

Title: Reforms to the Streetworks Qualifications regulations IA No: DfT00356 Lead department or agency: Department for Transport Other departments or agencies: None	Impact Assessment (IA)
	Date: 19 July 2016
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options	RPC Opinion: Fit for purpose (16/08/2016)

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of One-In, Three-Out?	Measure qualifies as
£4.67m	£2.33m	-£0.3	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?

Street works are carried out by or on behalf of the four main utility groups, water, gas, electricity and telecoms. Most utility companies are statutory undertakers (i.e. they have a statutory right to install, inspect, maintain, repair, or replace apparatus), but street authorities may also grant street works licences to others. Statutory undertakers and licensees are collectively known as undertakers.

Section 67 of the New Roads and Street Works Act 1991 (NRSWA), imposes an obligation on street works undertakers to ensure that at all times when work is in progress, there is at least one operative on site with a prescribed qualification and that, in most cases, the works are supervised by someone with a prescribed qualification. In England, the secondary legislation made under s67 of NRSWA is Statutory Instrument, SI 2009 No 2257 *The Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2009*, as amended.

Among other things, these regulations establish procedures that operatives and supervisors must follow to become qualified, set out the conditions under which certificates may be registered or re-registered, and provide schedules detailing the training units required to make up the various prescribed qualifications. The regulations have given rise to a number of issues over the years, some of which have had financial implications (occasionally significant) for street works practitioners and their employers. In addition, the system of certificates based on various combinations of training units could benefit from simplification because it is not always clear which training units are required when renewing certificates via reassessment. The proposed changes are intended to address these issues by simplifying and improving the regulations and rationalising the whole street works training and accreditation process.

The regulations were amended on 6 April 2014 by SI 2015 No 384 *The Street Works (Qualifications of Supervisors and Operatives) (England) (Amendment) Regulations 2015*. The effect of this amendment was to remove the named organisations eligible to act as approving bodies from the regulations in order to open up the market for providing these services. However, this amendment is unrelated to the issues under consideration here so it can be disregarded for the purposes of this assessment.

The following examples illustrate some of the issues the regulations give rise to:

- The deadline for renewals is based on the date an application is made to register a certificate, not the date the certificate was obtained. This has unfairly penalised some candidates renewing their qualifications in cases where they have passed the assessment but the assessment centre has not registered their certificate in time.
- The lack of flexibility on renewal via reassessment effectively penalises candidates who want to renew more than 12 months before expiry.
- A candidate can only renew for a successive 5 year period by undertaking reassessment, not the more rigorous assessment regime that some prefer to renew by.
- There is a minor inconsistency in registering an assessment and registering a reassessment.
- Under the regulations, the fire and rescue services have to have a qualified operative present so that they can lift covers to check hydrants. This seems excessive for an activity that generally does not involve setting out signs.

The registration deadline in particular has had significant (and purposeless) financial implications for some individuals and companies. In addition, the certificate system is overly complicated. This has led to the possibility of key safety-based certificates not being renewed as the regulations had intended. The current system also means that it is not as easy as it could be for inspectors to check on street works teams. Government intervention is necessary to bring about the required changes to the regulations that will address these issues.

The proposals have widespread support in the industry. We carried out an 8 week public consultation on the proposed changes that ended on 28 October 2015. The overall response from both sides of industry was very positive.

What are the policy objectives and the intended effects?

The objective is to streamline the street works training and accreditation process. The changes are expected to benefit utilities, their contractors and trainees through reducing regulatory burden. They should also make it easier for highway authority inspectors to check that operatives and supervisors have the appropriate qualifications for the work being carried out, ultimately leading to potentially safer works sites and better quality reinstatements. The latter would also tend to reduce road congestion arising from repeat visits to site to remedy defective reinstatements.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

There are essentially three options - Do nothing, deregulate, or improve the regulations:

Option 0 Do nothing is the baseline.

The current regulations remain unchanged.

Option 1 Improve the regulations

This is the preferred option and it has widespread support amongst industry. We carried out a public consultation on the proposed changes between 2 September and 28 October 2015. The overall response to the consultation was very positive. Only small revisions have been made to the original proposals presented in the consultation document, to take account of consultation responses. This was very encouraging and seems to confirm that we have made the right proposals.

Option 2 Deregulation.

