

Final Business and Regulatory Impact Assessment

Title of Proposal The Scottish Road Works Register (Prescribed Fees) Regulation 2014
Purpose and intended effect <ul style="list-style-type: none">• Background<p>The New Roads and Street Works Act 1991 enables Scottish Ministers to provide, by Regulation, that a payment is made by roads authorities and statutory undertakers (utility companies) to the Scottish Road Works Commissioner for access to the Scottish Road Works Register.</p>• Objective<p>The Regulation will change the overall figure used in the formula to calculate the proportion of the cost of providing the Scottish Road Works Register to be paid by individual roads authorities and statutory undertakers. It will also reduce the period within which payments due to the Commissioner are required from 90 days to 60 days.</p>• Rationale for Government intervention<p>The fees are designed to cover the cost of operating and maintaining the Scottish Road Works Register. The fee is calculated using a series of formulas that share the cost of running the Scottish Road Works Register annually between the roads authorities (who between them bear 35% of the cost) and the undertakers (who make up the remaining 65%). This formula was developed and agreed by the road works community through the Road Authorities and Utilities Committee (Scotland) ("RAUC(S)"). The fee is calculated based on activity in the previous year taking account of anticipated costs of running and providing the service of the Scottish Road Works Register. The fee also takes account of any residual surplus fees paid in the previous year that were not required to be spent on the cost of running the register in the same period. This results in the proposed fee being at a lower level than the fee set for 2013.</p><p>The reduction of the payment period from 90 days to 60 days is necessary to provide greater control and financial flexibility in the running of the Register.</p><p>Efficient running of the Scottish Road Works Register contributes to ensuring our public services are high quality, continually improving, efficient and responsive to people's needs, by protecting the integrity of Scottish roads through careful planning and co-ordination of road works.</p>
Consultation <ul style="list-style-type: none">• Within Government<p>The proposals do not impact on any other part of Scottish Government. However, the Scottish Road Works Commissioner, an independent public body, was consulted, as the 'keeper' of the Register, appointed under statute.</p>• Public Consultation<p>Consultation took place between December 2013 and January 2014, closing on 31 January 2014. Four responses were received, all supportive of the increase.</p>• Business<p>The parties affected by the change (road works authorities and representatives of</p>

the statutory undertakers) were informed directly by email when the consultation launched. Two businesses responded supporting the amendment.

Options

There are essentially 2 options:

Option 1 – do nothing and leave the prescribed fee and payment period at the 2013 level; or

Option 2 - vary the fees and payment period to reflect the actual cost of providing the Scottish Road Works Register.

Sectors and groups affected

Roads authorities and utility companies

Benefits

Option 1

The cost of running the Scottish Road Works Register will be met and there will be a surplus at the end of the year.

Option 2

The benefits in making the proposed change are that it will ensure that the cost of running the Scottish Road Works Register are met, yet at the same time it will avoid the roads authorities and utility companies paying more than they have to for access to the Register.

Costs

Option 1

Roads authorities and statutory undertakers will contribute more than is required to run the Register.

Option 2

If the prescribed fee not varied each year there is a risk on the one hand, that the cost of providing the Scottish Road Works Register will not be recovered, and on the other, that roads authorities and statutory undertakers may pay more money than they otherwise might be required to pay.

At a Scotland level, roads authorities collectively share 35% of the cost of providing the Scottish Road Works Register. The contribution made by individual roads authorities is based on the relative size of each authority based on the population in each area.

Statutory undertakers collectively contribute 65% of the cost of providing the Scottish Road Works Register. The share of that paid by each undertaker is based on the proportion of notices they each submit to the register compared with the total number submitted by all undertakers in a year, and the number of road authority areas in which they have apparatus under the roads.

The Regulation provides a formula for the calculation of the appropriate fee. A worked

example is shown at Annex A.

