

**CONCORDAT BETWEEN THE DEPARTMENT FOR
TRANSPORT AND THE SCOTTISH EXECUTIVE**

2nd edition: 2007

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Introduction

1. This concordat is made between the UK Government Department for Transport (DfT) and the Scottish Executive.

2. It is intended to provide the framework to guide the future working relationship between the Secretary of State for Transport, other DfT Ministers and DfT officials (together referred to in this document as “DfT”) and Scottish Ministers and their officials (together referred to in this document as “the Executive” or “SE”). The terms “DfT” and “the Executive”/ “SE” also include their respective Executive Agencies where appropriate, including Transport Scotland. Transport Scotland, the national transport agency for Scotland, is part of the Scottish Executive and is an executive agency directly accountable to Scottish Ministers. The Transport Scotland Framework Document which is available from the [Transport Scotland website](#) sets out the different roles and responsibilities of Scottish Ministers, the Scottish Executive and Transport Scotland in delivering the Scottish Executive’s transport policy objectives. The objective of the concordat is to ensure that the roles and responsibilities of DfT and the Executive are effectively translated into practical working arrangements between the two organisations. The aim is to promote the establishment of close and harmonious working relationships and good communications at all levels between the two organisations, and in particular to foster constructive co-operation.

3. In support of these objectives, DfT and the Executive jointly established in October 2002 a forum of senior officials intended to help promote good relationships between the two organisations (the SE-DfT High Level Forum). The Forum focuses on administrative and cross-cutting issues rather than specific policy matters or disputes, which are dealt with under the procedures indicated below. The Forum monitors the effectiveness of this concordat in delivering the aims described above, and considers the scope for improvements, taking account of the future developing needs of the two organisations. This includes oversight of the formal review process for the concordat referred to in paragraph 38 below.

Nature of Concordat

4. This concordat has been drawn up in accordance with the principles outlined in the Memorandum of Understanding (MoU) which is an agreement between the UK Government and the devolved administrations of Scotland, Wales and Northern Ireland of the principles that guide communication and co-operation between them. The MoU is supplemented by an agreement on the Joint Ministerial Committee (JMC). There are also over-arching concordats setting out the framework for co-operation on EU policy issues, international matters, statistics, and financial assistance to industry. Where those matters are concerned, reference should first be made to those over-arching concordats. However, where specific arrangements on cost sharing have been agreed between DfT and the Executive, those arrangements apply rather than the general cost-sharing provisions of the MoU.

5. This concordat is a voluntary arrangement between DfT and the Executive. It is not a binding agreement or contract and so does not create any legally enforceable rights, obligations, or restrictions. It is intended to be binding in honour only. The Scotland Act 1998 provides for statutory consultation by the UK Government with the Scottish

Administration in certain cases; this concordat does not create any equivalent or other right to be consulted or prevent consultation beyond that required by statute. Any failure to follow the terms of the concordat is not to be taken as invalidating decisions taken by DfT or the Executive.

6. The main body of this concordat specifies general working arrangements between DfT and the Executive. There are also a number of annexes containing additional arrangements which relate to specific subject areas (or groups of subjects). For other subject areas which are not covered in the annexes, the arrangements provided for in the main body of this concordat, taken together with the MoU will be followed.

Interpretation

7. As this concordat indicates, DfT and the Executive will exchange information and inform or consult each other about a wide range of issues in a wide range of situations. The concordat is not, however, intended to be an exhaustive description of every aspect of the relationship between the organisations, or to preclude communication between them about other issues or in other situations.

8. It is not generally either possible or desirable for the concordat to prescribe in detail the circumstances which will trigger a need to invoke the arrangements set out in this concordat, or the exact form of communication or the timescale involved. Where specific arrangements are necessary on particular topics they are outlined in this concordat and its annexes. DfT and the Executive will use their judgement, taking into account the terms of this concordat, in determining for any given issue the procedures (including the level of detail and, where necessary, the period of notice) that appear reasonable and appropriate in the circumstances, in accordance with the principle that if either is planning action which impinges on the responsibilities of the other, it should give adequate forewarning.