To not provide regulations specifying the procedures that operatives and supervisors must follow to become qualified, nor set out the conditions under which certificates may be registered or re-registered, and to not provide schedules detailing the training units required to make up the various prescribed qualifications. Street works is a highly regulated industry because the two main players - highway authorities and utility companies - have different, and sometimes conflicting priorities. Both sides of the industry therefore tend to rely on regulations to create rules they must all work to. To not regulate introduces uncertainty. DfT considered a deregulatory option in 2013, but this was rejected by both highways authorities and utility companies. Option 2 is not considered a viable option as it would not resolve the above issues and would potentially create more.

Will the policy be reviewed? Yes. If applicable, set review date: April 2027

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: NQ	Non-traded: NQ	

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.

Signed by the responsible Minister

Andrew Jones

Date:

24th November 2016

Summary: Analysis & Evidence

Policy Option 1

Option 1: To clarify and simplify the regulations

Description: Key changes

- Relate the life of certificates to the date of certification instead of the date the application was made to register the certificate.
- Introduce a more flexible system that allows candidates to renew a certificate by reassessment at any time during its life.
- Allow candidates to renew a certificate by reassessment up to five years after it has expired.
- Provide candidates who choose to renew certificates by assessment (more rigorous than reassessment) with the same flexibility as for renewal by reassessment.
- Allow reassessment applications to be accompanied evidence of the relevant certificate of competence instead of the certificate itself - brings process into line with initial assessment registration process.
- Remove the requirement for the approved body to provide certificates directly to candidates.
- Rationalise the certificate system to remove all overlap in subject matter between the various qualifications. This will prevent the situation arising where a candidate could potentially avoid ever having to renew the two most safety-critical subjects. It will also make it easier for a local authority inspector to determine what a candidate is qualified to do from a quick glance of his street works card.
- Exempt the fire and rescue services from the need to have a qualified operative present when lifting access covers to check fire hydrants.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £4.67m
COSTS (£m)					
		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low		n/a	n/a	n/a	
High		n/a	n/a	n/a	
Best Estimate		£0.1m	0	£0.1m	
Description and scale of key monetised costs by 'main affected groups'					
Transition costs consist of familiarisation costs and IT system changes for registration body. This is a cost to government.					
Other key non-monetised costs by 'main affected groups'					
There are no other non-monetised costs.					
BENEFITS (£m)					
		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low		n/a	n/a	n/a	
High		n/a	n/a	n/a	
Best Estimate		0.0	0.6	£4.7m	

Description and scale of key monetised benefits by ‘main affected groups’

1. Value to business of saving from extending the limit on when candidates can re-register a qualification following expiry. (£0.1m)
2. Savings to business from making registration simpler (£0.5m) This is the administrative cost of about £10 per registration.
3. Saving to business from allowing re-registration through reassessment rather than full assessment when their certificates expire (£1.6m)
4. Saving to business from allowing re-registration via reassessment at any time up to 5 years after expiry (£0.05m) We expect that this will enable reassessment in firm downtime, meaning that firms no longer face an opportunity cost for attending reassessments.
5. Saving from exempting the Fire and Rescue Service (£2.4m) This reflects the opportunity cost of Fire and Rescue Service Staff time and the cost of the course worth approximately £174 incl VAT.

Other key non-monetised benefits by ‘main affected groups’

A simpler system will mean that there is less uncertainty over whether people who have completed streetworks have the correct certification. The consultation responses showed that this aspect was particularly welcomed by the two national organisations representing the street works interests of highway authorities and utility companies, the Joint Authorities Group (JAG) and the National Joint Utilities Group (NJUG) respectively. This should result in fewer defective road reinstatements and therefore reduced site occupation which, in turn, will reduce the amount of congestion. The extent of the reduction in congestion is unknown and it would be disproportionate to try and quantify it.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

1. Having to re-sit assessment as a result of anomalous requirement

We assume this affects 4 people per month and hence 48 people per year.

We assume the opportunity cost of labour to business is £12.93 per hour. This reflects the Gross hourly pay of a road construction worker in 2014, the nearest proxy for a street works operative.

The training lasts one day and costs £174. This covers the cost of a Signing, Lighting and Guarding course plus VAT.

2. Administrative savings from rationalising the certification system

There are about 5,600 re-registrations in England per year.

Removing the requirement for approved bodies to issue certificates directly to candidates is expected to give them a saving of £10 per time. This is a rough estimate of administrative staff time, postage and printing to illustrate the likely magnitude, but it is not based on data.

3. Saving to business from allowing renewals through reassessment rather than full assessment

There are about 5,600 re-registration in England per year.

There is a £30 difference between the cost of a full one day signing, lighting and guarding course and a one-day renewal course.

