

Final
Business and Regulatory Impact Assessment

Title of Proposal

The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018

Purpose and intended effect

- **Background**

The New Roads and Street Works Act 1991 enables the 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. Road 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**

This Amendment Regulation 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 undertakers (who make up the remaining 65%).

The existing Regulations “The Scottish Road Works Register (Prescribed Fees) Regulations 2017” set a fee of £1,029,000 based on the cost of operating the register at that time. It is now considered that the cost of running and maintaining the register will be lower than originally calculated due to a new contract award for operating the register. This Regulation would reduce the overall Prescribed fee to £750,000, significantly reducing the cost to users of the register.

- **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**

Transport Scotland, as trunk road authority in Scotland, will be consulted as part of the consultation process. In addition, the Scottish Road Works Commissioner, an independent public body, was consulted in the cost of operating the register.

- **Public Consultation**

The New Roads and Street Works Act 1991 requires the Scottish Ministers to consult representatives of statutory undertakers, road works authorities and other as appropriate. We undertook a short consultation on the proposed changes and as expected there was full support for the change from all of the respondents.

- **Business**

The parties affected by the change (road works authorities and utility companies) were informed directly by email when the consultation launched.

Options

Provide a list and a brief description of each of the options you are considering. This should include [non-regulatory](#) options and the 'Do Nothing' option must be one of the options you consider.

Option 1 – Do Nothing ie leave the fees at their current level

Option 2 – Amend the current Regulation to the reduced amount required to operate the register in 2018-19

Sectors and groups affected

Option 1 – road works authorities and utility companies

Option 2 – road works authorities and utility companies

Benefits

Option 1 - There are no benefits to either party in the Do Nothing. In fact, option 1 would have a punitive effect on both parties, who would contribute more than is required for the operation of the register.

Option 2 – Setting the fee at the appropriate level will ensure that the full costs of operating the register will be covered.

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 utility company and road authority users.

The fees paid by users are currently linked to the overall income required to operate the register. In the case of utility companies the fee is calculated based on the

number of notices placed onto the register; and in the case of road works authorities, a proportion of the total fee income required having taken into account of fixed amounts (“prescribed amounts”) that each authority is required to pay.

Option 1 – The road works community has already indicated that they are willing to pay the Prescribed Fees at this level.

Option 2 – Present a reduced cost for users.

Scottish Firms Impact Test

Face to face discussions took place agreeing the original figure of £1.029,000 for the overall Fee. Given that this proposal represents a saving for users no further discussions were deemed to be required.

Competition Assessment

The answers to the Competition and Markets Authority Filter questions in the original Regulation indicated that this proposal would not directly or indirectly limit the range of suppliers or the ability of suppliers to compete, or reduce suppliers; incentives to compete vigorously. The proposed amendment will not change this.

Test run of business forms

No new business forms will be created.

Legal Aid Impact Test

The Scottish Legal Aid Board did not anticipate any impact on the Legal Aid Fund from the original Regulation. The proposed amendment does not materially affect this position.

Enforcement, sanctions and monitoring

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

How will the proposal be implemented and in what timescale?

The Regulation will come into force on 1 April 2018.

- **Post-implementation review**

The Scottish Road Works Register working group will continue to consider the level of fees required in the future.

Summary and recommendation

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	User costs will remain the same, however, an excess of funds will be accumulated by the Commissioner, which can only be spent on the register in the future.	No change would have a punitive effect on users, by charging more than is necessary for the running of the register.

2	The cost of running the register will be met tot no financial detriment of the user.	No adverse cost to users anticipated.
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Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- Sign-off for Final BRIAs:

I have read the Business and Regulatory 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:

Minister's name HUMZA YOUSAF

Minister's title Minister for Transport and the Islands

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