
STATUTORY INSTRUMENTS

1992 No. 1676 (S.163)

ROADS AND BRIDGES, SCOTLAND

The Road Works (Inspection Fees) (Scotland) Regulations 1992

<i>Made</i>	- - - -	<i>14th July 1992</i>
<i>Laid before Parliament</i>		<i>15th July 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 134 and 163(1) of the New Roads and Street Works Act 1991(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1. These Regulations may be cited as the Road Works (Inspection Fees) (Scotland) Regulations 1992 and shall come into force on 1st January 1993.

2. In these Regulations—

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

“service pipe” and “service line” have the same meaning as in paragraph 7(3) of Schedule 6 to the Act;

“statutory undertaker” means an undertaker who is entitled to carry out road works by virtue of a statutory right.

3.—(1) An undertaker shall pay to the road works authority a fee of £12.50 for each chargeable inspection carried out by the road works authority of works involving the excavation or reinstatement of any part of a road.

(2) For the purposes of this regulation, a chargeable inspection of works is—

(a) if the inspection is of works carried out by an undertaker who holds a permission under section 109 of the Act and whose estimated number of units of inspection in the year in which the inspection is made is less than 100, every inspection of all or any phase of all or any of those works subject to a maximum of 30 inspections;

(b) if the inspection is of works carried out by an undertaker who holds a permission under section 109 of the Act and whose estimated number of units of inspection in the year in which the inspection is made is 100 or more, an inspection at random of not more than 6.5 per cent of each phase or not more than 30 per cent of the total of that estimated number;

- (c) if the inspection is of works carried out by a statutory undertaker, an inspection at random of not more than 6.5 per cent of each phase or not more than 30 per cent of the total number of estimated units of inspection in any year.
- (3) For the purposes of this regulation, a unit of inspection is—
- (a) a single excavation not exceeding 200 metres in length;
 - (b) more than one and not more than 5 excavations and, in the case of works relating to service pipes and service lines, not more than 10 excavations, provided that—
 - (i) all the excavations are the subject of one notice of starting date;
 - (ii) all the excavations are made within a period of 10 working days;
 - (iii) each excavation is within 500 metres of every other excavation; and
 - (iv) the aggregate length of all the excavations does not exceed 200 metres; or
 - (c) in the case of an excavation longer than 200 metres, each length of 200 metres within the length of that excavation or the balance of such length.
- (4) For the purpose of this regulation, the phases of works are—
- (a) the period when any excavation is being done;
 - (b) the period when any interim or permanent reinstatement of any excavation is being done;
 - (c) the period of one month starting with the day on which the permanent reinstatement is completed;
 - (d) the period of between 6 months and 9 months starting from the day on which the permanent reinstatement is completed;
 - (e) the period of one month immediately preceding the end of the guarantee period, being the period of 2 years from the completion of permanent reinstatement or, in the case of excavations to a depth exceeding 1.5 metres to the top of the apparatus over a length of 5 metres or more, the period of 3 years from such completion.
- (5) For the purposes of this regulation, save as provided in paragraph (6) below, the estimated number of units of inspection in a year is—
- (a) for each of the following respective periods, namely the period ending on 31st March 1993 (“the first period”) and the year starting on 1st April 1993 (“the first full year”), such estimate as may be agreed between the undertaker and the road works authority making the inspection of the number of units of inspection for the undertaker in that period or year, as the case may be, in roads for which that authority is the road works authority;
 - (b) for the year starting on 1st April 1994 (“the second year”) the average of the number of the units of inspection for the undertaker during the first full year in roads for which the road works authority making the inspections is the road works authority and such estimate as may be agreed between the undertaker and the road works authority of the number of units of inspection for the undertaker for the second year in roads for which that authority is the road works authority;
 - (c) for the year starting on 1st April 1995 (“the third year”) the average of the number of units of inspection for the undertaker during the first full year and the second year in roads for which the road works authority making the inspections is the road works authority and such estimate as may be agreed between the undertaker and the road works authority of the number of units of inspection of the undertaker for the third year in roads for which that authority is the road works authority;
 - (d) for the year starting on 1st April 1996 (“the fourth year”) and for every subsequent year starting on 1st April the average of the number of units of inspection for the undertaker during each of the 3 immediately preceding years ending on 31st March in each year.

(6) Where an undertaker has not previously executed any road works in roads for which the authority making the inspections is the road works authority, the provisions of paragraph (5) above shall apply in relation to that authority, as if the first period was the period ending on 31st March immediately following the undertaker having first executed such works, and the first full year and the second, third and fourth years were the first full year and the second, third and fourth years thereafter, in each case commencing on 1st April.

4. Any dispute between an undertaker and a road works authority with regard to any questions arising under these Regulations shall, if it cannot be resolved by agreement, be referred to an arbiter as if it were a matter to be settled by arbitration in accordance with the provisions of section 158 of the Act.

St Andrew's House,
Edinburgh
14th July 1992

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe a scheme for the payment by undertakers for inspections of their works by road works authorities. A fee of £12.50 is prescribed for each chargeable inspection (regulation 3(1)). Where the undertaker holds a permission under section 109 of the New Roads and Street Works Act 1991 (“the Act”), a chargeable inspection is every inspection of works or a phase of works subject to a maximum of 30 inspections where the undertaker’s estimated number of units of inspection in a year is less than 100. Where his estimated number of units in a year is 100 or more, a chargeable inspection is a random inspection of not more than 6.5% of each phase of works or not more than 30% of the estimated total (regulation 3(2)(a) and (b)). Where the undertaker is a statutory undertaker, a chargeable inspection is a random inspection of not more than 6.5% of each phase of works or not more than 30% of the estimated total (regulation 3(2)(c)).

“Unit of inspection” is defined as an excavation not exceeding 200 metres in length, whether as a single excavation, as part of a longer excavation, or as a cluster of not more than 5 excavations (or not more than 10 where the works relate to service pipes or service lines) which are related in terms of time and location and whose aggregate length does not exceed 200 metres (regulation 3(3)).

“Phases of works” are defined as the periods when the actual excavation or reinstatement (whether interim or permanent) is being done and the periods of one month after completion of permanent reinstatement, of between 6 and 9 months after such completion, and of one month immediately preceding the end of the guarantee period which runs for 2 years from the completion of permanent reinstatement (3 years in the case of larger excavations) (regulation 3(4)).

Regulation 3(5) makes transitional provisions for the estimated number of units of inspection for the first 3 years in which these Regulations are in force and provides that from the fourth year onwards (commencing on 1st April in each year) the estimated number of units of inspection shall be the average of the number of units for that undertaker during the 3 preceding years. Similar provision is made for new undertakers in regulation 3(6).

Finally, regulation 4 provides for reference to arbitration where a dispute between an undertaker and a road works authority cannot be resolved by agreement.