4. Savings to business from allowing candidates renewal any time prior to the expiry date.

As a conservative estimate we assume approx. 50 people per year out of the 5,600 (i.e. less than 1%) will benefit from being able to renew in a convenient “downtime”. The value of this downtime is similar to the opportunity cost of a road construction worker’s day’s labour.

5. Savings to government from exempting the Fire and Rescue Service.

Training and assessment in SLG takes one day and costs £174 (incl. VAT)

10% of firefighters require training for fire hydrant work. 20% of these, i.e. one fifth, need to be reassessed per year to comply with the requirement for everyone to be reassessed every 5 years.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.0	Benefits: 0.3	Net: 0.3	Yes	OUT

Evidence Base (for summary sheets)

Problem under consideration:

The regulations contain anomalies, and certain requirements and procedures are neither logical nor desirable. Over the years, this has given rise to a number of issues, some of which have had significant financial implications for individuals and companies. In addition, the certificate system is overly complicated. This has led to the possibility of key safety-based certificates not being renewed as the regulations had intended. The current system also means that it is not as easy as it could be for inspectors to check on street works teams.

Rationale for intervention:

The main reason for revising the regulations is to remove a particular anomaly that has created significant problems for some individual and companies. The Minister has explained his intention to do this in response to a number of responses to MPs who were concerned that in certain circumstances, the regulations were unfairly penalising candidates who had missed re-registration deadlines through no fault of their own. A copy of the latest Ministerial correspondence relating to this is attached at **Annex A** to this assessment.

However, there are other savings to be made in streamlining the street works training and accreditation process. These savings will accrue mainly to industry but there are also savings in terms of public safety and reduced road congestion that are difficult to monetise.

Policy objective:

The objectives are to revise the regulations to streamline the street works training and accreditation process. The changes are expected to benefit utilities, their contractors and trainees. They should also make it easier for highway authority inspectors to check that operatives and supervisors have the appropriate qualifications for the work being carried out, ultimately leading to safer works sites and better quality reinstatements. The latter would also reduce road congestion arising from repeat visits to site to remedy defective reinstatements.

Description of options considered (including do nothing):

Baseline - Do Nothing

Do nothing is not a worthwhile option as we do not wish to allow the problems created by the regulations from continuing. This is the baseline for this impact assessment.

Option 1 (Preferred) - Make the following revisions to the existing system of streetworks qualifications:

- Remove the anomaly that in some cases has resulted in candidates losing their qualifications on renewal.
- Considerably extend the period over which candidates can re-register a qualification via reassessment, both before and after expire.
- Allow candidates the same flexibility when choosing to re-register a qualification via assessment (more rigorous than reassessment)
- Make re-registration slightly simpler by making the process consistent with the original registration process.
- Exempt the Fire and Rescue Service from streetworks qualifications.

Option 2- Deregulation

Deregulation would remove all requirements for street works operatives and supervisors to be trained and would involve revoking the relevant statutory instrument and changing primary legislation. Street works is highly regulated owing to the sometimes conflicting priorities of the two main players - highway authorities and utility companies. Because of this, both sides of the industry tend to resist deregulation and a DfT proposal to deregulate qualifications was rejected by industry in 2013. DfT therefore decided

not to pursue this option. As a result, the impacts of this option have not been modelled in this impact assessment.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Benefits of option 1

1. Having to re-sit assessment as a result of anomalous requirement

Evidence supplied to DfT by the Scottish Qualifications Authority (SQA) suggested there are around 4 people per month and hence 48 cases per year of people who have to re-sit their assessments because their renewal certificates took longer to issue than they thought. This occurs when training providers take candidates on for the test without either realising the awarding organisations need time to run certification and then the subsequent time needed to notify the register.

We assume the opportunity cost to business is £12.93 per hour, the gross hourly pay of a “road construction worker” in 2014 hourly pay data used here as the nearest proxy for a street works operative.

A day of training is assumed to last 7.5 hours. We assume that the opportunity cost to business of an hours labour is the worker’s gross hourly pay.

The cost of training per day is £174. This reflects the cost of a Signing, Lighting and Guarding course plus VAT.

In total this implies a total saving to business of about £13,000 per year. This represents both the time saving, or opportunity cost, to business and the saving in course fees.

2. Administrative savings from rationalising the certification system

There are about 5,600 re-registrations in England per year according to data supplied to DfT from SQA. Removing the requirement for approved bodies to issue certificates directly to candidates will give them a saving of £10 per time. This is a rough estimate of administrative staff time, postage and printing costs to illustrate the likely magnitude of costs. It is an illustrative figure and not based on any evidence. The proposed administrative change will save awarding bodies cost approximately £56,400 per year.

