

EXECUTIVE NOTE

THE ROAD WORKS (SCOTTISH ROAD WORKS REGISTER, NOTICES, DIRECTIONS AND DESIGNATIONS) (SCOTLAND) REGULATIONS 2008 SSI/2008/88

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 108(5), 112A(2), 112B, 113(1), (2) and (3A), 114(1), (2), (3A) and (7), 115(2), 115A(4), 116(3A), 117(1) and (5), 121(1), 122(2), 123(1) and (2), 129(5A), 131(3) and (3A), 149(2) and (2A), 156 and 163(1) and (3) of the New Roads and Street Works Act 1991 (“NRSWA”). This instrument is subject to the negative resolution procedure.

Policy Objectives

Part 2 of the Transport (Scotland) Act 2005 (“the 2005 Act”) aims to improve the co-ordination, planning and quality of road works carried out in Scotland and provides a statutory framework for improvements to road works.

This instrument revokes (at regulation 16) and replaces the Road Works (Registers, Notices, Directions and Directions) (Scotland) Regulations 1992 (as amended) in consequence of new provisions being added to Part 4 of NRSWA by Part 2 of the 2005 Act.

This instrument contains new provisions to prescribe the form and manner in which the new Scottish Road Works Register (“SRWR” - being established on 1st April 2008) is to be kept and prescribes the information to be entered on the SRWR about roads and road works and the time by which such information relating to road works shall be entered on the SRWR by road works authorities (regulation 3 and Schedule 1). It also contains the information to be contained within certain notices under Part 4 of NRSWA (regulation 4), the manner in which notices are to be served (regulation 5) and the periods by which certain notices should be served for different classifications of road works carried out by undertakers (regulations 6 and 7).

In addition the instrument outlines the procedure for giving directions by a road works authority (regulation 8), the definition of substantial works for the purposes of restrictions on road works (regulation 9), the designation of protected roads (regulation 10 and Schedule 2), roads with special engineering difficulties (regulation 11 and Schedule 2) and traffic sensitive roads (regulation 12 and Schedule 2), information to be contained within a notice following reinstatement (regulation 13) and the minimum noticing periods for remedial works (regulation 14). The instrument also exempts road managers from certain provisions of NRSWA regarding the entering of information on the SRWR (regulation 15).

Consultation

The Scottish Government launched the consultation ‘The Regulation of Utility Company Road Works’ in October 2003. The consultation aimed to establish the extent and type of problems, proposals for change and how co-ordination and quality of road works should be measured and improved.

The Scottish Government set-up a steering group to oversee the development of secondary legislation required to implement the road works provisions of the 2005 Act. The steering group consisted of administrators from the Scottish Government, Co-Chairs of Roads Authorities and Utilities Committee (Scotland) (RAUC(S)), the Chair of the Scottish Roads

Works Register Management Group and representatives from the Society of Chief Officers of Transportation in Scotland (SCOTS) and the National Joint Utility Group (NJUG).

In collaboration with RAUC(S), a working group was formed in March 2005 to inform this instrument and associated Code of Practice. This group had equal representation from both road works authorities and undertakers. Recommendations from this group have been developed in consultation with key stakeholders and scrutinised by the steering group.

In accordance with section 163A of NRSWA the Scottish Government consulted on this draft instrument during September 2006 and again in February 2008 and received a total of 31 and 8 responses respectively from a wide range of stakeholders. A number of minor changes were made to the draft instrument following consultation.

Financial Effects

The financial impacts of this instrument are set out in the accompanying regulatory impact assessment.

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Scottish Government
March 2008

Regulatory Impact Assessment
Transport Scotland Act 2005 Part 2,
The Road Works
(Scottish Road Works Register, Notices, Directions and
Designations) Scotland Regulations 2008

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1. Purpose and intended effect

Objectives

These Regulations are an element in the Scottish Government strategy to reduce traffic delays through more effective co-ordination of works within the roads infrastructure. The new Regulations will improve traffic flow through better co-operation and effective noticing arrangements in planning works, in order to reduce the disruption and inconvenience that road works and work for road purposes¹ subsequently cause. It will also improve the standard of work undertaken and set the framework from which assurance on quality and safety of works will flow.

Background

Works carried out by utility companies (gas, water, electricity and telecommunications) to install, maintain and renew their apparatus in the road can cause disruption, delay and inconvenience to road users, including businesses, public transport operators, private motorists, pedestrians, disabled people and local residents. If such activities are not carried out in a timely and efficient manner, they also have the ability to delay other works, including those carried out by other utilities.