9. This concordat is framed in terms of the interface between DfT and the Executive; it is not intended to imply that communications on issues covered by the concordat should not, where appropriate, also involve other UK Departments (including the Scotland Office) or devolved administrations; indeed that may be the most effective way of conducting some business.

Confidentiality

10. In considering the case for disclosure, the provisions under the UK Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 will be taken into account by DfT and the Executive respectively.

11. DfT and the Executive wish to ensure that the information each supplies to the other is subject to appropriate safeguards, in accordance with the principles set out in the MoU, and treated in the manner each party intends. These arrangements rely for their effectiveness on mutual respect for the confidentiality and sensitivity of information exchanged. In considering disclosure of previously unpublished information to third parties, in line with Freedom of Information and other obligations, DfT and the Executive will be mindful of the impact on relations between administrations as well as the public interest in disclosure. Where appropriate they will consult the other party before disclosing this information.

Statutory Framework

12. The Scotland Act 1998 provides for the transfer to the Scottish Ministers of Ministerial functions relating to devolved matters in or as regards Scotland, subject to the constraints set out in the Act. Ministerial functions relating to reserved matters in Scotland continue to be exercised by the appropriate Secretary of State. The Act provides, however, that Ministerial functions relating to reserved matters may be “executively devolved” to the Scottish Ministers and that specified functions relating to devolved matters may be transferred to the Secretary of State. Functions in these categories may require to be exercised after consultation with, or with the agreement of, or with the consent of, the Secretary of State or the Scottish Ministers. The Act also makes provision for certain functions to be exercised concurrently in Scotland by the Secretary of State and the Scottish Ministers; for certain categories of non-statutory Ministerial functions relating to the establishment, maintenance or abolition of public authorities to be exercised jointly; and for functions of either the Secretary of State or the Scottish Ministers to be exercised by the other on an Agency basis.

Practical Arrangements

13. DfT and the Executive recognise that good communications systems are essential in order to assist the process of policy formation and decision-making in each administration and to meet any consultation or other requirements connected with the exercise of a function. DfT and the Executive therefore undertake to keep each other informed, as outlined in paras 14 to 17 below (to avoid the situation where something was not shared because it was judged irrelevant), of developments in policy and practice in respect of matters within or affecting their respective responsibilities, including proposals for legislation and other initiatives, and other issues which may be relevant to each other. They also recognise that there will be mutual benefit from the exchange, where appropriate, of information on scientific, technical and policy matters, in accordance with the principles set out in the MOU. Specific arrangements for devolved matters, reserved matters, and the interface between the two, are set out below.

Devolved Matters

14. In relation to devolved matters DfT and the Executive will:

- Share information, analysis and research, where such arrangements would be of mutual benefit;
- Inform each other of any relevant information which comes to their attention which may require action by or have resource consequences for the other party;
- Seek to involve each other, as and when appropriate, in policy formation on topics where there is a reasonable expectation that a policy initiative might affect the other’s responsibilities, or be used or adapted by the other (but an initiative by one administration does not imply that the other will follow suit);

- Inform each other at the earliest practicable stage of any proposal to change primary or secondary legislation, and work with each other to identify the potential implications for the other's responsibilities; and
- Inform each other at the earliest practicable stage of substantive new policy announcements which may be relevant to, or have an impact on, the other's responsibilities.

Interface between Devolved & Reserved Matters

15. There are some areas where there is a close interface between devolved and reserved matters. DfT and the Executive will maintain close contact on issues where such an interface exists. In such cases:

- The Executive will consult DfT at an early stage when there is a possibility that a proposed policy or decision (e.g. on planning guidance) may relate to reserved matters (e.g. UK or GB-wide strategies on reserved matters) for which DfT is responsible; this includes any possibility that proposed Scottish legislation (including in the area of Scots private law) may affect reserved matters, particularly if this may involve consequential changes in legislation on such matters. DfT will similarly consult the Executive at an early stage where a proposed policy or decision on reserved matters may affect devolved matters;
- In the case of planning or analogous cases which are to come before Ministers of the Crown or Scottish Ministers for decision and where there is an interface between reserved and devolved matters, the Executive and DfT will inform each other at an early stage; such notification will be in sufficient time to enable the recipient to submit representations, in the same way as other interested parties, for consideration before a decision is reached;
- Each party will ensure that the other is kept abreast of developments in policy, practice and legislation, including discussions with third parties, in areas where there is, or could be, an interface; and
- DfT and the Executive will co-ordinate activities where appropriate.