Scottish Firms Impact Test

The businesses affected by the amendment were consulted during the consultation period and those that responded were supportive of the amendment. Since the overall figure for the Prescribed Fee had been discussed and agreed by the parties affected by the change at the Roads Authorities and Utilities Committee Scotland (RAUC(S)), no face to face interviews were considered necessary.

- **Competition Assessment**

Using the Office of Fair Trading's Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

- **Test run of business forms**

- No new forms to complete

Legal Aid Impact Test

The Access to Justice team has been consulted and it is not expected that this Regulation will have any impact on the Legal Aid Fund.

Enforcement, sanctions and monitoring

The Scottish Road Works Commissioner will ensure that Fees are paid. As keeper of the Scottish Road Works Register, the commissioner regulates who has access to the Register.

Implementation and delivery plan

The Regulations will come into force on 1 April 2014

- **Post-implementation review**

The fees will be reviewed in 2015

Summary and recommendation

Making the proposed changes strikes the balance between ensuring that the costs of running the Scottish Road Works Register are recovered and the amounts paid by the roads authorities and utility companies who access the Register. The recommendation, therefore, is to make the proposed changes.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	The cost of running the Register will be met.	Those paying for access to the Register will actually pay more than is required to run the Register during 2014/15.
2	The cost of running the Register will be met.	The prescribed fees will meet the estimated cost of running the Register.

Declaration and publication

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

Signed:**Date:****Keith Brown****Minister for Transport and Veterans****Scottish Government Contact point:**

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Annex A

Paying for access to the Scottish Road Works Register

The total money paid to the Scottish Road Works Commissioner in connection with access to the Scottish Road Works Register comprises two elements.

1. The first is the **prescribed amount** which for road authorities reflects the size of the population in their areas, and for statutory undertakers depends on the number of local authorities in which they have apparatus under the road;
2. The second the **prescribed fee** which is an amount which is designed to deliver the balance of necessary income to cover the total estimated cost of providing the Scottish Road Works register. The calculation is such that statutory undertakers pay 65% of the total of the prescribed fees with road authorities paying the remaining 35%.

Prescribed fee - example calculations

In the following examples a hypothetical value of £280,000 is used to represent the total of the prescribed amounts.

Roads Authorities

Prescribed fee formula is:-

$$Rx(\pounds 759,795 - \pounds A)$$

$$Rx(\pounds \text{Estimated cost of running the register} - \pounds A)$$

$$=(\text{Figure in relation to specific roads authority}) \times (\pounds \text{Estimated cost of running the register} - \pounds \text{total of prescribed amount payable to Commissioner})$$

Example

Roads Authority A

$$0.018(\pounds 759,795 - \pounds 280,000) \\ = \pounds 11,876$$

The total of *R* for all road authorities when added together comes to 0.35. This reflects the agreed split/share of the cost of running the register between road authorities (35% of the total cost) and undertakers (65% of the total cost).

Statutory Undertakers

Prescribed fee formula is:-

$$N/TN \times (\pounds 759,795 - \pounds A) \times 0.65$$

Number of notices submitted/ Total notices (all undertakers) x (759,795 – prescribed amount payable to the Commissioner)

Example

Utility Company B submits 500 notices each year. In this example there were 5200 notices Scotland wide (calendar year).

$$\begin{aligned} &500/5200 \times (759,795 - 280,000) \times 0.65 \\ &=0.09615 \times 479,795 \times 0.65 \\ &=£29,985 \end{aligned}$$

Total amounts payable

Using the examples given above, Road Authority A would have to pay the total of their prescribed amount and prescribed fee. Road Authority A's individual prescribed amount is £1000. Therefore the total amount to be paid within 60 days of receiving an invoice from the Scottish Road Works Commissioner is (£1000 + £11,876) £12,876.

Statutory Undertaker B's prescribed amount is £10,000. Therefore the total amount to be paid within 60 days of receiving an invoice from the Scottish Road Works Commissioner is (£10,000 +£29,985) £39,985.