

2017 No. 49

ROADS AND BRIDGES

**The Scottish Road Works Register (Prescribed Fees)
Regulations 2017**

Made - - - - - *23rd February 2017*

Laid before the Scottish Parliament *27th February 2017*

Coming into force - - - *1st April 2017*

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. These Regulations may be cited as the Scottish Road Works Register (Prescribed Fees) Regulations 2017 and come into force on 1st April 2017.

Interpretation

2. In these Regulations—

- “the Act” means the New Roads and Street Works Act 1991;
- “financial year 2017/18” means the period of 12 months commencing on 1st April 2017;
- “financial year 2018/19” means the period of 12 months commencing on 1st April 2018;
- “first relevant period” means the period of 12 months ending on 31st December 2016;
- “second relevant period” means the period of 12 months ending on 31st December 2017;

(a) 1991 c.22. Section 112A was inserted by section 19 of the Transport (Scotland) Act 2005 (asp 12) (“the 2005 Act”). Section 163(1) includes a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State under section 163(1) were transferred to the Scottish Ministers, so far as within devolved competence, by virtue of 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 Scottish Road Works Register(a) in the first relevant period or the second 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 financial year 2017/18, payment to the Commissioner(b) of the prescribed fee, calculated in accordance with paragraphs (4) and (5), by roads authorities(c) and relevant undertakers respectively is a condition of access to the Scottish Road Works Register as mentioned in section 112A(3) of the Act.

(2) For financial year 2018/19, payment to the Commissioner of the prescribed fee, calculated in accordance with paragraphs (6) and (7), by roads authorities and relevant undertakers respectively is a condition of access to the Scottish Road Works Register as mentioned in section 112A(3) of the Act.

(3) Payments due to the Commissioner under this regulation must be made within 60 days of receipt of the invoice from the Commissioner.

(4) For each roads authority, the prescribed fee for financial year 2017/18 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$R \times (\pounds 850,000 - \pounds A)$$

where—

R is the figure shown in column 2 of the schedule of 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 financial year 2017/18 pursuant to regulation 3 of the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008(d).

(5) For each relevant undertaker, the prescribed fee for financial year 2017/18 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$\frac{N}{TN} \times (\pounds 850,000 - \pounds A) \times 0.65$$

where—

N is the number of notices entered by the relevant undertaker to which the calculation relates, in the Scottish Road Works Register in the first relevant period;

TN is the total number of notices entered by all relevant undertakers in the Scottish Road Works Register in the first relevant period; and

£A has the same meaning as in paragraph (4).

(6) For each roads authority, the prescribed fee for financial year 2018/19 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$R \times (\pounds 1,029,000 - \pounds A)$$

(a) The Scottish Road Works Register is kept in terms of section 112A(1) of the New Roads and Street Works Act 1991.

(b) The Scottish Road Works Commissioner is created by section 16(1) of the 2005 Act and has functions under 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. Regulation 3 was amended by S.S.I. 2014/58.

where—

R has the same meaning as in paragraph (4); and

£A is the total amount payable to the Commissioner by way of prescribed amounts for financial year 2018/19 pursuant to regulation 3 of the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008.

(7) For each relevant undertaker, the prescribed fee for financial year 2018/19 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$\frac{N}{TN} \times (£1,029,000 - £A) \times 0.65$$

where—

N is the number of notices entered by the relevant undertaker to which the calculation relates, in the Scottish Road Works Register in the second relevant period;

TN is the total number of notices entered by all relevant undertakers in the Scottish Road Works Register in the second relevant period; and

£A has the same meaning as in paragraph (6).

Revocation

4. The Scottish Road Works Register (Prescribed Fees) Regulations 2015(a) are revoked.

St Andrew's House,
Edinburgh
23rd February 2017

H YOUSAF
Authorised to sign by the Scottish Ministers

(a) S.S.I. 2015/89.

SCHEDULE

Regulation 3(4) and (6)

FIGURE FOR ROADS AUTHORITIES IN RELATION TO FORMULA FOR CALCULATION OF PRESCRIBED FEES AT REGULATION 3(4) AND (6)

<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	0.006
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.

Regulation 3(1) and (2) provides that, for the financial years commencing on 1st April 2017 and 1st April 2018 respectively, 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.

Regulation 3(4) and (5) provides formulas for the calculation of the prescribed fee for roads authorities and relevant undertakers respectively for the financial year 2017/18.

Regulation 3(6) and (7) provides formulas for the calculation of the prescribed fee for roads authorities and relevant undertakers respectively for the financial year 2018/19.

Regulation 4 revokes the Scottish Road Works Register (Prescribed Fees) Regulations 2015.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ and online at www.legislation.gov.uk.

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