

Partial Business and Regulatory Impact Assessment

Title of Proposal

The Road Works (Qualifications of Operatives and Supervisors)(Scotland) Regulations 2016 *Draft consultation Partial BRIA*

Purpose and intended effect

Background

The Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 1992 describes a number of units of competency that must be completed by trained operatives or supervisors at road works. These regulations were made under Section 126 and 163(1) of the New Roads and Street Works Act 1991. 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, renewed Scottish road works qualifications are not recognised in England.

Objective

Section 126 of The New Roads and Street Works Act 1991 (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 may already operate under a comparable regime for any company operations undertaken in England.

The purpose of consulting on this partial regulatory impact assessment is 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 re-registered in Scotland will have the ability to work throughout the UK.

Implementation of these changes will help to meet the following strategic objectives 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. The Department for Transport have consulted on proposed amendments to their equivalent regulations. Our proposals will bring parity, initially with England (and in time with Northern Ireland and Wales also) to holders of Scottish Road Works qualifications.

Public Consultation

A 12 week public consultation will take place between [dates will be inserted prior to issue of consultation] 2016.

Business

The parties most likely to be affected by implementation of the proposals (main Utility Companies and Roads Authorities employing Road Works Operatives and Supervisors) will be advised directly when the consultation launches. The Awarding Bodies and Assessment Centres which will act as conduits to reach individuals who may be affected by the proposed changes to the regulation will also be advised of the launch and provided with links to the consultation document.

Options

Option 1 – Do nothing.

Road Works certificates are simply renewed by application in Scotland, whereas in England, certificate holders must undergo successful re-assessment in the relevant road works qualifications when their certificate 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 road works certificates across UK internal borders.

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

Under this option, operatives and supervisors of road works in Scotland would no longer come across barriers when applying to work across UK internal borders.

Our proposals introduce a requirement for successful reassessment in the relevant road works qualifications when a road works qualification certificate reaches expiry date. This brings our road works qualifications process in line with England and potentially the rest of the UK, providing parity for Scottish road works operatives and supervisors.

Sectors and groups affected

Option 1 – Road Works Operatives and Supervisors wishing to work in the other Devolved Administrations, Utility Companies which undertake road works out-with Scotland, Scottish Road Authorities which share borders with England.

Option 2 - Road Works Operatives and Supervisors wishing to work in the other Devolved Administrations, Utility Companies which undertake road works out-with Scotland, Scottish Road Authorities which share borders with England.

Benefits

Option 1 – No additional benefits are expected to arise from this option, although potentially continued dis-benefit.

Option 2 - Renewed and reassessed Scottish Road Works certificates are designed to fit in with regimes across the UK. Reassessment of competence has the potential to promote Health & Safety at road works for operatives and other road users.

Costs

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

Option 2 – There may be an increased financial cost to individuals or their employers when operatives have their competency reassessed at renewal after 5 years.

Scottish Firms Impact Test This section will be informed by evidence gathered during the consultation phase and completed in the final BRIA.

Competition Assessment

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

- **No**, however it may increase the number of suppliers as our proposals provide for other approved Awarding Bodies to be listed in the regulations, to permit the provision of road works qualifications by other approved providers.

Will the measure limit the ability of suppliers to compete?

- **No**. It will provide the opportunity for other approved Awarding Bodies to offer certificates in road works qualifications.

Will the measure limit suppliers' incentives to compete vigorously?

- **No**. All approved Awarding Bodies will have the opportunity to be recognised to offer the required road works qualifications competitively.

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

- **No**. Opening up the provision of roads works qualifications to other approved Awarding Bodies will allow road works operatives and supervisors to attend a training centre of their choice. The content of the road works qualification certificates and units of competence will be standardised therefore each training provider shall offer the same choices.

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

It is not expected that the proposed new regulations will have any impact on the current level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund as any legal/authorisation decisions impacted by our proposals will largely affect Utility Companies and Roads Authorities.

Enforcement, sanctions and monitoring

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

Implementation and delivery plan

Any new Regulations will come into force in October 2016 (with the introduction of reassessment as soon as it is practicable), with the revised qualification structure effective from 1 April 2017.

Summary and recommendation

This section will be completed post-consultation.

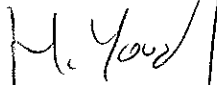
- **Summary costs and benefits table**

A summary costs and benefits table will be completed post-consultation.

Declaration and publication

I have read the partial 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 business impact will be assessed with the support of businesses in Scotland.

Signed:



Date:

26/06/16

Humza Yousaf

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