The existing legislative framework for road works, the New Roads and Street Works Act 1991 (NRSWA), sets out the broad powers and responsibilities which utilities and road works authorities have in relation to utilities' works. NRSWA did not anticipate either the scale of works following the deregulation of the various utility sectors or the associated scale of co-ordination required. There are now some 200 utilities in the United Kingdom with a statutory right to dig up the road, considerably more than in 1991. The works carried out by local authorities and utilities have not always been satisfactorily co-ordinated, due to poor noticing and the lack of registration, which contributed to delays and disruption on the road.

Whilst the broad legislative framework is set out in NRSWA itself, the Transport (Scotland) Act 2005 amends that framework and enables the detail to be set out in a series of regulations and guidance (in particular, the Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008).

The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008 revoke and replace the Road Works (Registers, Notices, Directions and Designations) (Scotland) Regulations 1992.

The 2008 Regulations and Code of Practice were informed by a working group comprising representatives of the Scottish Government, utility companies (from the gas, water, electricity and telecommunications sectors) and road works authorities.

¹ Road works are works in the road by undertakers, usually utility companies or their contractors, to install or maintain apparatus in or under the road. Works for road purposes are works undertaken by road works authorities.

Two types of bodies will be affected by the changes to the existing Regulations:

- (i) the road works authorities (Local Authorities and Transport Scotland), and
- (ii) some 200 statutory undertakers (utilities) who have the right to carry out works in the road.

Rationale for intervention

There is an existing general duty under section 118 of NRSWA for road works authorities to co-ordinate the execution of all works (including works for road purposes). The T(S)A amends NRSWA to require road works authorities to enter certain additional information on the Scottish Road Works Register (SRWR) to assist in their co-ordination duty. The T(S)A also creates the Scottish Road Works Commissioner, who will monitor the performance of road works authorities in carrying out co-ordination and the way in which statutory undertakers co-operate.

The Scottish Government has realised that in order to assist road works authorities in carrying out this duty, the existing range of powers which the authorities have to control statutory undertaker works in the road needs to be revised, both to reflect technological advances since 1992 (for instance electronic systems to allow utilities to notify road works authorities of works) and to address gaps in existing powers (for example, to allow the location as well as timing of works to be influenced by road works authorities).

The risk of not updating and strengthening the powers for road works authorities to control statutory undertaker works is an increase in the unnecessary disruption to roads users, local residents and businesses that would occur, worsening congestion, safety and car pollution.

In order to co-ordinate effectively the various works carried out in the road, road works authorities need information on the works to be carried out, including where they will take place, how long they will last, how extensive they are and how traffic in the vicinity will be controlled. The information needs to be accurate and provided with sufficient notice, so that a road works authority can consider how disruptive the works are likely to be and if and how that disruption could be reduced (for instance by carrying out the work at different times of day or delaying the works until any other works in the area are complete).

A study undertaken for the Department for Transport in England suggested that for 5% of statutory undertaker works carried out in 2002/03 the utility company concerned failed to tell the road works authority that the works were complete. This makes it more difficult for authorities to know whether other works should be allowed to proceed.

2 Consultation with the Public and the Community

The Scottish Government launched the consultation 'The Regulation of Utility Company Road Works' in October 2003. The consultation aimed to establish the

extent and type of problems, proposals for change and how co-ordination and quality of road works should be measured and improved.

In collaboration with the Roads Authorities and Utility Committee (Scotland) (RAUC(S)), a co-ordination working group was formed in March 2005 to inform the required statutory instrument and produce a Code of Practice. This group had equal representation from both road works authorities and statutory undertakers.

Recommendations from this group were developed in consultation with key stakeholders.

The Scottish Government consulted on the resulting draft statutory instrument during September 2006 and again in February 2008 and received a total of 31 and 8 responses respectively from a wide range of stakeholders.

3 Options

The three most significant areas which the regulations apply to are set out below. The Scottish Government does not believe that a "do nothing" option of leaving the existing arrangements unchanged is practical for any of the three areas.

1. Classification and notification of works

These are powers to help plan and co-ordinate road works. NRSWA and the 1992 Regulations placed duties of co-ordination on road works authorities, backed by requirements for statutory undertakers to give advance notice to road works authorities of its planned works. The 1992 Regulations divided statutory undertaker works according to a series of classifications to prescribe the length of notice required as follows: emergency; urgent; special urgent; major projects; minor; and standard.

