

Final Business and Regulatory Impact Assessment

Title of Proposal

The Scottish Road Works Register (Prescribed Fees) Regulations 2017

Purpose and intended effect

Background

The New Roads and Street Works Act 1991 enables Scottish Ministers to provide, by Regulation, that a payment is made to the Scottish Road Works Commissioner for access to the Scottish Road Works Register (“the Register”).

These Regulations set the levels of prescribed fees and amounts that can be levied as a charge to those accessing the register. The Register is a central tool for road works authorities and utility companies to use to assist them in the planning and coordination of works on Scottish roads. Roads Authorities and Utility Companies (the latter group are commonly referred to as “Statutory Undertakers” in the legislation) have a duty to submit information relating to road works in the form of notices placed onto the register.

Objective

These Regulations will change the overall fee figure used in the formula to calculate the proportion of the cost of providing the Register to be paid by individual Roads Authorities and Statutory Undertakers.

The fee is calculated using a series of formulas that share the cost of running the Register annually between the Roads Authorities (who between them bear 35% of the cost) and the Statutory Undertakers (who make up the remaining 65%).

Rationale for Government intervention

The fees are designed to cover the cost of operating and maintaining the Register. The formula used was developed and agreed by the road users community through the Roads 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 Register.

The coordination of road works through the use of the Register helps meet the following strategic objectives within the National Performance Framework:-

- We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- We value and enjoy our built and natural environment and protect it and enhance it for future generations; and
- Our public services are high quality, continually improving, efficient and responsive to local people’s needs.

Consultation

Within Government

While the proposals do not impact on any other part of Scottish Government, colleagues within Transport Scotland, Trunk Roads & Bus Operations Team (TRBO) and the current Scottish Road Works Commissioner (SRWC), an independent public body, were consulted.

Public Consultation

A 10 week public consultation took place between 3 November 2016 and 12 January 2017. 6 responses were received as detailed in the table below. All of the respondents agreed to the publication of their response.

Name of respondent
SGN
North Lanarkshire Council
Openreach
City of Edinburgh Council
Network Rail
East Dunbartonshire Council

Business

The parties affected by the change (Roads Authorities and Statutory Undertakers) were informed directly by email when the consultation launched. RAUC(S) has been asked to consider and propose alternative methods for calculation of the Prescribed Fee to be effective from 2019/20.

Options

Option 1 - Do Nothing i.e. leave the fees at their current level

Option 2 - Amend the current arrangements in line with the projected cost of running the Scottish Road Works Register.

Sectors and groups affected

Option 1 – Roads Authorities and Statutory Undertakers.

Option 2 - Roads Authorities and Statutory Undertakers.

Benefits

Option 1 – There are no benefits associated with pursuing option 1, however there is a risk that the full cost of operating the register in 2017-18, and 2018-19 shall not be recovered.

Option 2 - Setting the Prescribed Fee at the appropriate level ensures that the cost of providing the Register is fully covered. It allows excess income paid by Register users in earlier years to be offset against the level of fee income that has to be recovered in 2017-18, and 2018-19.

Costs

The level of fees paid by users depends on a number of factors. A formula developed with the road works community shares the estimated cost of operating the register across Statutory Undertakers and Roads Authority users. The fees paid by users are, therefore, linked to both the overall fee income required and, in the case of Statutory Undertakers, the number of notices placed onto the Register. In the case of Roads Authorities, they pay a proportion of the total fee income required taking account of fixed amounts (“prescribed amounts”¹) that each is required to pay.

Option 1 – If the prescribed fee is not increased there will be no immediate increase in costs for users of the Register, however there is a risk that the cost of running the register may not be recovered.

Option 2 – If the prescribed fee is not monitored and set at the appropriate level and varied where required there is a risk that the cost of providing the Register will not be recovered. Additionally, Roads Authorities and Statutory Undertakers may pay more than they otherwise might be required to pay.

Any change made under Option 2 will only impact on Statutory Undertakers and Roads Authorities.

Option 1 - No additional cost to business.

Option 2 – Any additional cost in running the Register will be apportioned, using the current methodology, between the Roads Authorities and Statutory Undertakers.

Scottish Firms Impact Test

Face to face discussions were held within the auspices of the working group which has been set up involving representatives of the Scottish Roads Authorities and Statutory Undertakers. These discussions helped inform the decision on whether the current methodology for the calculation of Prescribed Fees should be used for 2017/18 and 2018/19 with further discussions to take place on finding an alternative methodology for the calculation from 2019/20 onwards. All businesses affected are represented on the working group therefore we considered that it would be disproportionate to carry out further face to face interviews.

Competition Assessment

Competition filter questions

Will the measure directly or indirectly limit the number or range of suppliers?

No.

Will the measure limit the ability of suppliers to compete?

No. This regulation will provide for the continued use of the Register and coordination of works in roads in Scotland

¹ [See Regulation 3 of the Scottish Road Works Register \(Prescribed Fees and Amounts\) Regulations 2008](#)

Will the measure limit suppliers' incentives to compete vigorously?

No. All users of the Register will pay a fee which has been set using methodology which has been agreed with stakeholders.

Will the measure limit the choices and information available to consumers?

No. However, there may be an increase in the information which is made available on the public facing pages of the Register.

Test run of business forms

No new business forms will be created.

Legal Aid Impact Test

The Scottish Government Access to Justice Team has confirmed that they do not anticipate that any proposals which may emerge as a result of the consultation will impact on legal aid expenditure.

Enforcement, sanctions and monitoring

The Scottish Road Works Commissioner is responsible for the collection of fees set under these regulations.

Implementation and delivery plan

The proposed new Regulations will come into force on 1 April 2017.

- **Post-implementation review**
The Prescribed Fees will be reviewed in 2018.

Summary and recommendation

The level of the proposed fees within the 2017 Regulations will secure the operation of the Scottish Road Works Register for 2017/18 and 2018/19, without any adverse impact to business.

It is recommended that the level of prescribed fees are set based on estimated costs of running the Register, (offset by the use of deferred income from previous years), being set at £850,000 for 2017/18 and £1,029,000 for 2018/19.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	Operator costs are unlikely to increase, however the cost of running the Register may not be met through fee income.	Roads Authority and Utility Company fees may not increase but any shortfall will become a budget pressure on the Scottish Road Works

		Commissioner and may require additional financial support from the Scottish Government.
2	The cost of running the Register will be met and users will benefit from the use of deferred income to lower the level of fees that might otherwise be required.	Roads Authority and Utility Company costs may increase but not to the extent that they could have risen to had deferred income not been used to offset the fee income required.

Declaration and publication

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

HUMZA YOUSAF

Date: 23 February 2017

**Humza Yousaf
Minister for Transport and the Islands**

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