16. DfT may offer advice to the Executive on the effect on reserved matters of a proposal by the Executive, and the Executive may similarly offer advice to DfT on the effect on devolved matters of a proposal by DfT. Each party will give due consideration to such advice and will inform the other of the outcome of that consideration in advance of presenting the proposal in public.

Reserved Matters

17. In relation to reserved matters:

- DfT will inform the Executive, as early as possible, of proposals which may be relevant to the Executive, and wherever possible before any public announcement is made; and

- DfT and the Executive will inform each other of any relevant information which comes to its attention which may require action by the other party.

Joint and Concurrent Powers

18. Joint powers are those where it is a legal requirement for Scottish Ministers and UK Ministers to act in agreement and together. Alternatively, there may be a requirement for UK Ministers to act only after consultation with Scottish Ministers (or vice versa). Concurrent powers are those which either UK or Scottish Ministers or both will be able to exercise in Scotland. In such cases, the provisions contained in paragraphs 14 and 15 above will apply, subject to any necessary modifications.

Production of Guidance

19. Where the relevant legislation applying in England and in Scotland is substantively the same, DfT and the Executive will consider the scope for co-ordinating the preparation and cross-checking of their respective codes of practice and other published guidance, with the aim of ensuring compatibility and consistency where appropriate. They will also consider whether to issue their respective guidance as part of a joint package. The aim will be to ensure clarity and to avoid confusion for those to whom the guidance is addressed.

Publicity and Publications

20. The Executive will, where appropriate, inform DfT, in advance, of public statements which can be prepared well in advance (e.g. consultation documents, Press Notices, publication of research findings and reports) on devolved matters which are the responsibility of DfT in other parts of the UK or which impact on reserved matters. DfT will, where appropriate, inform the Executive, in advance, of corresponding public statements which can be prepared well in advance on DfT responsibilities which are devolved matters in Scotland or impact on such matters. In preparing publicity campaigns, DfT and the Executive will consider in advance whether co-ordinated campaigns would be mutually beneficial; and co-operate on delivery where appropriate.

Dispute Resolution

21. The vast majority of matters should be capable of being handled bilaterally between DfT and the Executive at official or Ministerial level. Where, exceptionally, an issue cannot be resolved bilaterally, or with the advice and assistance of the Scotland Office, it may be referred, in accordance with the MoU, to the Joint Ministerial Committee Secretariat. Whilst such discussions are under way, DfT and the Executive will continue to be able to act in areas within their respective competence.

22. It is recognised that the above mechanisms will not be appropriate in some, perhaps exceptional, cases which involve third parties, for example where commercially confidential and market sensitive information is involved. In these instances arrangements will need to follow any specific legal requirements.

General Administration

23. The Executive and DfT will consult each other where appropriate on correspondence and Parliamentary business, and public statements and announcements, in accordance with the arrangements set out in the MOU and supporting guidance material.

Cross-Border Public Authorities

24. A number of public bodies have functions that relate to devolved matters in Scotland as well as other functions. The Scotland Act 1998 includes provisions which allow appropriate arrangements to be made for the accountability and control of such bodies. They may be specified as “cross-border public authorities” in an order made under section 88 of that Act. This requires the Secretary of State to consult the Scottish Ministers before making appointments to the body, or exercising any other function in relation to it that otherwise affects devolved matters. It also has the effect that such bodies continue to be funded from existing sources rather than from the Scottish Consolidated Fund and that any reports relating to them that are to be laid at Westminster should also be laid before the Scottish Parliament.