The Scottish Government considers that it is sensible to remove under-used categories to simplify the process for those notifying and co-ordinating works. It also makes good sense to require longer notice periods for those works that last a longer duration and are likely to have a greater impact, which provides road works authorities with more time to co-ordinate and plan works and identify measures to mitigate or minimise the potential disruption to all road users, including pedestrians, cyclists, bus passengers and car users.

The Regulations remove "special urgent". Major, standard and minor works are retained as separate categories, although there have been some changes to the definition. The major category will now be subject to three months advanced noticing.

The Regulations also require a road works authority proposing to execute works to enter in the SRWR its own works under the same categories and within the same timescales as those of the statutory undertakers.

The categories are as follows:

Major works are those works (other than minor works) which:

in relation to works by a statutory undertaker–

- (i) road works which have been identified specifically in the statutory undertaker’s annual operating programme or which, if not specifically identified in that programme, are normally planned at least six months in advance of work commencing;
- (ii) road works where a temporary traffic regulation order is required under sections 14 to 16 of the Road Traffic Regulation Act 1984⁽²⁾ for any works other than emergency works;
- (iii) those road works, other than emergency works and urgent works, in a multi-lane road that is traffic sensitive where one or more lanes are closed to enable the works to take place; or
- (iv) those road works, other than emergency works and urgent works, which have a duration in excess of 10 days and for which traffic control is required for three or more of those days as shown in the Code of Practice “Safety at Street Works and Road Works” 2001⁽³⁾; and

in relation to works by a road works authority–

- (v) works for road purposes which have been identified specifically in the road works authority annual operating programme or which, if not specifically identified in that programme, are normally planned at least six months in advance of work commencing;
- (vi) works for road purposes where a temporary traffic regulation order is required under sections 14 to 16 of the Road Traffic Regulation Act 1984 for any works other than emergency works;
- (vii) those works for road purposes, other than emergency works and urgent works, in a multi lane road that is traffic sensitive where one or more lanes are closed to enable the works to take place; or
- (viii) those works for road purposes, other than emergency works and urgent works, which have a duration in excess of 10 days and for which traffic control is required for three or more of those days as shown in the Code of Practice “Safety at Street Works and Road Works” 2001⁽⁴⁾

Minor Works are those which

(a) in relation to works by a statutory undertaker–

road works (not being emergency works or urgent works) whether in the footway, verge or carriageway, which are of a planned duration of not more than 3 days, do not form part of a rolling programme and do not involve at any one time more than 30 metres of works or 20 square metres of reinstatement or leave less than the minimum width of carriageway necessary for one-way

⁽²⁾ 1984 c.27.

⁽³⁾ ISBN: 011 551 9580. Published by the Department for Transport, the Scottish Government and the Welsh Assembly under section 124(3) of the Act.

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traffic as defined in the Code of Practice "Safety at Street Works and Road Works" 2001; and

(b) in relation to works by a road works authority–

works for road purposes (not being emergency works or urgent works) whether in the footway, verge or carriageway, which are of a planned duration of not more than 3 days, do not form part of a rolling programme and do not involve at any one time more than 30 metres of works or 20 square metres of reinstatement or leave less than the minimum width of carriageway necessary for one-way traffic as defined in the Code of Practice "Safety at Street Works and Road Works" 2001.

Standard Works are those works which in relation to works by a statutory undertaker and in relation to works by a road works authority, all works which are not emergency works, urgent works, minor works or major works.

Previous regime & works categories	Advance notice (section 113 of NRSWA)	Notice of start of works (section 114 of NRSWA) TS road	Notice of start of works (section 114 of NRSWA) Non TS road
Emergency works	Not required	Within 2 hours of works starting	Within 2 hours of works starting
Urgent works	Not required	2 hours before proposed start	Within 2 hours of works starting
Special urgent works	Not required	Within 2 hours of works starting	Within 2 hours of works starting
Major works	1 month	7 days before proposed start	7 days before proposed start
Standard works	1 month in traffic sensitive roads, not required otherwise	7 days before proposed start	7 days before proposed start
Minor works	1 month where the work requires a traffic sensitive road to be excavated. Not required otherwise	7 days before proposed start where the work requires excavation. 3 days if it does not need excavation	Daily Whereabouts before proposed start where the work requires excavation. Otherwise no notice is required.

