

Business and Regulatory Impact Assessment

Title of Proposal

The Road Works (Qualifications of Operatives and Supervisors)(Scotland) Regulations 2017

Purpose and intended effect

Background

The Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 1992 describes a number of units of competence that must be completed by trained operatives or supervisors at road works. The regulations were made under Section 126 and 163(1) of the New Roads and Street Works Act 1991 (NRSWA).

These regulations now need updating, in particular to bring the regime into line with the position in England where the registration of road workers qualifications every 5 years already requires reassessment. Currently, Scottish road works qualifications which have been re-registered beyond their initial 5 year period are not recognised in England.

Our proposals will also bring Scotland into line with Directive 2005/36/EC of the European Parliament and Council which governs the movement of qualified professionals between Member States.

Objective

Section 126 of NRSWA, imposes an obligation on road works undertakers to ensure that at all times when work is in progress, there is at least one suitably qualified operative on site and that, in most cases, the works are supervised by someone with an appropriate supervisor qualification. The changes proposed for our new regulations are intended to simplify and improve on existing provisions and rationalise the road works training and accreditation process.

There may be modest additional costs to industry associated with the requirement to reassess competencies every 5 years when re-registering qualifications, however some utility companies already operate under a comparable regime for any company operations undertaken in England.

The purpose of consulting on this regulatory impact assessment was to establish whether the proposed changes will be considered sufficiently beneficial to offset any impact which the changes may bring.

Rationale for Government intervention

Bringing the Scottish Road Works Qualifications into line with England, and potentially the rest of the UK, will ensure that operatives with a road works qualification which is re-registered in Scotland will have their qualifications recognised throughout the UK.

Implementation of these changes will help to meet the following strategic objectives in the National Performance Framework: –

- **We realise our full economic potential with more and better employment opportunities for our people;**
- **We value and enjoy our built and natural environment and protect it and enhance it for future generations;**
- **Our public services are high quality, continually improving, efficient and responsive to local people's needs.**

Consultation

Within Government

The proposals do not impact on any other part of Scottish Government, however, we did consult with other Transport Scotland colleagues in the Trunk Roads and Bus Operations Team.

The Scottish Qualifications Authority (SQA) are a Scottish Government sponsored body. The SQA performs two separate roles. They are an awarding body for road works qualifications, and they also host the national register for road works qualifications on behalf of all four UK administrations. This national register is called the Street Works Qualifications Register (SWQR). As part of the administrative process candidates are issued with an identity card which they can furnish when required to show they hold current registered qualifications. We have consulted with those responsible for each of the functions within the SQA throughout every stage of the consultation and preparation of the draft regulations.

The Department for Transport have consulted on proposed amendments to their equivalent regulations. Our proposals will bring parity, with England to holders of Scottish Road Works qualifications. Similar changes are planned for Wales and Northern Ireland in the future.

Public Consultation

A 12 week public consultation was held between 8 July and 30 September 2016. 33 responses were received from a wide range of stakeholders including Roads Authorities, public utility companies, road works contractors, awarding organisations, training centres, road user organisations and Individuals.

Of those who responded to the questions regarding potential costs or benefits to their business of implementation of each proposal, one local authority suggested that there would be an admin cost per operative and another local authority suggested that for small Local Authorities there may be an impact on their admin resources. All other respondents stated that there would be little or no additional cost, with electronic communications of qualifications reducing current costs. Benefits of the proposals were given as helping maintain a well-trained workforce with up-to-date qualifications. Small to medium sized contractors commented that the cost and administration of reassessment may be burdensome, factoring in the time which the workforce spends off-site to attend the training centre for reassessment.

Table 1 below shows the breakdown of responses by respondent group type. The consultation responses were analysed by an independent consultant and the report of that analysis was published on the Transport Scotland website.

The majority of respondents requested anonymity therefore only the consultant's analysis report and the SG response to their report have been published. The report on the analysis of responses to the consultation and the SG response to the report can be found by clicking on the following [link](http://www.transport.gov.scot/publications-stats)

<http://www.transport.gov.scot/publications-stats>

Table 1 – responses to draft proposals for the Road Works (Qualifications of Operatives and Supervisors)(Scotland) Regulations 2017

Respondent Group	Number of responses received
Roads Authority	14
Public Utility Company	8
Individual	5
Regulatory Bodies or Qualifications bodies	3
Road User Organisation	2
Training/Assessment Centre	1
Total responses received	33

Business

Six one-to-one meetings were held with representatives of the key stakeholders - utility companies, roads authorities, The registration body for the UK, and training and assessment centres. **Table 2** below gives details of one-to-one meetings.

1. Water and waste water services provider for Scotland
2. Street Works Qualification Register for the UK
3. Construction-related Training and Assessment provider
4. Training and Assessment provider for the Utility Sector
5. Local (Roads) Authority
6. Dedicated Training and Assessment Centre for a telecoms company.

One thought that implementation of our proposals would enable their business to grow; One thought there would be minimal impact on their business as they already undertake reassessment for their card holders; Three thought that there may be initial costs, to change admin systems and for staff to undergo reassessment of competence, however all stated that these initial costs would be outweighed by the benefit of having a workforce qualified in up-to-date practices which will in turn drive up the quality of works on Scottish roads; One suggested that they may have to deal with increased number of phone calls and increased admin time initially, as candidates may want to update the registration of their qualifications or undergo early reassessment to enable (internal UK) cross-border working, however they anticipate that there will be an associated increase in income generated by this which would offset the initial higher admin costs.

