcharge structure included in the consultation, feeling the tiered approach is unnecessarily complicated and may be difficult to understand for both businesses and individuals. More specifically, confusion is expected to arise when multiple charges are issued in a short period, particularly in instances where PCN's are appealed against. Further, the Council does not support the proposal for businesses violating LEZ regulations to return to lower tiers of penalty rates following a period of compliance (proposed as 28 days). It believes the scheme should be designed to more heavily penalise those that continually operate non-compliant vehicles.

While implementing such City of Edinburgh Council proposals would place a high cost burden on businesses making intermittent trips into a LEZ, it is suggested in the consultation response that penalty rates need adapting in order to accurately reflect emissions impacts. For example, the current structure is unable to discriminate between a delivery van operating in the city all day and van which enters a LEZ, drops off a parcel and leaves.

The City of Edinburgh Council advocates greater consideration of how stricter emission standards may impact bus operators and organisations currently investing in new vehicles to meet existing emission standards. It acknowledges that any legacy framework needs to balance the issues for vehicles with long operational lifespans against the critical need to respond to climate change so as to minimise business costs while maximising environmental benefits.

CEE anticipated that there will be an impact on local authorities through ongoing maintenance costs of cameras and back-office systems and administration of exemptions and appeals against penalty charges.

### ***Glasgow City Council***

Glasgow City Council (Glasgow City Council) broadly welcome the proposals laid out in the consultation and look forward to working with the Scottish Government, Transport Scotland and other local authorities to shape the regulations as they develop. It is the belief of Glasgow City Council that LEZ schemes will complement other transport and placemaking policies within Glasgow city centre and contribute to the environmental improvement of the area.

In order to achieve the targeted objectives, Glasgow City Council acknowledges some businesses may experience cost increases. The purpose of a LEZ is to reduce air pollution levels by improving the emissions profile of vehicles which enter the

zone. This, by its very nature, necessitates newer (or otherwise improved) vehicles and therefore comes with an associated cost. These costs are particularly felt by those businesses reliant on transportation that operate within the proposed zones, including bus service operators. Glasgow City Council view buses as an essential part of the solution to the air pollution problems of the city and have therefore welcomed the financial commitments made by the Scottish Government to improve bus provision and support the transition to low emission vehicles, particularly as many bus improvement measures have been financed through LEZ funds.

Glasgow City Council also welcome the various funding opportunities which have been made available to affected sectors to mitigate the financial burden of achieving compliance with the LEZ standards. It believes it is essential that these opportunities continue where there is an identified strategic need, particularly where lack of funding risks undermining the aims of the LEZ.

### ***Freight Transport Association***

The Freight Transport Association (FTA) represent the interests of HGV and Van operators across the country. While the FTA support the high-level objectives of the regulation proposals, they highlight multiple issues that are likely to be experienced by HGV and van fleets when transitioning to low emission vehicles.

While it acknowledges the technology does exist, FTA states there are very limited zero-emission capable solutions available for HGV's and, most of those that are, are not commercially viable. Electric vans are also two to three times more expensive than conventional petrol or diesel engines and are believed to perform poorly in comparison. In order to comply with the regulation proposals, businesses using HGVs or vans within their fleet will experience a high cost burden. Furthermore, FTA voice concern over the suitability of the electrical charging network to service business needs, with some operators reporting a shortage of grid capacity. If electrical infrastructure is not sufficiently developed in line with LEZ implementation then businesses may be unable to operate an electrical fleet.

Further concerns are raised regarding the disproportionately high penalty charges experienced by HGVs relative to other vehicle types. FTA believe the logistics industry operates on extremely tight margins and therefore cannot simply absorb the charges. It also suggests there is no opportunity for any operator to pass these costs on to the customer. The FTA believes that the PCN should be set at a level that is the same across all vehicle types, so as not to unfairly punish the logistics industry.