3. Saving to business from allowing renewals through reassessment rather than full assessment

There are about 5,600 re-registrations in England per year.

There is a £30 difference between a full one-day course on Signing, Lighting and Guarding (£174 including VAT) and a renewal course (£144 including VAT).

Allowing renewals through reassessment rather than full assessment is expected to lead to a benefit of about £169,300 to business per year.

4. Savings to business from allowing candidates renewal any time prior to the expiry date.

As a conservative estimate we assume approx. 50 people per year out of the 5,600 (i.e. less than 1%) will benefit from being able to renew in a convenient “downtime”. The value of this downtime to a firm is calculated as the opportunity cost of a road construction worker’s day’s labour (approx. £97). The changes in regulations are therefore estimated to lead to an annual total of about £4850 savings to business.

5. Savings to government from exempting the Fire and Rescue Service.

There were 44,000 full-time equivalent (FTE) Fire and Rescue Authority staff in England in 2015. We assume this number stays constant over the appraisal period. 10% of firefighters require training for fire hydrant work, of which 20%, or one fifth, need to be reassessed per year (to comply with the requirement

for everyone to be reassessed every 5 years). This means the Fire and Rescue Service exemption is assumed to apply to 880 staff per year.

Training and assessment takes one day and costs £174 including VAT per person.

To estimate the opportunity cost of time forgone we use the gross hourly pay for Fire Service Activities, stated as £15.06 by 2014 hourly pay data.

In total the potential cost saving to the Fire and Rescue Service in both forgone time and training is about £252,500 per annum. This is a saving to government.

Costs of option 1

Transition costs

Adjusting the IT systems to implement the changes in the regulation is estimated to take an IT worker approximately 40 days. As an illustrative figure we have assumed an IT worker day rate of £500. This is a one-off cost to the central registration body.

There are approximately 800 assessment centres in England. At each assessment centre we assume one administrator will spend approximately three hours to familiarise themselves with the new regulations. Assuming a gross hourly wage of £20, this leads to an estimated one-off familiarisation cost to government of £48'000.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

We have presented evidence that the benefits to business exceed the one off transition costs to government involved in making changes to the system for streetworks qualifications. Where possible we have focussed on benefits we can readily monetise. Where the evidence is uncertain we have applied conservative assumptions. Further analysis would not change the central conclusion that these changes reduce burdens to business and represent good value for money. Hence further analysis would have been disproportionate and not based on sufficiently robust assumptions.

Risks and assumptions

Where we are less certain about the potential scale of benefits we have applied conservative assumptions. For instance we have assumed 50 of the 5600 people re-registering (i.e. under 1%) will benefit each year from the flexibility of being able to renew certificates leading to a lower opportunity cost to business.

We also applied conservative assumptions about the number of cases where people could benefit per year from not having to take courses for anomalous reasons beyond their control. SQA estimated there could be as many as 6 of these cases per month. However we used 4 per month/48 per year in our calculations.

We think there is a benefit from reducing the number of re-inspections that result from work done when there is uncertainty. Changes to the system should lead to fewer instances where streetworks need to be re-inspected because of uncertainty about whether work was done by people with the right qualifications.

However, as there is no evidence as to how many instances there are of this per year, we could not quantify the scale of this benefit so chose to include it only in the qualitative analysis.

In general, there is no risk that the preferred option could lead to an overall burden for business. All the costs of familiarisation and IT changes are borne by government. There is no risk that the net social impact could be negative.

Direct costs and benefits to business calculations (following OI3O methodology)

This measure is a Qualifying Regulatory Provision (QRP) that scores against the Business Impact Target (BIT) and which is in scope of 'One-in, Three-out' (OI3O)

The direct benefit to business is £2.33million over the appraisal period.

There are no costs as the transition cost is borne by the registration body and is hence a cost to government.

Benefits to business consist of:

- 1.) £0.1m Benefit from reduced anomalous resits.
- 2.) £0.5m Benefit from administrative savings (to awarding bodies, which are businesses)
- 3.) £1.6m Benefit from allowing renewals through re-assessments rather than full assessments.
- 4.) £0.05m Benefit from allowing renewals in firm downtime.

Wider impacts

Economic/Financial:

How will proposals impact on the market and specifically consumers and businesses? In particular, consider the impacts on small and start-up businesses.

Streamlining the regulations and removing one particular anomaly will have a small but positive impact financial impact on all streetworks contractors including small operators. The consultation on changes to the regulations was widely welcomed by industry.

