

2009 No. 26

ROADS AND BRIDGES

**The Scottish Road Works Register (Prescribed Fees)
Regulations 2009**

Made - - - - - *27th January 2009*

Laid before the Scottish Parliament *28th January 2009*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 112A(4) and 163(1) of the New Roads and Street Works Act 1991(a) and all other powers enabling them to do so.

In accordance with section 163A of that Act(b) they have consulted with such—

- (a) persons considered by them to be representative of the interests of undertakers;
- (b) road works authorities; and
- (c) other persons,

as they think appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Scottish Road Works Register (Prescribed Fees) Regulations 2009 and, except as provided in paragraph (2), come into force on 28th February 2009.

(2) Regulation 4 comes into force on 1st April 2009.

Interpretation

2. In these Regulations—

“the 2008 Regulations” means the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008(c);

“the Act” means the New Roads and Street Works Act 1991;

“financial year” means the period of 12 months commencing on 1st April 2009;

(a) 1991 c.22. Section 112A was inserted by section 19 of the Transport (Scotland) Act 2005 (asp 12) (“the 2005 Act”).
(b) Section 163A was inserted by section 39 of the 2005 Act.
(c) S.S.I. 2008/16.

“relevant undertaker” means an undertaker who has entered a notice in one or both of the following registers—

- (a) the register kept by roads authorities(a) prior to the establishment of the SRWR(b);
- (b) the SRWR,

in the period of 12 months ending on 31st December 2008;

“undertaker” has the same meaning as in section 107(4) of the Act but excludes those persons granted permission under section 109 of the Act to execute road works.

Prescribed fees

3.—(1) For the financial year, payment to the Commissioner(c) of the prescribed fee, calculated in accordance with paragraphs (3) and (4), by roads authorities and relevant undertakers is a condition of access to the SRWR as mentioned in section 112A(3) of the Act.

(2) Payments due to the Commissioner under this regulation shall be made within 90 days of receipt of the invoice from the Commissioner.

(3) For each roads authority, the prescribed fee for the purposes of section 112A(4)(a) of the Act shall be calculated in accordance with the formula—

$$\frac{NRA \times 4}{TNU + (TNRA \times 4)} \times (£779,000-£A)$$

where—

NRA is the number of notices entered in the SRWR by the roads authority to which the calculation relates in the 3 month period ending on 31st December 2008;

TNRA is the total number of notices entered in the SRWR by all roads authorities in the 3 month period ending on 31st December 2008;

TNU is the total number of notices entered by all relevant undertakers in—

- (a) the register kept by roads authorities prior to the establishment of the SRWR in the 3 month period ending on 31st March 2008; and
- (b) the SRWR in the 9 month period ending on 31st December 2008; and

£A is the total amount payable to the Commissioner by way of prescribed amounts for the financial year pursuant to regulation 3 of the 2008 Regulations.

(4) For each relevant undertaker, the prescribed fee for the purposes of section 112A(4)(a) of the Act shall be calculated in accordance with the formula—

$$\frac{NU}{TNU + (TNRA \times 4)} \times (£779,000-£A)$$

(a) Section 145(1) of the Act defines “roads authority” as having the same meaning as in section 151 of the Roads (Scotland) Act 1984 (c.54).

(b) The Scottish Road Works Register kept in terms of section 112A(1) of the Act.

(c) The Scottish Road Works Commissioner created by section 16(1) of the 2005 Act and defined in section 112A(1) of the Act.

where–

NU is the total number of notices, entered by the relevant undertaker to which the calculation relates, in–

- (a) the register kept by roads authorities prior to the establishment of the SRWR in the 3 month period ending on 31st March 2008; and
- (b) the SRW in the 9 month period ending on 31st December 2008.

TNRA, TNU and £A have the same meaning as in paragraph (3).

Revocation

4. In the 2008 Regulations the following provisions are revoked–

- (a) the definition of “relevant undertaker” in regulation 2;
- (b) regulation 4; and
- (c) Schedule 2.

St Andrew’s House,
Edinburgh
27th January 2009

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 112A(1) of the New Roads and Street Works Act 1991 (“the Act”) (as inserted by section 19 of the Transport (Scotland) Act 2005) (asp. 12)) provides for the Scottish Road Works Commissioner (“the Commissioner”) to keep a register to be known as the Scottish Road Works Register (“the SRWR”).

Section 112A(4) of the Act allows the Scottish Ministers, by regulations, to provide that the payment to the Commissioner of the prescribed fee is a condition of access to the SRWR.

The Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008 (S.S.I. 2008/16) have already prescribed certain persons as prescribed persons.

Regulation 3(1) provides that, for the financial year commencing on 1st April 2009, payment to the Commissioner of the prescribed fee by roads authorities and relevant undertakers is a condition of access to the SRWR as mentioned in section 112A(3) of the Act.

Regulations 3(3) and (4) provide formulas for the calculation of the prescribed fee for roads authorities and relevant undertakers.

Regulation 4 revokes provisions in the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008 which will become spent on the new financial year commencing on 1st April 2009.

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