FTA also believe that HGV operators may incur high costs as a result of retrofitting. It is noted that there are currently very few accredited retrofit options for HGVs to bring Euro IV or V vehicles up to the Euro VI standard. Due to the technical requirements of Euro VI, if such an option were to be available for HGVs it would likely cost in the region of £15,000 to £20,000 per vehicle and, therefore, would only be potentially viable to operators of specialist high-value vehicles. For operators of 'standard' HGVs, any retrofit device which may be brought to market is unlikely to be cost effective and consequently will not be a compliance option for them. Therefore, for most operators, the only option is to replace the entire vehicle, for which a high cost burden is to be expected.

FTA raise concerns over the proposed speed of implementation of LEZs. Firstly, many businesses will be locked into lease agreements that may run beyond the start of a LEZ and will be extremely expensive, if not impossible, to get out of. Secondly, most businesses consider the operational length of fleet vehicles when making purchasing decisions, including potential re-sale valuations in their decision making process. The introduction of LEZs means the timeframe in which many businesses had planned to sweat their assets has reduced and the residual values of their Euro V/5 vehicles will fall. FTA believe that the sources of funding provided by the Scottish government need to be readily available and clearly advertised to operators in the logistics industry.

In instances where businesses own their own vehicles, vehicles are likely to be registered at head office which may be a different location to where the vehicles are being operated from. In such instances, and when an infringement of a LEZ has occurred, the PCN will be sent through the post to the registered location. This may result in several days delay before the information gets to the correct location – meaning some businesses may incur unwarranted fines and experience costs through the appeal process. FTA therefore suggests that the discount rate should be offered for a longer period of 21 days, rather than 14 days.

***Society of Chief Officers of Transportation Scotland (SCOTS) and Tayside & Central Scotland Transport partnership (Tactran)***

The consultation responses provided by The Society of Chief Officers of Transportation Scotland (SCOTS) and Tayside & Central Scotland Transport partnership (Tactran) discussed similar themes, beliefs and suggestions. They have therefore been considered together and are referred to below as ‘the defined consultees’.

The defined consultees highlight that there may be an increase in business costs as a result of the regulation proposals, particularly for bus operators and road haulage companies who may struggle to fund the investment required to meet the ambitious 2030 targets. It is felt that shifting the target date to 2032, in line with the Scottish Government’s Climate Change Plan (2018-2032), would reduce the burden experienced by businesses reliant on such transport.

The consultation responses also highlight uncertainty towards the impact of LEZ implementation on city centre businesses. It is recognised that the impact will depend upon whether the general public think the LEZ makes the city centre less accessible, or whether consumers are attracted to the city centre as a result of the improved environment. This perception will determine whether city centre businesses within a LEZ will suffer a reduction, increase, or no change in footfall due to LEZ implementation.

However, it is suggested that footfall from the rural hinterlands may reduce, as lower income socio-economic groups (who are unable to upgrade to a compliant vehicle) may not have a suitable public transport service available to access the city centre. Both consultees suggest that the Scottish Government should commission a business/economic survey in all LEZ areas prior to their implementation to give an

economic baseline to measure against and more accurately assess LEZ impact. Such survey work should extend to include footfall evidence, to help determine whether a LEZ encourages more people to stay longer in an area.

### ***Scottish Taxi Federation***

While the Scottish Taxi Federation agree with most elements of the proposals, including the proposed penalty charging structure, the mandatory consultation list and the implementation process, they do express concerns that high cost burdens will be placed on the taxi industry.

Specific concerns relate to the limited availability of ULEZ compliant vehicles. There is currently only one vehicle produced by LEVC which is not fully electric but is accepted within the ULEZ areas in London. Limited supply, combined with the requirement for licensed taxis to be wheelchair accessible, is expected to place a high cost burden on taxi operators. While Scottish Taxi Federation do not propose that Taxis are exempt in the longer term, they do suggest that a suitable grace period is allowed to ensure the services provided remain viable (and to prevent a drop in the number of wheelchair accessible taxis).

