

2003 No. 531

ROADS

STREET WORKS

**Street Works (Recovery of Costs) Regulations
(Northern Ireland) 2003**

Made - - - - - 12th December 2003

Coming into operation 1st April 2004

The Department for Regional Development(a), in exercise of the powers conferred by Article 53(1) of the Street Works (Northern Ireland) Order 1995(b) and now exercisable by it(c) and of every other power enabling it in that behalf hereby makes the following regulations:

Citation and commencement

1. These Regulations may be cited as the Street Works (Recovery of Costs) Regulations (Northern Ireland) 2003 and shall come into operation on 1st April 2004.

Interpretation

2. In these Regulations –

“the Order” means the Street Works (Northern Ireland) Order 1995;

“the 1998 Regulations” means the Street Works (Sharing of Costs of Works) Regulations (Northern Ireland) 1998(d);

“chargeable job” means an item of work, the costs of which are recoverable under the provisions of the Order;

“claimant” means an authority, body or person who is entitled to recover costs under the Order;

“costs” means costs or expenses referred to in Article 53(1) of the Order as being recoverable by an authority, body or person under the provisions of the Order;

“cost centre” means a unit of financial accountability identifiable within a claimant’s management accounts and responsible for specific activities within a claimant’s organisation;

“cost of capital” means the cost of capital calculated by reference to the rate of return which is prescribed either by statute or by the relevant regulator in respect of the claimant’s regulated activities (whether or not the chargeable job is such an activity) or, if no rate is

(a) S.I. 1999/283 (N.I. 1) Article 3(1)

(b) S.I. 1995/3210 (N.I. 19); *see* Article 2(2) for the definition of “prescribed”

(c) S.R. 1999 No. 481 Article 6(d) and Schedule 4 Part IV

(d) S.R. 1998 No. 156 as amended by S.R. 2001 No. 338

prescribed, by reference to a rate which is two per cent above the Public Sector Discount Rate as set by the Treasury from time to time;

“direct costs” means those costs described in regulation 5;

“overheads” means those costs described in regulation 6;

“support services” means services provided from within an organisation in support of activities which incur direct costs.

Recovery of Costs

3. The basis on which the amounts of costs are to be calculated is that set out in the following provisions of these Regulations.

Basis of Recovery

4.—(1) The costs shall comprise direct costs and overheads to the extent that such costs are relevant to a particular chargeable job and are calculated in accordance with the financial policies adopted by the claimant to state the financial results of the cost centre or centres responsible for the chargeable job or for providing support services to such a centre or centres.

(2) Where costs are recoverable in pursuance of the 1998 Regulations these Regulations shall apply to the extent that the costs are “allowable costs” as defined in regulation 1(2) of the 1998 Regulations.

(3) The costs shall be recoverable either as direct costs under regulation 5 or as overheads under regulation 6, but not both.

(4) The costs shall be net of any discount or rebate allowed to the claimant.

Direct Costs

5. Direct costs are any of those costs specified below –

- (a) the cost of staff (whether salaried or non-salaried) employed directly by the claimant calculated in accordance with regulation 7;
- (b) the costs payable to a contractor engaged by the claimant;
- (c) the cost of materials;
- (d) the cost of hiring equipment, plant and vehicles or, where the equipment, plant and vehicles are leased to the claimant, the equivalent cost based on relevant market rates; and
- (e) other costs which are relevant and specifically attributable to a chargeable job.

Overheads

6.—(1) Overheads shall comprise an appropriate percentage of the direct costs referred to in regulation 5, calculated and applied separately for each category of those costs.

(2) An appropriate percentage for the purpose of this regulation means the percentage calculated by the application of the formula:–

$(\frac{b}{a} \times 100)$ plus

$(\frac{c}{a} \times 100)$ plus

$(\frac{d}{a} \times 100)$

where:

a = the total direct costs of all chargeable jobs, and jobs other than chargeable jobs, charged to the cost centre or centres responsible for the chargeable job during the most recent period for which published accounts are available;

b = the cost in that period of support services provided within the cost centre or centres responsible for the chargeable job;

c = the cost in that period of support services provided to the cost centre or centres responsible for the chargeable job by other cost centres within the claimant's organisation; and

d = the cost in that period of capital and of depreciation of assets used in connection with direct costs incurred by the cost centre or centres responsible for the chargeable job, or directly or indirectly in providing support services to such cost centre or centres.

Calculation of Staff Costs and Worker's Productive Hours

7.—(1) For the purpose of regulation 5(a), staff costs shall be calculated by reference to the hourly rate at which a worker is employed by dividing the reasonably estimated annual cost of employing a worker by that worker's productive hours during the same annual period.

(2) In paragraph (1), "productive hours" means those hours during which it is reasonably estimated that a worker will be engaged on a chargeable job or work of a similar kind within the claimant's organisation, but does not include any periods of sickness, holiday, training, or other absence.

Exclusions

8. These Regulations shall not apply to costs or expenses recoverable in respect of any action undertaken in relation to a licence under Article 11 of the Order.

Sealed with the Official Seal of the Department for Regional Development on 12th December 2003.

(L.S.)

J. Carlisle

A senior officer of the Department for Regional Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations prescribe the basis for calculating the costs or expenses which an authority, body or person may recover under the provisions of the Street Works (Northern Ireland) Order 1995 (“the Order”).

The Order contains several provisions enabling an authority, body or person to take action and to recover the costs or expenses of taking that action from other parties.

The Regulations do not apply to costs or expenses recoverable in respect of any action undertaken in relation to a licence granted under Article 11 of the Order.

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