New regime & works categories	Advance notice (section 113 of NRSWA)	Notice of start of works (section 114 of NRSWA) TS road	Notice of start of works (section 114 of NRSWA) Non TS road
Emergency works	Not required	Within 2 hours of works starting	Within 2 hours of works starting
Urgent works	Not required	2 hours before proposed start	Within 2 hours of works starting
Major works	3 months	7 days before proposed start	7 days before proposed start
Standard works	1 month in traffic sensitive situation.	7 days before proposed start	7 days before proposed start
Minor works with excavation	1 month in a traffic sensitive situation,	3 days	By noon on the day before proposed start date
Minor works without excavation	Not required	3 days	Not required.

- **"Traffic sensitive roads"** are roads which individual road authorities have designated in their area as being the most likely to be disrupted by 9 works (eg those with the highest traffic levels), and where stricter controls on works should apply.
- **"Road category"** measures how busy a road is, based on commercial vehicle numbers using it. Category 0 are the busiest and 4 the least busy

2. Directing the location of works

Section 115A of NRSWA was inserted by section 21 of the T(S)A. Where a statutory undertaker notifies a road works authority that it intends to carry out works to install new apparatus (e.g. a water main) in a specific road, the road works authority can direct the statutory undertaker to not place it in that road. The NRSWA places several constraints on the use of this power to direct, namely:

- (a) that placing the apparatus in a road other than the one cited in the direction would avoid or reduce disruption to traffic;
- (b) that placing the apparatus in another road would be a reasonable way to achieve the purpose for which the apparatus is to be installed (for instance it does not prevent the statutory undertaker supplying a new electricity service to a customer located in the proposed road);
- (c) that it is reasonable to require the statutory undertaker not to place the apparatus in the road originally proposed.

At present, a statutory undertaker is able to allocate a route when installing new apparatus to connect two points. The provisions under section 115A provide road works authorities with a tool to reduce the disruption on the road network by enabling the non placement of apparatus if the works are likely to cause disruption to traffic over the duration of the works.

The decision to give directions as to the placing of apparatus should be based on the traffic flow of the road in which the works are proposed to be carried out. It has been estimated that the cost to road users of the disruption caused by road works (200m in length) is thirty times higher when the road in question has a traffic flow (per annum average) of 24,000 vehicles compared to 6,000 vehicles. Provisions to enable a road works authority to direct a statutory undertaker to not carry out works in a traffic sensitive road can help reduce disruption significantly, both in terms of the disruption caused by the original work to install the apparatus and any future work needed to renew or repair it.

4 Costs and Benefits

Sectors and groups affected

As with the existing Regulations, the revised and new Regulations will affect road works authorities, statutory undertakers and their contractors. There would be no material impact on other businesses, voluntary organisations, charities or people in different social groups. However, better co-ordination and management of road works will have an impact on all road users, whether a pedestrian, bus passenger, car user or business reliant on road traffic to distribute goods or to allow their customers to gain ready access to their premises. The benefits of being able to better control these activities for road users are many, as follows:

- congestion and pollution is reduced, with benefits for air quality and other aspects of the environment;

- business can operate more efficiently through the quicker and more reliable delivery of goods, service of customers etc;
- people are able to access their destinations more easily, saving time and effort;
- public transport can operate more easily; potentially further relieving congestion on the road by maximising the use of the existing network.

Race equality impact

There are no race equality impacts to any of these proposals.

Environmental quality impact

A study carried out for the Department for Transport by the Transport Research Laboratory suggested that trench excavations a road may lead to cracking of the road surface and an increased level of defects, even where the original reinstatement work is carried out to the standards laid down under NRSWA. This view is not wholly accepted by the road works community. However, trench excavations do impact upon the visual amenity of an area and can make our roads look unsightly, creating a patch work quilt effect.

There is a long term benefit of preserving the integrity of the road and improving visual appearance. A road which has not been subject to trench excavation will be more likely to have a more even running surface than one which contains multiple excavations and will provide a smoother, more comfortable, ride quality for road users, especially cyclists.

Estimates of Benefits

These Regulations will provide better co-ordination of road works, which will ultimately contribute to a more efficient road network and reduce delays to the road user. Better co-ordination should also lead to better working practices which will benefit the road works authorities, statutory undertakers and contractors who undertake work on their behalf.

It is not possible to quantify the exact benefits at this stage, as this will depend upon how effective the changes are in reducing the disruption caused by both road works authorities and statutory undertaker works and an improvement in the value for money obtained by road works authorities in their expenditure of road maintenance.

