

# Net Zero, Energy and Transport Committee 6th Meeting, 2022 (session 6), Tuesday, 22 February 2022

## Subordinate legislation - The Scottish Road Works Register (Prescribed Fees) Regulations 2022 (SSI2022/9)

Note by the clerk

### Overview of instrument

1. The following Scottish Statutory Instrument (SSI), subject to negative procedure, is being considered at today's meeting:
  - [The Scottish Road Works Register \(Prescribed Fees\) Regulations 2022 \(SSI2022/9\)](#)
2. The instrument was laid before the Parliament on 19 January 2022 and would come into force on 1 April 2022.

### Purpose of the instrument

3. The purpose of this instrument is to revoke the existing Regulations for the financial year 2021/22, and to prescribe the fee payable as a condition of access to the Scottish Road Works Register in the financial year 2022/23 and 2023/24.
4. The Register is an electronic database allowing for the planning and coordination of road works between roads authorities and utility companies so that impacts on businesses and other road users are minimised. The cost of running the Register can vary from year to year, and new instruments are needed where the fees and amounts vary from the previous year. The figure for the financial year 2022/23 (£882,933) and for financial year 2023/24 (£950,387) accounts for all of the estimated operational and training costs expected to be incurred in that year.
5. The Policy Note provides further detail on the instrument. It is available in Annexe A.
6. [A Business and Regulatory Impact Assessment is available.](#)

## Delegated Powers and Law Reform Committee Consideration

7. The Delegated Powers and Law Reform Committee considered this instrument at [its meeting on 25 January 2022](#) and determined that it did not need to draw the attention of Parliament to the instrument on any grounds within its remit. [Read the official report for the meeting on 25 January 2022.](#)

## Committee Consideration

8. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting is 7 March 2022.

## Procedure

9. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
10. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
11. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
12. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
13. Each negative instrument appears on the Net Zero, Energy and Transport Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a

negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

14. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

# ANNEXE A

## POLICY NOTE

### THE SCOTTISH ROAD WORKS REGISTER (PRESCRIBED FEES) REGULATIONS 2022

#### SSI 2022/9

The above instrument was made in exercise of the powers conferred by sections 112A(4) and 163(1) of the New Roads and Street Works Act 1991 (c. 22) (“The 1991 Act”). The instrument is subject to the negative procedure.

#### Purpose of the instrument

The purpose of this instrument is to revoke the existing Regulations for the financial year 2021/22, and to prescribe the fee payable as a condition of access to the Scottish Road Works Register in the financial year 2022/23 and 2023/24.

#### Policy Objectives

The policy objective of this instrument is to prescribe the fee payable as a condition of access to the Scottish Road Works Register for the period from 1 April 2022 to 31 March 2023, and then from 1 April 2023 to 31 March 2024. It revokes the Scottish Road Works Register (Prescribed Fees) Regulations 2021 (SSI 2021 No. 48) which set the fees for the previous financial year.

The Transport (Scotland) Act 2005 (“the 2005 Act”) makes statutory provision, by way of amendment to the 1991 Act, for the co-ordination of road works in Scotland and for cooperation between Scottish Roads Authorities and utility companies (known as Statutory Undertakers). The 2005 Act also provided for a single, national, Scottish Road Works Register (“the Register”).

Part 2 of the 2005 Act provides a framework for the appointment of the Scottish Road Works Commissioner, and requires that the Commissioner is the keeper of this Register where roads authorities and utility companies can enter the prescribed notices required for their works in the road network. The 2005 Act also makes provision for the collection of prescribed fees as a condition of access to the Register. Fees are collected from roads authorities and utility companies.

The level of fees to be collected and the mechanism for apportioning costs to the users granted access to the Register by its keeper has been prescribed in secondary legislation with regular updates since 2008. This process remains unchanged.

The Register is an electronic database supplied by an external software provider and is kept and maintained by the Scottish Road Works Commissioner. The Register allows for the planning and coordination of road works between roads

authorities and utility companies so that impacts on businesses and other road users are minimised. The cost of running the Register can vary from year to year, and new instruments are needed where the fees and amounts vary from the previous year. The figure for the financial year 2022/23 (£882,933) and for financial year 2023/24 (£950,387) accounts for all of the estimated operational and training costs expected to be incurred in that year.

## Consultation

To comply with the requirements of Section 163A of the 1991 Act, the Scottish Government has carried out an 8 week public consultation in relation to the change in fees. The underlying framework had been discussed and agreed through the road works community body, the Roads Authorities and Utilities Committee (Scotland) (RAUC(S)) before forming part of the first statutory process. RAUC(S) have not put forward any alternate model and continue to support the status quo. A full list of respondents to the consultation, many of whom agreed to the release of their response, is published on the Scottish Government website, and is contained within the associated BRIA. Responses came from twenty two organisations, of which fifteen were roads authorities, including Orkney Islands Council, Shetland Islands Council, Glasgow City Council, West Lothian Council, Inverclyde Council, East Lothian Council, the Highland Council, Aberdeen City Council, North Ayrshire Council and East Dunbartonshire Council. There were four responses from utility organisations, including Scottish and Southern Energy and Virgin Media, and one from Network Rail. There were also two individual responses.

## Impact Assessments

There is no aspect of the proposals which have a differential or discriminatory impact on equality groups, islands or individuals.

## Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy will be to increase the costs borne by users of the Register, however the impact of this on business is considered to be proportionate to ensure that the anticipated cost of operating the register are met.

Scottish Government  
Transport Scotland - Transport Strategy and Analysis

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