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Scottish Government Response to the Consultation on the Road Works (Qualifications of Operatives and Supervisors) (Scotland) Regulations 2016

December 2016

This document summarises the proposals made in the consultation on proposed regulations to revise the professional qualifications for road work operatives and supervisors in Scotland. Set out after each proposal is the way we are now proposing to go forward, and blue text reflecting any key issues raised and our comments on these.

A number of respondents raised minor issues around the day-to-day operation of the Street Works Qualifications register, or “Street Works cards” which are not part of these regulations. However we will bring these to the attention of the SQA who operate the register on behalf of the Scottish Ministers.

Proposed change 1

Proposed change 1 was: to amend the order in which the sections on supervisors and operatives appear in the Regulations (to place operatives before supervisors in the title, and within the body of the Regulations and associated schedules).

The majority of respondents supported the proposal and will be included in our draft regulations.

Not seen as a problem, and not necessarily representative of the order of succession in all cases

The proposal is not aimed at solving any particular problem. It is more about a logical order of sequencing which the majority of respondents supported.

Proposed change 2

Proposed change 2 was: to make it clearer how other organisations could be recognised by the Scottish Ministers and be added to the list of approved Awarding Organisations within Scotland.

The majority of respondents supported the proposal and will be included in our draft regulations.

Q2a Recognition of Awarding Organisations

The SQA should be retained as ‘the awarding body’ it would be confusing to have too many card issuers

This question appeared to confuse a number of respondents. There is no intention of having anything other than one single qualifications register, which will be operated by the SQA as the Street Works Qualifications Register. The

proposal and associated question was actually about the bodies which are authorised to issue the qualifications themselves. For example City & Guilds is currently recognised as one of three bodies which can issue road works qualifications. These qualifications are then registered on the SWQR operated by the SQA.

Q2b Other organisations for the Scottish Ministers to consult

The Scottish Ministers should also consult with a number of other organisations including, the Society of Chief Officers of Transportation Scotland, and the HAUC(UK) training and accreditation Group being the groups suggested most frequently.

The proposal will make the Scottish Road Works Commissioner a mandatory consultee. The SRWC sits on the HAUC(UK) TAG and our expectation is that the Commissioner will take account of their advice. Similarly the Society of Chief Officers of Transportation Scotland is represented on the Scottish Government/Transport Scotland's Road Work Policy Development Group and they will be able to input views through their membership of that group.

Proposed change 3

Proposed change 3 was to: simplify the process of registering qualifications, by providing for electronic communication of examination results and qualifications held.

The majority of respondents supported the proposal and will be included in our draft regulations.

Concern that individuals may not have access to a computer

The proposed regulations will see qualification results being sent electronically directly from the awarding body to the Street Works Qualifications Register. Although the operation of the qualification register itself is not part of the proposed regulation, we understand from SQA who operate the register on behalf of the Scottish Ministers, that they will be updating their systems in 2017. When completed this will allow candidates to apply for their "Street Works cards" electronically. However, while SQA anticipate that most candidates will want to use this convenient facility, they recognise that there may be those without access to a computer, who will still be able to apply for their card by post.

Concern about how employers might access records regarding the training records of their employees

This process is not part of the proposed regulations but we understand that this information should be mostly available through training/assessment centres. Alternatively employers will be able to access this information through their employees.

SWQR Cards should be sent via employers

This process is not part of the proposed regulations, however we understand that candidates should be able to exercise a choice about where their cards are delivered to. This option is limited to a choice between the candidates own address and that of their training/testing centre. We have asked SQA to consider extending the choice to include an employer address.

Reminders to be sent to candidates coming up to expiry/reassessment

This process is not part of the proposed regulations but we understand this functionality is currently available through the SQA run Street Works Qualification Register with the possibility of email alerts being sent at a number of intervals in advance of the existing qualification registration expiring.

Proposed change 4

Proposed change 4 was to: amend the key date for calculation of time periods for the validity of qualifications from the date a qualification is registered to the date when the relevant qualification is achieved.

The majority of respondents supported the proposal and will be included in our draft regulations.

Concern that this will differ from the arrangements being introduced in England from April 2017

We are liaising with DfT colleagues to ensure that the key elements of the arrangements in England and Scotland will be the same.

Proposed change 5

Proposed change 5 was to: continue to provide a two month “grace period” during which someone who has passed their exams, but not received confirmation of

registration, could fulfil the statutory role of a trained operative or supervisor; and clarify that candidates cannot fulfil the statutory role once registration has expired.

The majority of respondents supported the proposal and will be included in our draft regulations.

Q5a Continuation of a two month grace period

Is a grace-period required where the register is electronic?

We envisage that the registration of qualifications will take less time than this, but there is no pressing need to reduce the duration of the current grace period.