Impact on public assets

Better control of road works, especially those involving excavations, and greater use of restrictions on road works after substantial road works may help provide better value of money for road maintenance. For instance, resurfacing would last longer and this in turn can obviate the need for far more expensive reconstruction of a road. A Department for Transport (DfT) study estimated that the average cost of resurfacing in built-up principal roads is approximately £100,000 per km.

The Audit Scotland report 'Maintaining Scotland's Roads' published in November 2004 showed the average cost of resurfacing 1 m² of a type B road with 40mm of DBM would be in the region of £10. This has since increased by roughly 30%.

Reduction in delays

A number of studies have been carried out in recent years to try to assess the level of disruption caused by works in the road. A report published in July 2004 for the Department for Transport estimated the annual costs of disruption caused by utility works in England in the year 2002/03 at some £4.3 billion. In response to this, National Joint Utilities Group (NJUG) commissioned a further study to review these findings. The second study adopted a different approach and provided an estimated cost of £1 billion to the economy, directly attributable to delays caused by road works. Although this is a large variation, it does confirm that the cost of congestion has a significant impact on the operation of the road network.

This RIA bases its assessment of benefits on detailed estimates of the disruption caused by individual works, which can vary according to a series of factors, such as the duration of the work, the traffic flow on the specific road on which they are carried out, whether the roads are single or dual carriageway, the size of the works and even whether works are carried out in rural or urban areas. It can be shown that a work which is 50 metres long in an urban road with a daily traffic flow of 40,000 vehicles might cause £25,000 of disruptions a day. In contrast, a 10 metre long work on a rural road with a daily traffic flow of 4,000 vehicles may by comparison only cause £335 of disruption per day.

The total number of works notices issued in Scotland during the period April to January 2006 was 92,650. This approximates to one tenth of the figures used in the DfT study.

The possible direct financial benefits per annum to road users (including businesses, private drivers and public transport users) to be derived by a reduction in delay of just 1%, caused by utility works by measures such as those proposed in these regulations are set out below.

<i>% reduction in road user delays</i>	<i>Benefit per annum</i>
1%	£4.3 million
2%	£8.6 million
5%	£21.5 million
10%	£43.0 million
<i>The above estimate is based on 120,000 works a year</i>	

Costs

(i) Directing the location of works:

Directions as to the location of works can only be given in relation to placing new apparatus and where certain other conditions are satisfied. Therefore, their use will not be widespread. There may be some additional costs to the statutory undertaker involved in individual cases.

It is up to individual road works authorities to decide whether to impose such restrictions. Therefore these changes should not impose any additional costs on road works authorities

(ii) Directing the timing of works

The provision under section 115 NRSWA that allows the road works authority to direct statutory undertakers as to when works may be carried out has been clarified. Such a direction should not be issued which would require works to be carried out outside normal hours if this would require the statutory undertaker to breach any noise abatement or prevention provision of other legislation.

It is for the road works authority to resolve any conflict between the need to minimise disruption by requiring works to be done at night and the demands of Environmental Health Offices to minimise disturbance due to noise. As this is an existing power and the constraints on its operation are unchanged the impact on undertakers should be limited.

(iii) Restricting works after substantial works:

The power to place a restriction on works after substantial road works has been in place since 1992. The power is not used very extensively by road works authorities, and there is no evidence that its use has placed significant costs on statutory undertakers.

The new powers will allow road authority to restrict road work for longer after substantial works for road purposes.

As well as providing for exemptions the T(S)A requires a road works authority to provide an opportunity for statutory undertakers to carry out works before any restrictions come into force. The newly enhanced Scottish Road Works Register allows for the future planning of road works, including restrictions which will become a co-ordination tool. Therefore, the impact of individual restrictions should be limited.

It is up to individual road works authorities to decide whether to impose such restrictions. Therefore these changes should not impose any additional costs to road works authorities.

5 Small Firms Impact Test

The impact on small business should be limited as the changes being introduced would predominantly affect local and national road works authorities and statutory undertakers (i.e. water, gas, electricity and telecommunications companies).

6 Legal Aid Impact Test

This section is not applicable.

7 Test Run of business forms

This section is not applicable.

8 Competition assessment

We have carried out a competition filter test on the likely effect of the regulations. The regulations would affect four sectors within the private sector: (i) water utilities, (ii) electricity utilities, (iii) gas utilities and (iv) telecommunications utilities. Water and electricity companies (such as Scottish Water and Scottish Power – Power Systems) operate on a regional basis, rather than in direct competition to each other. In the water sector, companies operate both locally and regionally. In the electricity sector, the distribution businesses operate on a regional basis, rather than in direct competition with each other. The gas sector has regional distribution networks that operate as regional monopolies, similar to the electricity companies. Given that, we do not believe that the regulations will have a significant effect on competition in any of the three sectors.

