

Title of Proposal

THE ROAD WORKS (QUALIFICATIONS OF OPERATIVES AND SUPERVISORS) (SCOTLAND) AMENDMENT REGULATIONS 2019

Purpose and intended effect

• **Background**

Sections 126 and 163(1) of the New Roads and Street Works Act 1991 (“the 1991 Act”) enable the Scottish Ministers to make regulations about the qualifications required of persons carrying out of certain types of road works.

The Road Works (Qualifications of Operatives and Supervisors) (Scotland) Regulations 2017 (“the 2017 Regulations”) prescribe the qualifications required of supervisors and trained operatives. In particular, they provide such persons are qualified in a certain type of work if an approved body has issued a certificate of competence. Certificates of competence must be registered in the approved register, known as the Street Works Qualifications Register (“SWQR”).

Three approved bodies are listed in regulation 8. They are:

- The Scottish Qualifications Authority,
- The City and Guilds of London Institute, and
- The CABWI Awarding Body.

• **Objective**

In early 2018 the training organisation “Lantra” began the process of seeking to be recognised as an approved body by the Scottish Ministers. The objective of this instrument is to amend the 2017 Regulations to include Lantra as a fourth approved body in Scotland.

• **Rationale for Government intervention**

Only bodies approved by the Scottish Ministers may issue certificates of competence. In terms of section 126(4) of the 1991 Act, the Scottish Ministers approve bodies (or withdraw their approval) by way of regulations.

Having approved bodies issue certificates of competence, and keeping records of those certificates through the use of the SWQR, 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.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others

Consultation

- **Within Government**

Transport Scotland, in its role as trunk road authority in Scotland, was consulted as part of the consultation process as a member of the Roads Authority and Utility Committee Scotland (“RAUC(S”).

In addition, the Scottish Road Works Commissioner (“SRWC”), an independent public body who is represented on the national training accreditation working group (TAG), was consulted directly during the early part of the approval process.

TAG was consulted directly. This group has representatives from UK wide utility groups, roads authority groups and the current approved bodies and training providers.

The Scottish Qualifications Authority (“SQA”) is a Scottish Government sponsored body. The SQA has a dual role in the sphere of road works qualifications. First, the SQA acts as an approved body in its own right for road works qualifications. Separately, it also keeps the SWQR, the central register for road work qualifications. The keeping the SWQR is a distinct function within the SQA structure that is separate from the business area which issues certificates of competence to eligible candidates. We have consulted directly with the SQA (register function) throughout the process.

- **Public Consultation**

A 12 week public consultation was held between 14 December 2018 and 08 March 2019. 6 responses to that consultation were received, primarily from roads authorities. Those who responded were generally supportive of the introduction of Lantra as an approved body, with two responses being supportive on the assumption that a robust review process was in place to assess the organisation’s suitability. Responses were received predominately from local authorities, including Moray Council, Glasgow City Council, Aberdeen Council and Aberdeenshire Council, and one individual.

- **Business**

The parties most directly affected by the instrument (roads authorities and utility companies) were informed directly through RAUC(S) when the consultation was launched.

Options

Option 1 – Do Nothing i.e. do not include Lantra on the list of approved bodies

Option 2 – Amend the 2017 Regulations to include Lantra on the list of bodies approved to issue certificates of competence

Sectors and groups affected

Option 1 – roads authorities, training providers and utility companies

Option 2 – roads authorities, training providers and utility companies

Benefits

Option 1 - Option 1 would result in the status quo being maintained for Scotland. The bodies approved to issue certificates would remain unaltered.

Option 2 – Option 2 would result in greater variety in the bodies approved to issue certificates and more choice for individuals and organisations seeking those qualifications.

Costs

Where an approved body is a public body, such as the SQA, there is an indirect impact on the sponsorship of that body. As Lantra is a private organisation, the costs involved in issuing these certificates will be borne by the private sector.

Option 1 – leaving the list of approved bodies unaltered would have no direct cost implications, but would prevent Lantra from acting as an approved body in Scotland. This would remove any benefits from increased choice of provider in this sector.

Option 2 – Expanding the list of approved bodies would allow for greater choice in Scotland, with any direct costs being met by Lantra themselves, who have sought this change.

Scottish Firms Impact Test

Face to face discussions took place between Transport Scotland, Lantra, the SQA and the office of the Scottish Road Works Commissioner (“oSRWC”) early in the assessment of whether Lantra could demonstrate the required framework to act in the capacity of an approved body.

Competition Assessment

The answers to the Competition and Markets Authority Filter questions indicate that this instrument would not directly or indirectly limit the range of suppliers, limit the ability of suppliers to compete, or reduce suppliers’ incentives to compete vigorously. It would, in fact, increase the range of suppliers, the ability of suppliers to compete, and incentives to compete vigorously. Should other organisations wish to apply to become approved bodies, providing they satisfy the process of review, they could be added to the list through further amending instruments.

Test run of business forms

No new business forms will be created.

Digital Impact Test

The instrument has no impact on digital technologies, markets and has no applicability in either an offline or online context.

Legal Aid Impact Test

The Scottish Legal Aid Board did not anticipate any impact on the Legal Aid Fund

Enforcement, sanctions and monitoring

TAG is a UK wide industry umbrella group, which includes representatives from the current approved bodies, Lantra, the Department for Transport and the oSRWC. TAG reports regularly to RAUCS to advise of issues, updates and potential areas of problems. Should concerns emerge about the performance of any of the approved bodies, and should those concerns be substantiated, then they would be among the factors the Scottish Ministers would take into account when considering the approval of bodies or the withdrawal of such approval.

How will the proposal be implemented and in what timescale?

The instrument will come into force on 10 June 2019

- **Post-implementation review**

Should additional organisations request to be considered as approved bodies, the same review process will be repeated. Transport Scotland will continue to meet regularly with the road works community in Scotland and report internally on any issues with any of the approved bodies as required.

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	No additional benefits by leaving the list as it currently stands	No change would prevent additional benefits from competition, and limit the choice that would be offered by having a wider pool of approved bodies.
2	Additional benefits to the Scottish community from competition, wider pool of approved bodies.	No economic or administrative costs, financial costs met by private sector

We recommend that option two be adopted.

Declaration and publication

- **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: Michael Matheson

Date: 30 April 2019

Minister's name: Michael Matheson

Minister's title: Cabinet Secretary for Transport, Infrastructure and Connectivity

Scottish Government Contact point:

Kat Quane
Transport Scotland