Scottish Taxi Federation also state if taxi fleets are to comply with the ultra-low emission city centre targets, continued funding and a massive improvement in electrical charging infrastructure will be required.

### ***South West of Scotland Transport Partnership and Strathclyde Partnership for Transport***

The consultation responses provided by the South West of Scotland Transport Partnership and the Strathclyde Partnership for Transport discussed similar themes, beliefs and suggestions. They have therefore been considered together.

While both consultees state that other stakeholders may be more suitably placed to remark on the impact the regulation proposals may have on business sectors within city centres, they do offer comment on the impacts likely to be experienced by transport operators. They believe that a significant negative impact will be experienced by bus operators given the need to invest in new vehicles to meet the proposed present-day emission standards. They deem it essential that early consideration is given to the potential impacts on bus operators of complying with emission standards, including any future proposals to make the standards more stringent. Both consultees also suggest that initiatives to support bus operators in the retrofitting of existing buses and the purchasing of 'green' buses may reduce the cost burden and help prevent reductions in service.

It is suggested that surplus revenue from penalty charges should be ring fenced and diverted to investment in services and infrastructure to support sustainable travel. Both believe increased access to sustainable, affordable and attractive public transport and active travel solutions will be required to encourage footfall for business, contribute to the sustainability of high streets and reduce the impact of unsustainable car trips.

Concern is voiced that the imposition of LEZs may lead to the displacement of negative air quality impacts, with such impacts potentially transferred to out of town shopping centres; affecting the businesses who operate in them.

### ***Confederation of Passenger Transport<sup>9</sup>***

The Confederation of Passenger Transport (CPT) believe that increasing bus and coach use can improve air quality and therefore the introduction of a LEZ which restricts buses and coaches is counter-intuitive. Hence, they believe there is a risk if such vehicles are subject to disproportionate controls from LEZ schemes, as the core objective of modal shift will not be realised. CPT also feels that the precise boundaries of LEZ schemes will be critical and financial arrangements must support the need to act quickly.

CPT has regularly engaged with Transport Scotland and Glasgow City Council since the publication of the Bill, particularly on the topic of funding for the bus sector to 'retrofit' bus exhaust systems to a compliant Euro VI standard. CPT have called for the funding provision from the Scottish Government to bus operators to be clarified as a matter of urgency (whether through the BEAR Programme or via an alternative route) and note that delays in confirming the funding process will have direct impacts on the ability of the bus operators to engage with retrofit suppliers (when these suppliers services are also in demand across Europe as more retrofitting is being commissioned). CPT have clearly articulated that any costs incurred by bus operators when upgrading their existing fleet to new emission standards could, in all likelihood, lead to a raising of fares or cutting of services, which they regard as being counter-productive to the aim of reducing emissions.

CPT are of the view that: -

- They do not see the action of retrofitting exhausts as providing a selective advantage to bus operators (in line with State aid requirements). Rather, they believe that any funding from the Scottish Government would be available to all operators in the market (private, public, local authority tendered or operated etc.) on a non-discriminatory basis to the benefit of improving air quality rather than benefiting any specific operator. -
- Funding provision from the Scottish Government for bus retrofitting does not distort competition as all operators will be able to apply for funding through a competitive process. CPT are aware that bus operators in Scotland are exploring investment opportunities, to introduce new, cleaner, greener buses into their fleet at significant cost.

### ***Society of Motor Manufacturers and Traders<sup>10</sup>***

In summary, the Society of Motor Manufacturers and Traders have stated the

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<sup>9</sup> This response is from the 2018 partial BRIA.

<sup>10</sup> This response is from the 2018 partial BRIA.



following: -

- It welcomes the provision of a national framework for LEZs that will provide consistency across Scottish cities. -
- It does not support a road access restriction approach for LEZs over the alternative road-pricing based charging scheme. -
- It urges Scottish government to replicate emissions standards that have been applied elsewhere in the UK to ensure consistency for consumers.

