

Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 «Ext», F: 0131- 244 0923
Angus.MacInnes@scotland.gsi.gov.uk



Roads Authorities and Utility Companies
operating in Scotland and other
interested parties

20 December 2010

Dear Sir/Madam

TRANSPORT (SCOTLAND) ACT 2005: CONSULTATION ON THE SCOTTISH ROAD WORKS REGISTER (PRESCRIBED FEES) REGULATIONS 2011

Since the Transport (Scotland) Act 2005 came into force, we have been working with stakeholders to develop the secondary legislation and Codes of Practice that will give effect to the road works provisions of the 2005 Act. These are aimed at improving the planning, co-ordination and quality of works throughout Scotland.

We now wish to consult on The Scottish Road Works Register (Prescribed Fees) Regulations 2011 which set out the method of calculation of the fees that are required to be paid as a condition of access to the Scottish Road Works Register. A copy of the draft Regulations is attached.

Any comments should be sent to me at the address below. The closing date for responses is 14 January 2011.

Many thanks.

Yours faithfully

ANGUS MACINNES

SCOTTISH STATUTORY INSTRUMENTS

2011 No.

ROADS AND BRIDGES

**The Scottish Road Works Register (Prescribed Fees)
Regulations 2011**

Made - - - - 2011

Laid before the Scottish the Scottish Parliament 2011

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 112A(4) and 163(1) of the New Roads and Street Works Act 1991(a) and all other powers enabling them to do so.

In accordance with section 163A of that Act(b) they have consulted with such—

- (a) persons considered by them to be representative of the interests of undertakers,
- (b) road works authorities, and
- (c) other persons,

as they think appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Scottish Road Works Register (Prescribed Fees) Regulations 2011 and, except as provided in paragraph (2), come into force on 28th February 2011.

(2) Regulation 4 comes into force on 1st April 2011.

Interpretation

2. In these Regulations—

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

“financial year” means the period of 12 months commencing on 1st April 2011;

“relevant period” means the period of 12 months ending on 31st December 2010;

(a) 1991 c.22. Section 112A was inserted by section 19 of the Transport (Scotland) Act 2005 (asp 12) (“the 2005 Act”). The functions of the Secretary of State in section 163(1) were transferred to the Scottish Ministers, so far as within devolved competence, by section 53 of the Scotland Act 1998 (c.46).

(b) Section 163A was inserted by section 39 of the 2005 Act.

“relevant undertaker” means an undertaker who has entered a notice in the SRWR(a) in the relevant period;

“undertaker” has the same meaning as in section 107(4) of the Act but excludes those persons granted permission under section 109 of the Act to execute road works.

Prescribed fees

3.—(1) For the financial year, payment to the Commissioner(b) of the prescribed fee, calculated in accordance with paragraphs (3) and (4), by roads authorities(c) and relevant undertakers respectively is a condition of access to the SRWR as mentioned in section 112A(3) of the Act.

(2) Payments due to the Commissioner under this regulation shall be made within 90 days of receipt of the invoice from the Commissioner.

(3) For each roads authority, the prescribed fee for the purposes of section 112A(4)(a) of the Act shall be calculated in accordance with the formula—

$$R \times (£1,017,000 - £A)$$

where—

R is the figure shown in column 2 of the Schedule to these Regulations in relation to the roads authority specified in the corresponding entry in column 1 of the Schedule to which the calculation relates; and

£A is the total amount payable to the Commissioner by way of prescribed amounts for the financial year pursuant to regulation 3 of the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008(d).

(4) For each relevant undertaker, the prescribed fee for the purposes of section 112A(4)(a) of the Act shall be calculated in accordance with the formula—

$$\frac{N}{TN} \times (£1,017,000 - £A) \times 0.65$$

where—

N is the number of notices, entered by the relevant undertaker to which the calculation relates, in the SRWR in the relevant period;

TN is the total number of notices entered by all relevant undertakers in the SRWR in the relevant period; and

£A has the same meaning as in paragraph (3).

-
- (a) The Scottish Road Works Register is kept in terms of section 112A(1) of the New Roads and Street Works Act 1991 (“the Act”).
- (b) The Scottish Road Works Commissioner is created by section 16(1) of the 2005 Act and defined in section 112A(1) of the Act.
- (c) Section 145(1) of the Act defines “roads authority” as having the same meaning as in section 151 of the Roads (Scotland) Act 1984 (c.54).
- (d) S.S.I. 2008/16, amended by S.S.I. 2009/26.

Revocation

4. The Scottish Road Works Register (Prescribed Fees) Regulations 2010^(a) are revoked.

St Andrew's House,
Edinburgh
2011

Authorised to sign by the Scottish Ministers

^(a) S.S.I. 2010/23.

SCHEDULE

Regulation 3(3)

FIGURE FOR ROADS AUTHORITIES IN RELATION TO FORMULA
FOR CALCULATION OF PRESCRIBED FEES AT
REGULATION 3(3)

<i>Column 1</i> <i>Roads Authority</i>	<i>Column 2</i> <i>Figure</i>
Aberdeen City	0.018
Aberdeenshire	0.018
Angus	0.006
Argyll & Bute	0.003
City of Edinburgh	0.024
Clackmannanshire	0.003
Comhairle nan Eilean Siar	0.0006
Dumfries & Galloway	0.006
Dundee City	0.009
East Ayrshire	0.009
East Dunbartonshire	0.006
East Lothian	0.005
East Renfrewshire	0.006
Falkirk	0.006
Fife	0.012
Glasgow City	0.03
Highland	0.006
Inverclyde	0.006
Midlothian	0.006
Moray	0.009
North Ayrshire	0.012
North Lanarkshire	0.012
Orkney Islands	0.0012
Perth & Kinross	0.009
Renfrewshire	0.009
Scottish Borders	0.012
Scottish Ministers	0.056
Shetland Islands	0.0012
South Ayrshire	0.006
South Lanarkshire	0.009
Stirling	0.009
West Dunbartonshire	0.009
West Lothian	0.015

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 112A(1) of the New Roads and Street Works Act 1991 (“the Act”) (as inserted by section 19 of the Transport (Scotland) Act 2005) provides for the Scottish Road Works Commissioner (“the Commissioner”) to keep a register to be known as the Scottish Road Works Register (“the SRWR”).

Section 112A(4) of the Act allows the Scottish Ministers, by regulations, to provide that the payment to the Commissioner of the prescribed fee is a condition of access to the SRWR.

The Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008 have already prescribed certain persons as prescribed persons.

Regulation 3(1) provides that, for the financial year commencing on 1st April 2011, payment to the Commissioner of the prescribed fee by roads authorities and relevant undertakers is a condition of access to the SRWR as mentioned in section 112A(3) of the Act.

Regulations 3(3) and (4) provide formulas for the calculation of the prescribed fee for roads authorities and relevant undertakers respectively.

Regulation 4 revokes the Scottish Road Works Register (Prescribed Fees) Regulations 2010.