Q5b Prohibit fulfilling the statutory role once registration has expired

Could result in staffing concerns or job loss if an operative can't work after their qualification registration has expired

We believe that it ought to be possible within an effective 5 year window to plan for reassessment to take place before the 5 year period expires. Even after expiry of the qualification registration, an operative can still work on the carriageway, just that they can't fulfil the statutory role of being the one required qualified operative.

Proposed change 6

Proposed change 6 was to: amend the qualification requirements for trained operatives and supervisors, to include provision for reassessment.

The majority of respondents supported the proposal and will be included in our draft regulations.

There is no value in refresher training

We disagree. Over time, regulatory requirements, codes of practice, etc change and it is accepted good practice that regular professional development helps ensure that staff remain fully competent and therefore that works in the road are completed to the required standards.

There are other ways of ensuring continuous professional development

We accept that there are other ways of learning and remaining up-to-date with technical matters. However we believe that a standard approach is required

to ensure that required level of competence is retained and that standards are applied consistently.

Proposed change 7

Proposed change 7 was to: introduce reassessment of competencies every five years. Provision would be made for applications to re-register qualifications to be submitted within the first four years of a registration period. The subsequent registration period would run from the next anniversary of the original period. The maximum gap allowed between lapsed registration and application to re-register a qualification on the basis of reassessment would be five years.

The majority of respondents supported the proposal and will be included in our draft regulations.

Q7a Requirement to pass an appropriate reassessment for re-registration

There is little point in doing this where a candidate has been doing the work for the last five years, it adds no value only cost

We believe that a standard approach is required to ensure that required level of competence is retained and that standards are applied consistently.

Q7b Early applications to re-register

It is not possible or sensible to allow qualifications to expire at the same time

The provisions are designed to give candidates maximum flexibility as to when they take their reassessment tests, essentially anytime over the registration period. This will also hopefully minimise the time spent off-job.

The proposed registration period for early reassessment is not the same as that being proposed for England

Both sets of proposals have evolved since their inception. However the intention was always to create a single seamless regime where this is possible. To that end the Scottish regulations will mirror the equivalent regulations for England being introduced in April 2017 which will provide for a 6 year re-registration period for qualifications that are reassessed early in years 1-4 of the initial 5 year period.

Q7c Maximum five year gap for re-registration based on reassessment

Some of the comments made in response to Q7c clearly relate also to Q7b as they comment on the way the re-registration period is calculated and the need for consistency between the Scottish and English regimes.

Proposed change 8

Proposed change 8 was to: revise the qualifications structure, making “Location and Avoidance of Underground Apparatus” and “Signing, Lighting and Guarding” mandatory qualifications in their own right (and requiring these to be current for any other qualification to be valid). Annex A of the consultation document proposed a new way of listing and numbering the qualifications.

The majority of respondents supported the proposal and will be included in our draft regulations.

Q8a Revision and clarification of units and qualifications

Revision to the numbering will be confusing

We accept that there will be a required period of adjustment, but we hope with appropriate guidance that can be minimised.

Q8b Signing, Lighting and Guarding as mandatory qualifications

This will make the programming of works difficult

The proposal is designed to increase flexibility and enhance standards. The proposal is NOT that all operatives have to be trained only that for those with qualifications registered, their overall validity is dependent on SLG being current. The public might be understandably concerned by the thought that those carrying out roadworks were not qualified

Proposed change 9

Proposed change 9 was to: have cross-border recognition of road works qualifications, with a need to recognise those registered elsewhere in the UK and in the European Union.

The majority of respondents supported the proposal and will be included in our draft regulations.

Concern about the equivalence of EU qualifications

There are rules set at a European level to ensure the equivalent recognition of professional qualifications. In this case Directive 2005/36/EC of the European Parliament and Council on the recognition of professional qualifications sets the framework for the recognition of road works qualifications obtained in another Member State. The Scottish Ministers have no powers to do anything which is not in compliance with EU law.

Proposed change 10

Proposed change 10 was to: introduce an explicit exemption from the regulations for Scottish Fire and Rescue Services (SFRS) when checking fire hydrants (but not when carrying out repairs).

The majority of respondents supported the proposal and will be included in our draft regulations.

Supplementary questions (11)

Supplementary questions (11) focused on: the possible future extension of some qualification requirements to roads authorities (making qualifications relating to safety and plant protection mandatory); and the addition to the “Signing, Lighting and Guarding” curriculum of a new module on communication with the public.

Q11a Future extension of some qualification requirements to roads authorities

Q11b Added content on engagement and communication with the public

Additional information

These initial outline ideas will be subject to further engagement and consultation with Stakeholders in 2017. They are not part of the proposed regulations.

Produced by Transport Scotland’s Transport Policy Directorate on behalf of the Scottish Ministers.

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