## **Competition Assessment**

The Competition Assessment examines the impact that the regulations may have on competition between firms. Competitive markets drive innovation, productivity, sustainable economic growth and provide consumers with a choice of goods and services. Competition concerns have been identified in instances where the regulations are expected to reduce the competitiveness of specific markets, industries or businesses.

Several consultation responses from stakeholders involved in transport operations identified competitiveness concerns in their respective industries. Inconsistencies in the severity of penalty charges and emissions standards between vehicle types may lead to situations where an operator in an industry is penalised more heavily than other operators in that same industry. This could result in a competitive disadvantage.

The Freight Transport Association raises concern on behalf of haulage firms, asserting that HGV's face disproportionately high penalty charges relative to other vehicle types operating within the logistics industry. Similarly, three public transport operators<sup>11</sup> responded to the consultation with the viewpoint that inconsistencies in the regulation proposals would leave them at a disadvantage relative to alternative transport modes. Stagecoach believe that the penalty charges for LEZ contraventions are not equal across all modes (in the same manner as other national infringements).

FirstGroup PLC show concern that the decision to set a lower emissions standard for motorcycles and scooters than for cars may encourage modal shift away from cars towards motorcycles rather than public transport – reducing revenue for public transport operations and reducing the effectiveness of modal shift to improve air quality.

By design, LEZs can create competitiveness concerns for businesses based within the area of enforcement. Businesses located within the area of the LEZ are obligated to comply with emission standards, while businesses located outwith the LEZ are not. This will have impacts on businesses located inside the LEZ relative to their counterparts located outside of the zone. Businesses located within the LEZ are likely to experience increasing delivery costs if couriers/haulage companies choose not to absorb the increased cost and instead pass it along the supply chain.

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<sup>11</sup> FirstGroup PLC Bus Division, Stagecoach and Xplore Dundee

Businesses located within a LEZ may also face a competitive disadvantage due to the costs of mandatory vehicle compliance. Any travel conducted by businesses located within a LEZ must conform to emissions standards, while businesses located outside of a zone are able to decide whether to enter a LEZ or not. This means that businesses outside the LEZ can defer the cost of vehicle upgrades.

Another impact, as noted by Xplore Dundee, is that changes to travel behaviours may reduce city centre spending. Consumers, who may have previously travelled into the city centre for shopping, may instead favour retail parks located out with the LEZ where there are no restrictions on vehicle compliance. This would create a transfer in revenue from businesses located in the city centre to those outside of the LEZ. Both impacts reduce the competitiveness of inner-city businesses relative to alternatively located counterparts operating in the same industry.

It should be noted that while changes to travel behaviours may reduce city centre spending, the improvement in environmental quality, potentially accompanied by pedestrian friendly planning, may have positive impacts on city centre footfall. As highlighted by the Society of Chief Officers of Transportation Scotland and the Tayside & Central Scotland Transport partnership, a LEZ should reduce pollution, congestion and air quality. Amenity improvements such as these are expected to make LEZs more attractive spaces, which may encourage an increase in footfall and improve the competitiveness of businesses located within a LEZ (relative to those in areas of lower environmental quality).

The most commonly cited competitive concern arising from the consultation was the disproportionate negative impact experienced by SMEs relative to their larger counterparts. As observed by the anonymised respondents, smaller businesses/tradesman are more likely to be operating older vehicles and are therefore more likely to incur an immediate cost through necessary vehicle/fleet upgrades. As noted by the RAC, these SMEs are also less likely to be able to afford a newer, compliant vehicle than larger scale firms. The greater likelihood of incurring costs, combined with lower ability to pay, means the compliance conditions established in the regulation proposals are likely to negatively impact the competitiveness of SMEs.