25. Where appropriate, these arrangements may be modified, for example to enable certain functions to be exercised by the Scottish Ministers, or for funding to be payable out of the Scottish Consolidated Fund, through further orders made under section 89 of the Scotland Act 1998.

26. Annex 3 of the concordat contains a list of DfT’s bodies specified under section 88 of the Scotland Act 1998.

Jointly Established Bodies

27. Section 56(4) of the Scotland Act 1998 requires the Secretary of State and Scottish Ministers to act jointly in establishing, modifying or maintaining certain non-statutory bodies which have functions that relate to devolved matters as well as to other matters. DfT and the Executive will consult each other as necessary on the administration of such bodies, including their terms of reference and funding.

Appointments

28. Appointments to cross border public authorities will be made in accordance with section 88 and section 89 of the Scotland Act 1998, as appropriate. DfT and the Executive will consult each other as necessary on appointments to jointly established bodies, with a view to making appointments jointly; they may for particular jointly established bodies agree that it would be appropriate to allocate responsibilities between them in selecting candidates for joint appointment. DfT will, where appropriate, consult the Executive about appointments to other public bodies with a UK or GB remit. Specific arrangements for appointments to certain bodies are included in the annexes to this concordat.

Joint Working

29. DfT and the Executive may set up joint working groups or committees where appropriate. DfT will normally, where circumstances permit and this is appropriate, invite the Executive to nominate members of committees which consider for England matters that

are devolved in Scotland, or matters which, though reserved, may affect Scotland, where this would be of mutual benefit.

Analysis, Statistics, Monitoring and Research

30. DfT and the Executive will consult each other regularly about matters of mutual interest on analysis, statistics, monitoring and research, including proposals for and results of research programmes. DfT and the Executive will, as and where appropriate, co-operate with each other, to the extent that available resources permit, in the provision of data and information needed to fulfil their respective responsibilities. The over-arching concordat on statistics provides general guidance on that issue, and should be read in conjunction with this paragraph, subject to any specific arrangements on cost-sharing referred to in paragraph 3 of this concordat.

Regulatory Impact Assessments

31. Where domestic legislation, proposals for EC Directives, other European legislation and other proposed international obligations have an impact in relation to Scotland on the costs of businesses, charities or voluntary bodies, a regulatory impact assessment will need to be prepared by DfT or, in the case of legislation in the Scottish Parliament, by the Executive. DfT and the Executive will discuss the most appropriate means in each case for obtaining the information necessary for each of them to fulfil their respective responsibilities, and will provide advice and support to the other as appropriate. DfT and the Executive will also co-operate where either of them decides to carry out a regulatory impact assessment for certain proposals other than by reason of an anticipated impact on costs.

EU and International Matters

General

32. The over-arching concordats on EU and international matters provide general guidance on how these issues should be handled and should be read in conjunction with the following paragraphs.

EU and International Obligations

33. The Department for Transport and the Scottish Executive agree to work together in accordance with the Memorandum of Understanding and the Concordat on Co-ordination of European Union Policy Issues. Any legally binding target or undertaking set in this context for the UK as a whole will require a UK-wide response to ensure that the UK can meet it. Similar considerations apply to obligations arising under informal instruments, as defined in the international concordat. Some of the policies needed to meet EU and international obligations may be the responsibility of the Scottish Ministers, others will be reserved to the UK Government. The Executive will therefore have an important contribution to make in developing and delivering new programmes to meet EU and international obligations. Regular dialogue and close co-operation between DfT and the Executive will therefore be essential. In line with paragraph B1.3 and B1.4 of the Concordat on Co-ordination of EU Policy Issues, DfT wishes to involve the Scottish Executive as directly and fully as possible in decision making on EU matters which touch on devolved areas (including non-devolved

matters which impact on devolved areas and non-devolved matters which will have a distinctive impact of importance in Scotland). This should provide for full and continuing involvement of Ministers and officials of the Scottish Executive in the processes of policy formulation, negotiation and implementation, for issues which touch on devolved matters.