If there are costs to business,

- i) do proposals include exemptions for micro businesses? and*
- ii) have any costs under One-in, One-out been offset?*

There are no costs to business.

Will all businesses be affected in the same way, or will there be some that benefit, while others bear costs?

This policy will benefit all operators.

What are the expected impacts on the wider economy (e.g. labour market)?

None.

In line with Green Book guidance, appraisals should take into account all benefits to the UK.

This legislation will only apply in England.

The Equality Duty requires public bodies to have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equalities Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do

not share it; and foster good relations between people who share a protected characteristic and people who do not share it.

This policy has no effect on people with protected characteristics.

Government policy is that, until 31 March 2014, all new regulation which imposes costs on business must contain an exemption for micro-businesses, unless a waiver has been granted.

There is no need to exempt microbusiness because this policy does not impose any costs on them.

What are the impacts on competition? Will the number or range of suppliers be limited? Will their ability to compete be limited or the incentive to compete vigorously be reduced?

There are no impacts on competition.

Will proposals impact on innovation e.g. new low carbon technologies?

No.

What are the expected financial and resource impacts on other Departments (e.g. the Justice system)?

There are no impacts on other Departments.

Social:

Will proposals have an impact on social, wellbeing or health inequalities?

There will be some beneficial impact through a slight reduction in congestion.

Will proposals influence safety at work or risk of accidents in the community?

There will be a slightly beneficial impact on public safety as the qualifications requirements become easier to enforce and comply.

Will proposals affect the rate of crime or crime prevention or create a new offence/opportunity for crime?

No.

Will proposals affect the levels of skills and education?

Yes to some extent but only for operatives and supervisors working in the street works sector.

Will proposals affect provision of facilities or services that support community cohesion or in other ways that affect the quality of life in the local community?

There will be a possible benefit to community cohesion owing to some reduction in road congestion.

Will the impacts on rural areas be different to urban areas? Will there be specific regional or local effects?

There will be no differences in the impacts on urban and rural areas and there are no regional effects.

What are the impacts on human rights (right to life, liberty and security, a fair trial and prohibition of torture, slavery, forced labour)?

There is no impact on human rights.

Do the proposals impact on the responsibilities under the Equality Act 2010 i.e. do they impact on age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

There is no impact on equalities.

Environmental:

Will proposals lead to change in the emission of Greenhouse Gases? This information is required to track performance against Carbon Budgets

There are no quantified effects on Greenhouse Gases. The effects on emissions could be slightly beneficial if the policy reduces congestion attributable to site re-visits.

Will proposals be vulnerable to the predicted effects of climate change?

Climate change will not affect this policy.

Will proposals lead to a change in the financial costs or environmental and health impacts of waste management?

This policy will not affect waste management.

Will proposals impact significantly on air quality?

This policy will have a slightly beneficial impact on air quality if it means less congestion attributable to site re-visits.

Will proposals involve any material change to the appearance of the landscape or townscape?

No.

Will proposals change the degree of water pollution, levels of abstraction of water, exposure to flood risk?

No.

Will proposals affect the number of people exposed to noise or the levels of exposure, or impact on the number of people suffering from nuisances on the street scene?

This policy could have a slight beneficial impact on noise and nuisance if it reduces the number of site re-visits that cause congestion.

Summary of preferred option and description of implementation plan.

Summary:

- Relate the life of certificates to the date of certification.
- Allow candidates to renew a certificate by reassessment at any time during its life.
- Allow candidates to renew a certificate by reassessment up to five years after it has expired.
- Ditto bullets 2 and 3 with regard to assessment.
- Allow reassessment registration applications accompanied by evidence of certificate only.
- Remove requirement for certificates to be issued directly to candidates.
- Rationalise the certificate system.
- Exempt the fire and rescue services.

Implementation:

The new regulations will come into force in April 2017. The regulations have been designed to afford a relatively seamless transition. Existing certificates and street works cards will remain valid until their natural expiry date and on renewal, they will automatically be converted to their equivalent new certificates/cards. Operatives and supervisors will not have to do anything that they do not already do. Training and assessment centres will deliver the same training as they do now, the only difference being that the certificate titles will change. Awarding organisations will need to change the titles of the certificates they issue. There will be changes to the street works register to accommodate the rationalised certificate system and these are currently being put in place by the registration body. This will be a one-off exercise.

Note on street works cards: The cards and the changes being made to them are completely outside the regulations but they are a necessary part of the system for checking that the required qualifications are held on a given site. We are working with the registration body to ensure that the modified street works card that accompanies the new certificate system will be ready on the day. The cost of changing the card design has been included in the registration body's one-off transition cost.