It should be noted that the majority of stakeholders engaged during consultation were happy with the nationally consistent standards included within the regulation proposals. National consistency prevents negative competitiveness effects across different LEZs, where firms in areas with less stringent measures may benefit unduly. However, while they agree national consistency is beneficial, a number of consultees suggest that consistency at a UK level would further reduce competitiveness impacts. They suggests UK wide consistency would be helpful in allowing large fleet operators to effectively plan ahead, Stagecoach agree that ensuring consistency between Scotland and the rest of the UK should lessen any negative competitiveness effects for Scottish based businesses. They also add that different interpretations of compliance with State Aid in different parts of the UK have put Scottish subsidiaries of group operators at a disadvantage compared to subsidiaries south of the border, affecting the competitiveness of those based in

other regions. Funding opportunities should also be consistent across the UK.

### **Consumer Assessment**

The Consumer Assessment examines the impact expected on consumers as a result of the regulations. The assessment expects some consumer impacts to occur as a result of the regulation but expects predominantly localised impacts in areas of LEZ implementation and is therefore heavily dependent on localised LEZ design.

The Emissions Standards established in the regulation mean many individuals may own non-compliant vehicles. In order to comply with the regulation, such vehicles will either need to be retrofitted or, more commonly, replaced by a compliant vehicle. Either option increases the price of automobile ownership, placing an increased cost burden on individuals living in areas where restrictions apply.

Individuals living outside of a LEZ who are unable or unwilling to commit to such expenditure will experience some severance to the LEZ, usually the city centre, with PCNs incurred for LEZ encroachment. As stated by several consultees, including Xplore Dundee, this may impact consumer behaviour, with residents outside of the LEZ perhaps favouring out of town retail parks over the city centre and, ultimately, reducing the array of goods or services they are able (or willing) to access.

Individuals living within a LEZ may face greater pressure to upgrade to a compliant vehicle than those living outside of the area. Unlike the individuals living out with the LEZ, who are able to make a choice on whether to enter the LEZ (and incur the cost of doing so), all motorised travel conducted by residents of the LEZ is subject to the regulations. This means that all non-compliant travel will incur a PCN and, therefore, residents face greater pressure to upgrade to compliant vehicles. For residents of the LEZ, trips to areas out with the LEZ are also subject to regulations as residents must pass through the LEZ on their trip. This means that access to goods and services outside the LEZ (e.g. out of town retail parks) are more heavily restricted for LEZ residents than those living outside of the area.

As stated by several consultees, the largest negative impact will be experienced by people facing socioeconomic disadvantages as it is more likely they will own older vehicles that are non-compliant. The cost of necessary vehicle upgrades would decrease disposable income. The severity of impact is dependent on the design of the local LEZ, mitigation in place from local and national government, and availability of alternative transport modes. FirstGroup PLC mentioned that out of town retail parks and employment sites are difficult to service with viable routes, therefore emphasising that consumers who live within LEZs may experience a change in access to goods or services. Hence, consumers facing socio-economic challenges who rely upon public transport may be affected by LEZs.

As outlined in Section 5, many businesses will experience cost increases when upgrading to compliant vehicles. Several stakeholders engaged during the consultation voice concern over the impact of such cost increases on consumers, as some businesses may choose to increase prices in an attempt to recoup some of their additional outlay. It is suggested by the Freight Transport Association that this may be particularly evident in the public transport, haulage and logistics industries,

where firms may have small margins and will struggle to absorb cost increases. Several consultees, including FirstGroup PLC, also suggest that cost increases may lead to reduced bus service provision. Any increases in public transport fares, or reduction in public transport services, would be expected to disproportionately impact 'protected groups', who are more heavily reliant on such services. More detail is given on the impacts experienced by 'protected groups' in the accompanying EQIA.