Options

Option 1 – Do nothing.

The registration of road works certificates are currently renewed by application in Scotland, whereas in England, certificate holders must undergo successful re-assessment in the relevant road works qualifications when the registration of their qualification reaches expiry date.

Under this option, operatives and supervisors of road works in Scotland will continue to come across barriers preventing cross-border working when applying to use their renewed certificate across UK internal borders.

Option 2 - Replace the 1992 regulations and implement proposed changes to the road works qualifications regime.

Under this option, holders of renewed certificates for operatives and supervisors of road

works in Scotland would no longer be faced with the existing barrier when applying to work across UK internal borders.

Our proposals introduce a requirement for successful reassessment in the relevant road works qualifications when the registration of road works qualification certificate reaches expiry date. This brings our road works qualifications process into line with England, providing parity for Scottish road works operatives and supervisors. A workforce trained in up-to-date practices will also provide the potential to increase the quality of road works reinstatements in Scotland.

Sectors and groups affected

Option 1 – Road Works Operatives and Supervisors wishing to work outwith Scotland, utility companies which undertake road works outwith Scotland, Scottish Road Authorities which share borders with England.

Option 2 - Road Works Operatives and Supervisors wishing to work outwith Scotland, utility companies which undertake road works outwith Scotland, Scottish Road Authorities which share borders with England, and road users.

Benefits

Option 1 – No additional benefits are anticipated with this option, although potentially a continued dis-benefit.

Option 2 - Renewed and reassessed Scottish Road Works certificates are designed to fit in with regimes in England and in time across the whole of the UK. Reassessment of competence has the potential to promote Health & Safety at road works for operatives and other road users as well as having the potential to increase the quality of reinstatement of works in roads.

Costs

Option 1 – The cost to holders of renewed Scottish road works certificates will be a continued barrier to cross-border working.

Option 2 – There may initially be an increased financial cost to individuals or their employers when operatives have their competency reassessed at renewal of the registration of their qualification, however this is considered minimal when compared with the benefit/s which a fully qualified and up-to-date workforce will bring to Roads Authorities and Utility Companies with road works sites in Scotland.

Scottish Firms Impact Test

Competition Assessment

During the public consultation, face to face discussions were undertaken with several businesses representing various sectors as set out above. Discussions covered costs and benefits from implementation of draft regulations and whether the draft proposals should be implemented or not - option 1 or option 2. Most business owners advised that they did not anticipate any real impact on day to day running costs. Whilst most business owners identified the potential for positive and negative cost impacts, they were unable to identify any specific additional costs.

Competition filter questions

Will the measure directly or indirectly limit the number or range of suppliers?

No, while the number of approved qualification providers able to operate in Scotland is limited to those appearing on the face of the order, it is possible for others wishing to enter the market, to apply to the Scottish Ministers for approval, and to have their name added to the list through an amending instrument.

Will the measure limit the ability of suppliers to compete?

No. It will provide the opportunity approved Awarding Organisations to offer competing certificates in road works qualifications.

Will the measure limit suppliers' incentives to compete vigorously?

No, the order provides a common structure for qualifications, encouraging providers to differentiate their offering to the market by other means.

Will the measure limit the choices and information available to consumers?

No. The content of the road works qualification certificates and units of competence will be standardised therefore each training provider will be able to provide the required qualifications.

Test run of business forms

As far as we are aware, no new business forms will be introduced following the introduction of our proposals within the new regulations.

Legal Aid Impact Test

The Scottish Government Access to Justice Team has confirmed that they do not anticipate that any proposals which may emerge as a result of the consultation will impact on legal aid expenditure.

Enforcement, sanctions and monitoring

Responsibility for compliance, monitoring and enforcement of the proposals within the draft regulations will continue to rest with the employers of road works qualification holders and Roads Authority inspectors.

Implementation and delivery plan

To ensure that all training and awarding bodies have time to implement these changes, the coming into force date has been set for 4 September 2017.

Summary and recommendation

It is recommended that Option 2 (the implementation of the Road Works (Qualifications of Operatives and Supervisors)(Scotland) Regulations 2017 is adopted.

Summary costs and benefits table

Option	Summary of Costs	Summary of Benefits
1: Do Nothing	No additional costs envisaged. Continued barrier to cross (UK Internal) border working to holders of Scottish re-registered road works qualifications.	No additional benefits envisaged, however dis-benefit by continued barrier to Scottish road works Operatives and Supervisors as their re-registered qualifications are not recognised outwith Scotland.
2: Implement the Road Works (Qualifications of Operatives and Supervisors) (Scotland) Regulations 2016	Potential for some additional initial admin costs i.e. staff time and updates to systems; also on-going individual cost of reassessment.	Benefits associated with proposed changes to the qualification system; introduction of reassessment for Scottish road works operatives and supervisors will increase health and safety at road works sites, improve the quality of reinstatements and potentially reduce congestion by reducing time spent revisiting site to fix poor quality reinstatement. Potential for ability to work cross-border brings parity with the rest of the UK.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that potential business impact has been assessed with the support of businesses in Scotland.

Signed:

Humza Yousaf
Minister for Transport and the Islands
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