34. The Executive will co-operate fully with the monitoring and reporting process for EU and international obligations, providing details of, and relevant data on, the results of monitoring, assessment and initiatives carried out within Scotland. It will also participate fully in any EU or international monitoring and review of programme measures taken across the UK which together form the UK's response to such obligations.

35. For quantitative obligations the Scotland Act 1998 includes powers that could be used, if needed, to enable the allocation of a share of such obligations to Scottish Ministers. The EU concordat sets out the general approach to be taken in such cases.

36. Where an EU or international obligation is framed in quantitative terms, DfT and the Executive will discuss the extent to which each will contribute to the UK's efforts to meet the obligation, based on their respective scope for action within reserved and devolved competences and taking account of all relevant circumstances. Such discussions may also where necessary cover the collection of information to assist in determining the appropriate contributions, and the methodology to be used in monitoring performance.

Expert Advice

37. The Executive will where practicable make available to DfT, in support of the UK's position at EU and international meetings, expert advice as requested. This will include the reasonable provision, at DfT's request, of qualified personnel to form part of the UK's delegation. (This arrangement is in addition to the provisions of the EU concordat covering attendance by representatives of the Executive at EU and international meetings.)

Review and Renewal of Concordat

38. It will be open to DfT or the Executive to propose alterations to this concordat at any time to reflect changes in policy or to reflect the evolution of administrative conventions of co-operation and joint working between the UK Government and the Executive. Annexes may be added, removed or amended separately from the main section, as and when the need arises, by agreement between DfT and the Executive. Notwithstanding, this concordat will be reviewed at three yearly intervals.

ANNEXES

Note: For those subject areas not covered in the annexes, the arrangements provided for in the main body of this concordat, taken together with the MOU and the over-arching concordats, should be followed.

Annex 1: Transport Policy Areas

1.1 This annex covers:

- Road Traffic, Road and Vehicle Safety
- Scottish Traffic Commissioner
- Disabled Persons Transport Advisory Committee
- Railways
- Aviation
- Ports and Shipping
- Freight Grants
- Emergency Planning
- State Aid notification procedures

Road Traffic, Road and Vehicle Safety

1.2 Legislation on road traffic and road vehicle matters is largely reserved, though traffic regulation as it affects particular roads or localities is generally devolved. There are concurrent powers to promote road safety.

1.3 It is envisaged that a UK Group of Road Safety Directors will continue to meet biannually to discuss policy matters of mutual interest or concern. Notifications of policy initiatives, consultations etc on reserved matters (and on devolved matters where there will be an impact on other parts of the UK) will in the first instance be made to the members of this Group.

Scottish Traffic Commissioner

1.4 The Traffic Commissioner for the Scottish Traffic Area is designated a cross-border public authority (see paragraphs 24-26 in the Concordat and Annex 3). While appointment of Traffic Commissioners lies with the DfT Secretary of State, the fact that the post is a cross-border public authority means that the DfT Secretary of State must consult the Scottish Ministers before making an appointment to the post. The reserved matters for which the Scottish Traffic Commissioner is responsible include the licensing of the operators of heavy goods vehicles and public service vehicles, and disciplinary matters concerning the operators and drivers of such vehicles. The devolved matters for which the postholder is responsible include the registration and regulation of local bus services, the appointment of Adjudicators to consider appeals in respect of decriminalised parking offences and taxi fare scale appeals.

1.5 At the beginning of the appointment process, the DfT Secretary of State will write to Scottish Ministers seeking views on the intended recruitment process. The process will include consultation by DfT with Executive officials at each stage from advertising the post to the interviewing of candidates; and inclusion of an Executive official on the selection panel. Before an appointment is made, the DfT Secretary of State will write again to Scottish Ministers seeking their views on (but not their approval of) the person the Secretary of State has in mind to appoint.

Disabled Persons Transport Advisory Committee (DPTAC) and Mobility and Access Committee for Scotland (MACS)

1.6 The Disabled Persons Transport Advisory Committee (DPTAC) advises the DfT Secretary of State, and other Government Departments, on public transport policies, and on transport policies more generally, as they affect the mobility of disabled people throughout Great Britain. It is designated a cross-border public authority.