The combination of increasing cost of compliance and potential reductions in city centre footfall (as a result of the increased cost of compliance for consumers) may reduce the commercial viability of many businesses operating within the LEZ, therefore reducing choice for consumers in this area. However, it is suggested by the Society of Chief Officers of Transportation Scotland and Tayside & Central Scotland Transport partnership that inner city footfall may increase as a result of the LEZ, due to air quality improvements. This would have the opposite impact, attracting businesses to the city centre and increasing the diversity of retail offerings for consumers.

Several consultees, including Stagecoach, have made it clear that the ability to maintain service levels and prevent fare increases are dependent on funding/financing from the Scottish Government. It is clear from the consultation that the extension of existing schemes (such as Bus Emissions Abatement Retrofit), the addition of new funding initiatives and the implementation of appropriate grace periods would be sufficient to smooth the transition of businesses to low emission fleets. Such mitigation is expected to sufficiently minimise the cost impacts on businesses, and the subsequent impacts on consumers, to such an extent that it may be considered as not significant. Increases in businesses costs are not adjudged to significantly affect consumer welfare.

It is currently proposed that ANPR cameras are used to track vehicles entering and exiting LEZs. This technology, combined with a central database of vehicles and their associated compliance status, will be used to enforce the LEZ restrictions. Some concerns have been highlighted during the consultation regarding the use of this technology and GDPR. This method of monitoring involves the storage and use of consumer data (vehicular data) which some consultees feel uncomfortable with. However, this technology is already used in the enforcement of bus lane restrictions, which have very few privacy concerns. Further, the data collected is only to be used for the accurate monitoring and enforcement of a LEZ and should not breach GDPR protocol. Therefore, it can be concluded that the proposed monitoring and enforcement network will have a limited increase in the storage or usage of consumer data. Impacts are further assessed in the corresponding Data Protection Impact Assessment (DPIA).

Multiple local authorities, including Aberdeen City Council, identify potential opportunities as a result of the proposed monitoring and enforcement strategy. The additional traffic information obtained through the ANPR cameras could help traffic management - decreasing congestion, reducing travel times, improving air quality and consequently benefitting consumers within the city centre.

While this Consumer Assessment discusses the generic impacts which may be

expected as a result of LEZ implementation, an in-depth assessment of consumer effects will need to be conducted for each LEZ in order to capture the necessary local context.

### **Test run of business forms**

No new business forms will be created.

### **Digital Impact Test**

The LEZ regulation provides a framework to monitor and enforce emission standards on vehicles. Elements of this framework involve technology, digital and online, therefore, potential impacts on specific industries, firm types and businesses of different sizes have been investigated. No significant impacts were discovered.

### **Legal Aid Impact Test**

It is not currently expected that the proposals will have any impact on the level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund.

### **Enforcement, sanctions and monitoring**

Whilst the development and implementation of a LEZ will be the responsibility of the local authority in whose jurisdiction the scheme operates, the operation of each LEZ is required to be in line with nationally consistent standards. These standards are set out in the regulation as a result of the Act, with the intention being to ensure that no LEZ has comparative advantage over another one (i.e. cities will be required to operate to the same emission standards so that vehicles in one LEZ are not monitored against different standards elsewhere in Scotland).

Enforcement will be delivered via 'approved devices' listed in the regulation. The focus is on ANPR camera networks and the camera enforcement centre that is linked to various back-office and notice systems. Using ANPR with the DVLA database will allow those vehicles entering a LEZ to be identified and their compliance status determined in comparison to the proposed LEZ emission standards.

Non-compliance with a LEZ with respect to vehicle emission standards would result in the registered keeper being issued with a penalty via the aforementioned vehicle assessment process.

The regulation establishes a clear process for reviews and appeals in connection with the issuing of penalty charge notices which are contested by recipients. Representations can be made against notices issued based on the grounds for appeal prescribed in the regulation. The representations and appeals process is designed to reassure the public that the civil enforcement of LEZs is as fair as possible. It also provides a practical feedback mechanism to identify any issues with the enforcement process, which can then be reviewed.

