SCOTTISH STATUTORY INSTRUMENTS

2002 No. 178

ROADS AND BRIDGES

The Forth Estuary Transport Authority Order 2002

Made - - - -	*28th March 2002*
Coming into force - -	*1st April 2002*

The Scottish Ministers, in exercise of the powers conferred by section 69(1) and (2) and 81(2) of the Transport (Scotland) Act 2001(**1**) and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 81(4)(a) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

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

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

Interpretation

2. In this Order–

"the Act" means the Transport (Scotland) Act 2001;

"appointed day" means 1st April 2002;

"the Authority" means the joint board constituted by article 6 of this Order;

"bridge" means the Forth Road Bridge and any road or other property belonging to the existing board;

"Constituent local authorities" means City of Edinburgh Council, Fife Council, Perth & Kinross Council and West Lothian Council; and

"existing board" means the Forth Road Bridge Joint Board constituted in terms of the Forth Road Bridge Order Confirmation Act 1947(**2**).

Dissolution of existing board

3. The existing board shall be dissolved.

(**1**) 2001 asp 2.
(**2**) 1947 ch.iv.

Transfer of property, rights and liabilities to the Authority

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

(2) Without prejudice to the generality of article (1) above the employees of the existing board shall transfer to and become employees of the Authority. Such transfer shall be a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981(**3**).

Pension arrangements

5. For the purposes of the Local Government Superannuation (Scotland) Regulations 1987(**4**) the appropriate superannuation fund in relation to the pensionable employees (as defined in said Regulations) of the Authority shall be the Lothian Pension Fund administered by City of Edinburgh Council.

Constitution of joint board

6.—(1) There is hereby constituted a joint board comprising the constituent local authorities as follows:–

(a) City of Edinburgh Council who shall be represented by 4 members;

(b) Fife Council who shall be represented by 4 members;

(c) Perth and Kinross Council who shall be represented by 1 member; and

(d) West Lothian Council who shall be represented by 1 member.

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

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

Functions of the Authority

7.—(1) The Authority shall be responsible for the management, maintenance and operation of the bridge.

(2) The Authority may develop, support and fund such schemes and measures including roadworks, traffic management and public transport services, which it considers appropriate to reduce road traffic congestion on the bridge or to encourage an increase in the use of public transport across the Firth of Forth.

(3) In order to implement any schemes or measures to which paragraph 2 applies the Authority may enter into an agreement with any local transport authority, organisation, company or person they consider appropriate.

Byelaws

8.—(1) The Authority may make byelaws–

(a) for preventing injury or damage to the bridge;

(b) for regulating the conduct of persons using the bridge;

(c) for the management, regulation, direction and control of traffic using the bridge;

(d) for prohibiting certain classes of vehicle from using the bridge; and

(**3**) S.I.1981/1794; amended by S.I. 1987/442 and by the Trade Union Reform and Employment Rights Act 1993 (c. 19) section 33.
(**4**) S.I 1987/1850 to which there are amendments not relevant to this Order.

(e) for providing that the bridge may be temporarily closed to traffic for repairs or in cases of emergency.

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

(3) Any byelaws made by the existing board prior to the coming into force of this Order shall continue to have effect after the appointed day as though made by the Authority.

(4) Any byelaws made by the existing board or by the Authority may be varied by the Authority as they deem necessary.

(5) Any byelaws made or varied by the Authority shall follow the procedures for byelaws set out in section 202 of the Local Government (Scotland) Act 1973(**5**).

Power of Authority to regulate traffic on the bridge

9. The Authority shall be deemed to be a roads authority as defined in section 151(1) (interpretation) of the Roads (Scotland) Act 1984(**6**) and shall be the roads authority in respect of that part of the road spanning the bridge, more particularly described in Schedule 2 to this Order and as such may make traffic regulation orders under sections 1,2 and 4 of the Road Traffic Regulation Act 1984(**7**), experimental traffic orders under section 9 and temporary prohibitions or restrictions under section 14 of the said Act and may give directions and make orders under section 82(2) and section 84 respectively of that Act which shall, with any necessary adaptations, apply to all such orders and directions made by the Authority as aforesaid.

General transfer of functions

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

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

Power to compound for payment of tolls

11.—(1) The Authority may compound with any person using the bridge for passage over the bridge on such terms and for such period as may be agreed between the Authority and that person provided that if the Authority make a composition agreement with any person under this section every other person using the bridge in like circumstances may compound for the tolls payable upon like terms to those contained in such agreement.

(2) Any agreement entered into by the existing board and another person under article 67 of the Forth Road Bridge Order Confirmation Act 1947 shall continue in force after the appointed day as though that agreement were between the Authority and that person.

(**5**) 1973 c. 65; section 202 was modified by S.I. 1984/918.
(**6**) 1984 c. 54. The words in the definition of "roads authority" were substituted by the Local Government etc (Scotland) Act 1994 (c. 39) section 180(1), Schedule 13 paragraph 135(10)(a)(iii); S.I. 1996/323 article 4(1)(c).
(**7**) 1984 c. 27 as amended by the Roads (Scotland) Act 1984.

Subsidiary powers

12. Without prejudice to any powers exercisable apart from this article but subject to the provisions of this Order and any other enactment passed before or after this Order, the Authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

Incidental and supplementary provisions

13. Without prejudice to Articles 10 and 11 above, anything done before the appointed day by, or on behalf of, or in relation to, the existing board for the purposes of or in connection with the property, rights and liabilities transferred by article 4 of this Order shall, on and after the appointed day, be treated as having been done by, or on behalf of, or in relation to, the Authority and–

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

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

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

Amendments and repeals

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

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

St Andrews House,Edinburgh
28th March 2002

Lewis Macdonald
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Article 6(3)

Appointment of members of the Authority and period of office

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

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

(3) Subject to paragraph 2 below, the members of the Authority other than the first members shall hold office for the period from the date of their appointment until the first meeting of the constituent local authority appointing them after each ordinary election of councillors.

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

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

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

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

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

Cessation of membership of the Authority

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

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

(a) be in writing;

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

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

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

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

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

Convener and vice-convener

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