1.7 Members are appointed by the Secretary of State. The Executive will be accorded observer status on the Committee and, in addition to the arrangements on appointments set out in paragraph 27 of the main body of the concordat, will be invited to nominate two members to represent Scottish interests on the Committee.

1.8 The Mobility and Access Committee for Scotland (MACS) was established in May 2002 to provide advice to the Scottish Ministers on disabled people's transport needs in Scotland. DfT, represented by DPTAC, will be given observer status on MACS. Agendas and minutes of the meetings of both Committees will be exchanged, and where policies affect UK/GB wide interests, the Committees will aim to produce consistent advice for the Government. DfT will consult the Scottish Committee on transport provisions of the Disability Discrimination Act both in general and where they specifically affect any part of Scotland.

Railways

1.9 The Railways Act 2005 conferred extensive additional functions on Scottish Ministers to look after railway matters in Scotland, within the structure defined for the railways across Great Britain. Most functions in relation to railways in Scotland, which elsewhere will be for the Secretary of State for Transport, are the responsibility of Scottish Ministers.

1.10 Scottish Ministers have responsibility to determine Scottish railway strategies; to designate, let, fund, monitor and manage the Scottish passenger rail franchise(s); and to specify and fund rail infrastructure needs and the outputs required from Network Rail in Scotland. Scottish Ministers also have powers to set fares, including penalty fares, publish a code of practice for protecting the interests of disabled rail users in Scotland, propose network modifications and fund improvements to the railway in Scotland.

1.11 In addition, Scottish Ministers will be consulted by the UK Government on the specification of cross-border passenger rail services and are able to appoint a Scottish member of the Rail Passengers' Council. The Rail Passengers' Council (RPC), which operates under the name Passenger Focus has the GB-wide responsibility for dealing with rail complaints. The Executive will liaise with the Department for Transport to ensure that the RPC's Scottish representative works closely and provides regular feedback to the Public Transport Users' Committee for Scotland.

1.12 Some aspects will be retained at a GB level: safety and security aspects of rail operations will continue to be determined on a common GB basis; the work of the Rail Accident Investigation Branch; the licensing of railways operators and the economic

regulation of the relations between Ministers, Network Rail and the Train Operating Companies will continue to be the responsibility of the Office of Rail Regulation.

1.13 Scottish Ministers have powers to make secondary legislation in Scotland in a number of circumstances where there is a power for the Secretary of State to do so in England and Wales – for example Penalty Fares Regulations. However, overall, responsibility for primary legislation dealing with the provision and regulation of Railways remains reserved to the Westminster Parliament.

1.14 DfT will consult the Executive on reserved railway matters which are of strategic importance to Scotland, such as cross border passenger rail service and safety specifications. The Executive and DfT will consult with each other before taking action on rail matters which would set precedents for the other or have implications for the specification of the network in each area.

Aviation

1.15 Responsibility for much of civil aviation policy and regulation as they affect Scotland remains with DfT, and the Civil Aviation Authority (CAA). The aviation accident and serious incident investigation function, including compliance with the United Kingdom's obligations under Annex 13 to the Chicago Convention and the European Union Directive 94/56/EC, remains the responsibility of the Air Accident Investigation Branch (AAIB) within DfT.

1.16 The Executive is responsible for planning and environmental regulation of airports and airport developments in Scotland. Given DfT's continued responsibilities for civil aviation within the UK as a whole, the Executive will consult DfT on proposals and amendments in Scotland which affect UK airports policy or other parts of the UK, including changes to planning policy guidance affecting airports and aviation in Scotland. DfT will consult the Executive on reserved aviation and airport matters which are of strategic importance to Scotland. Where such matters involve planning cases which are to come before Ministers of the Crown or Scottish Ministers for decision, the provisions of the second bullet of paragraph 14 of this concordat will apply.

Ports and Shipping

1.17 Maritime policy overall is a reserved matter, but legislative competence and responsibility for the statutory powers of ports in Scotland is devolved. It is envisaged that DfT and the Executive will establish joint arrangements to deal with the trade associations representing Scottish ports.

