
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.