In the first instance, the responsibility for enforcement, sanctions and monitoring will fall to the local authority in which the LEZ resides. It should be noted that the

regulation allows local authorities the ability to enter into an agreement with other parties in order to enforce LEZs.

The regulations established within the Act offer a basis for LEZ implementation across Scotland. However, it should be noted that there will be continued collaboration between Scottish Government, Transport Scotland, local authorities and other groups to monitor, assess and review the effectiveness of LEZs on a regular basis and, where appropriate, amend regulation accordingly. As such, each local authority is obligated to produce an annual report on the operation and effectiveness of the LEZ scheme which will be sent to ministers and parliament.

The overarching aim of the introduction and operation of LEZs is to improve air quality in relevant areas to meet Scottish legal objectives. Air quality is currently monitored through AQMAs and with affected local authorities obliged to draft an action plan, address the issue, and report on progress annually.

### **How will the proposal be implemented and in what timescale?**

The regulations are to be laid in the Scottish Parliament on 20 January 2021, and are expected to come into force in late spring/ early summer 2021. Achieving legally binding levels of air quality as soon as possible is the responsibility of the Scottish Government. The Scottish Government, and associated local authorities and organisations, committed to implementing LEZs in the four largest cities by February and May 2022.

- **Post-implementation review**

The Act commits to continuous annual reporting from local authorities to ministers and parliament on the effectiveness of the LEZ's primary objectives. Also, ministers can direct local authorities to carry out a review of the operation and effectiveness of a LEZ.

A post-implementation review should take place 10 years after the regulations introduction. This will assess the extent to which LEZs achieve the goal of improving air quality and meet the legally obligated standards

### **Summary and recommendation**

Of the proposed options, the most viable with regard to achieving the policy air quality improvements and maintaining a pragmatic approach to implementation (taking into account the needs of the business and commercial sector) is Option No.3. The comparison of benefits across the options is not included here, as the alternative (non-preferred) options do not offer significant benefits against the preferred option. While Option No. 2 could provide the benefit of a more literal adherence to the legal obligation of achieving "compliance by the soonest date possible", it is not feasible. This is because Option No.2's accelerated timescales of LEZ implementation disregard the likelihood of obtaining compliant vehicles, the negative impacts of reduced economic activity, and lack of support to organisations when transitioning to compliant vehicles. Conversely, Option 3 presents a balance of

realism and ambition to achieve air quality improvements as fast as possible whilst providing support to organisations that facilitate change, rather than placing unrealistic expectations on the business and commercial sector.

The cost assessment will be completed for regional implementations as the cost will vary for each individual LEZ given its geographical (and operational) area. The Bill's Financial Memorandum provides direction on the topic of costs around Option No.3<sup>12</sup>. The changes since the progression of the Bill to Act have not significantly altered the potential costs, therefore the Supplementary Financial Memorandum<sup>13</sup> presents no changes on the topic of costs for LEZ.

The recent consultation found general support for LEZs with some concerns, such as the simplicity of penalty charges and the provision of necessary support, which have been addressed in the regulations presented to parliament and through mitigation funding such as BEAR, SULEBS and LEZ support fund (for those on low incomes and small businesses).

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<sup>12</sup> Scottish Government, 2018, Financial Memorandum – Transport (Scotland) Bill, [http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33FMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf)

<sup>13</sup> Scottish Government, 2019, Supplementary Financial Memorandum – Transport (Scotland) Bill, [https://www.parliament.scot/S5\\_Bills/Transport%20\(Scotland\)%20Bill/SPBill33AFMS052019.pdf](https://www.parliament.scot/S5_Bills/Transport%20(Scotland)%20Bill/SPBill33AFMS052019.pdf)

## **Declaration and publication**

- **Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: Michael Matheson**

**Date: 19<sup>th</sup> January 2021**

**Michael Matheson  
Cabinet Secretary For Transport Infrastructure and Connectivity**

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