The situation in the telecommunications sector is somewhat different. The sector has been regulated since the privatisation of BT in 1984 and different companies are in direct competition with each other in relevant areas, such as residential and business access. Oftel has found that BT has significant market power in these areas, with around 80% of the UK market.

It is considered that there would be no significant implications for competition in the telecommunications sector from the new arrangements. The changes to the system for classifying and notifying different works would apply to all statutory undertakers. Equally, in making use of the power to direct and restrict works after substantial works, road works authorities would be expected to deal with different statutory undertakers on a non-discriminatory basis. It is possible that some businesses may incur some additional costs in setting up new systems to improve the management of their works. Again, this should not in itself discriminate against particular firms or new entrants, and it is unlikely that such costs will be sufficient to have implications for competition.

The competition implications on the telecommunications sector have been closely considered in relation to two of the proposed measures in the Regulations.

- I. Section 115A. - The power to direct the placing of apparatus may favour those with existing apparatus in the road affected. The use of the power to direct is considered to be sufficiently constrained in the Regulations; as

such directions can only be given where there is a reasonable alternative for the undertaker to provide the required service.

- II. Section 117 - Where a road works authority announces its intention to impose a restriction, it must inform, amongst other persons, not only statutory undertakers who already have apparatus in that road, but must also place a notice of the proposed restriction on the Scottish Road Works Register so that all statutory undertakers will have an opportunity to decide whether they wish to install any apparatus or carry out any other works **before** the restriction following substantial works for road purposes takes effect.

9 Enforcement/sanctions/monitoring/review

Enforcement and sanctions

Prior to the T(S)A, NRSWA listed and defined summary offences under sections 113,114,115, 116, 117 and 129 in respect of failure to serve a notice of road works, or carrying out works in contravention of a direction or restriction and other omissions.

The T(S)A has created a new offence in relation to section 115A of NRSWA, namely:

Carrying out works in contravention of a direction not to carry out works in a particular road;

The T(S)A has also created under section 154A and Schedule 6A of NRSWA a number of Fixed Penalty offences (FPN), namely:

- a. S113(5) - Failure to give advanced notice
- b. S114(5) - Failure to give notice of starting works
- c. S116(4) - Failure to give notice of emergency works
- d. S129(6) - Failure to give notice of completion of reinstatement

These provide a means by which the road works authority may impose a penalty on an undertaker it considers has committed an offence, without requiring Court action.

The recipient of the penalty will have the option of discharging criminal liability by making payment. The recommended level of the FPN shall be £120 or a discounted amount of £80 where it is paid within 29 calendar days starting with the day on which the penalty is given. Further details of how the FPN system will operate will be found in the Regulatory Impact Assessment for the *Road Works (Fixed Penalty) (Scotland) Regulations 2008* which will be laid with the corresponding Regulations.

The T(S)A has also created an office known as the 'Scottish Road Works Commissioner'. The Commissioner, under section 119A of NRSWA, has powers to impose penalties to both road works authorities and undertakers who systematically fail in their duties to co-ordinate and co-operate.

The levels of these penalties are to be set by the Commissioner but under Regulations made under section 119A of NRSWA (SSI 2007/411) will not exceed £50,000.

Monitoring

Under the T(S)A the Commissioner has the following general functions:

- a. Monitoring the carrying out of works in roads in Scotland
- b. Promoting compliance with the 1991 Act and obligations imposed under it; and
- c. Promoting the pursuit of good practice by those persons who have functions conferred on or permissions granted to them by or under the 1991 Act.

Review

In the past, the Scottish Government has undertaken periodic reviews of regulations and the associated Codes of Practice issued under NRSWA. The Government will be setting up arrangements to monitor the operation of the new legislative regime under the T(S)A, and in particular will review the effectiveness of the Road Works (Scotland) Regulations 2008 and accompanying Code of Practice. The exact form this monitoring has yet to be decided, but is likely to involve the Scottish Road Works Commissioner.

Summary and recommendation

On balance, the Scottish Government believes that the benefits which the regulations can deliver through reduced disruption for all road users, better value for money for road maintenance expenditure and reduced negative environmental effects of road works authority and statutory undertaker works will outweigh the additional costs which these impose on those carrying out works.

Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Date

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