1.18 Health and Safety aspects of ports operations (as defined in the Docks Regulations 1988) remain the responsibility of the HSE, and reference should be made to the HSE concordat. DfT has developed safety proposals for marine operations in ports by means of a Port Marine Safety Code on which, as a reserved matter, they consulted the Executive to the extent relevant to Scottish ports. Pilotage is also a port safety issue alongside the Port Marine Safety Code. The Executive, however has legislative competence and responsibility in relation to designating harbour authorities under the Pilotage Act 1987.

1.19 Legislative competence, regulation and casework arising under the Coast Protection Act 1949 is devolved, save for issues relating to the energy and telecommunications industries which are now the responsibility of DTI. The Maritime and Coastguard Agency (MCA) within DfT will be consulted by the Executive on relevant casework under the Act, to ensure that works in tidal waters do not endanger or obstruct the safety of navigation through waters for which the UK Government remains responsible. DfT will keep the Executive informed from as early a stage as possible about policy developments which are likely to be of interest to the Executive in relation to ferry services and other reserved matters, and before any public announcement is made.

1.20 The marine accident investigation function remains the responsibility of the Marine Accident Investigation Branch (MAIB) within DfT.

1.21 Regulatory, enforcement, search and rescue and counter-pollution functions remain the responsibility of DfT, largely exercised through the MCA. The successful conduct of search and rescue and counter-pollution operations will require the closest co-operation between the MCA and the landward emergency services; MCA's regional management will pursue this liaison and the Executive will have a standing invitation as observers to the UK Search and Rescue Maritime and Aviation, and Inland Committees. (Assessment of the environmental impact of marine accidents is also covered by paragraph 1.23 of Annex 1.)

1.22 DfT remains responsible for the development of maritime safety and regulatory standards. The MCA (or in some cases DfT) normally holds a briefing on the UK Government position before main Committee meetings of the International Maritime Organisation (IMO), to which the Executive has a standing invitation. In relation to any matters affecting safety on inland waterways in Scotland the Executive will consult the MCA.

1.23 DfT retains the policy responsibility for the General Lighthouse Authorities including the Northern Lighthouse Board (NLB) and for the management of the General Lighthouse Fund across the United Kingdom and the Republic of Ireland. The NLB will continue to take responsibility for liaison with the users of aids to navigation in Scottish waters.

Freight Grants

1.24 Scottish Ministers have powers to operate both rail and water borne freight grant schemes in Scotland. DfT administer similar schemes in England and also have powers to operate cross border schemes. A significant percentage of projects which are eligible for grant involve cross border flows. DfT will consult the Executive on any proposals to revise freight grant schemes for which they have responsibility or proposals for any new schemes. The Executive will consult DfT about any changes it wishes to make to existing schemes and proposals for any new schemes.

Emergency Planning

1.25 Responsibility for setting transport security requirements, for verifying that they are delivered, and for more general civil emergency planning in relation to railway,

aviation and maritime industries remains with DfT, as reserved matters. In practice, the closest liaison between DfT, the Executive and the emergency services and local authorities in Scotland will be required in precautionary planning, in dealing with incidents and in facilitating subsequent investigation.

1.26 For incidents and emergencies arising from use of inland waters, the responsibilities of the Executive, of the emergency services and of local authorities will parallel their responsibilities in normal circumstances. For all significant incidents, the Executive will keep the MAIB informed (in case an investigation is required) and the MCA informed (in case it is necessary to proceed against those responsible under the Merchant Shipping Act). Special arrangements for incident and emergency handling also apply to the Caledonian Canal and Loch Ness which, because they communicate with the sea, are considered to be sea for the purposes of MCA's responsibilities for search and rescue.

1.27 DfT has responsibility for marine emergencies, including dealing with major spillages of oil and other hazardous substances at sea from ships and which threaten UK interests. However the assessment of the environmental impact of marine accidents is devolved. DfT's Maritime and Coastguard Agency deals with marine emergencies and is the competent national authority as required by the OPRC Convention 1990. DfT and the Executive will therefore liaise closely, as appropriate, on responses to marine emergencies. This will be within the framework of the UK National Contingency Plan.

1.28 MCA remain responsible for command and control arrangements in handling maritime emergencies and incidents, and will keep the Executive informed on events in or affecting Scottish waters. For landward incidents in Scotland, involving aircraft or rail services, the Executive will keep DfT informed as required.

State Aid Notification Procedures

1.29 DfT's Europe and International Branch (EIB) provides advice on the application of transport state aid rules and assists in UK notifications to the Commission. All transport-related State Aid notifications will be submitted through EIB using the procedures set out below.

1.30 The Executive will consult with EIB (who in turn will consult the DTI State Aid Policy Unit, Cabinet Office, the Foreign and Commonwealth Office, UKRep and other Government Departments as necessary) before producing the notification and covering letter to the Commission.

1.31 EIB will send the notification and letter to UKRep and the DTI State Aid Policy Unit; UKRep will send the notification and letter to the Commission Secretariat General, copying to the Executive, EIB and the DTI State Aid Policy Unit.

1.32 EIB will relay to the Executive and the DTI State Aid Policy Unit the Commission's decision together with any conditions attached to that decision.

Annex 2: Executive Agencies of DfT with Responsibilities in Scotland

2.1 This annex covers the Executive Agencies of DfT whose remit includes Scotland.

Background

2.2 DfT has four Executive Agencies that have statutory operating responsibilities within Scotland. They are the Driver and Vehicle Licensing Agency (DVLA); Driving Standards Agency (DSA); Maritime and Coastguard Agency (MCA); and the Vehicle and Operator Services Agency (VOSA). In addition the Vehicle Certification Agency (VCA), as the authority responsible for ensuring that new motor vehicles and their constituent parts meet European safety and environmental standards, can also operate in Scotland. Their functions in Scotland are reserved matters, subject to certain exceptions listed in Schedule 5 of the Scotland Act 1998. Other annexes to this concordat deal with specific arrangements relating to certain functions carried out by the agencies.

2.3 Each Agency has a framework document setting out its status, purpose and objectives; statutory and other responsibilities; the responsibilities and accountability of the Chief Executive; and the relationship within DfT and with DfT Ministers.

Executive/Agency liaison

2.4 Each Agency will nominate a point of contact for correspondence with the Executive. It will respond, as appropriate, to any reasonable request from the Executive for information relating to operational matters concerning the service delivered in Scotland, including any operating issues that have a significant impact on devolved Scottish interests.

2.5 Some information is already provided on a Scotland basis. However, the operational management structure of the Agencies reflects the character of their business in providing a consistent service in the UK. It may not reflect national or regional boundaries and accordingly there may be limits on their ability to provide detailed information on past or present activities within the boundaries of Scotland.

2.6 When Agencies propose management decisions with significant impact on employment or investment issues in Scotland, the Agency concerned will provide sufficient supporting information to the Executive so that the reason for the decision can be fully understood, and will do so in good time before the decision takes effect. Significant questions of Agency resources and structure in relation to reserved functions are matters between the Agency and DfT Ministers, bearing in mind the primary function of the Agency is to deliver a UK- or GB-wide service. Where the Executive wishes to raise questions on such issues, it will direct them to DfT centrally and not to the local or central management of the Agency concerned.

2.7 DfT will inform the Executive of proposals made for public (non-executive) appointments to the advisory boards of Agencies which operate in Scotland, and will be open to suggestions from the Executive for possible appointees to these advisory boards.

DfT will inform the Executive of all appointments made to these advisory boards, and Agencies will inform the Executive of Agency executive director appointments to be made within Scotland, that will be filled following external advertisement.

Annex 3: DfT Bodies Specified under Section 88 of the Scotland Act 1998

3.1 The following DfT bodies are specified under section 88 of the Scotland Act 1998:

- Disabled Persons Transport Advisory Committee;
- Traffic Commissioner for the Scottish Traffic Area; and
- The Rail Users' Consultative Committee was specified under Section 88 of the Scotland Act 1998 but was subsequently abolished by the Railways Act 2005.