SCOTTISH STATUTORY INSTRUMENTS

2022 No. 9

ROADS AND BRIDGES

The Scottish Road Works Register (Prescribed Fees) Regulations 2022

Made - - - -	*17th January 2022*
Laid before the Scottish Parliament	*19th January 2022*
Coming into force - -	*1st April 2022*

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 2022 and come into force on 1 April 2022.

Interpretation

2. In these Regulations—

"the Act" means the New Roads and Street Works Act 1991,

"financial year 2022/2023" means the period of 12 months commencing on 1 April 2022,

"financial year 2023/2024" means the period of 12 months commencing on 1 April 2023,

"first relevant period" means the period of 12 months ending on 31 December 2021,

"second relevant period" means the period of 12 months ending on 31 December 2022,

(**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 SRWR(**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 2022/2023—

(a) payment to the Commissioner(**b**) of the prescribed fee, calculated in accordance with paragraph (4), is a condition of access to the SRWR by roads authorities(**c**) under section 112A(3) of the Act,

(b) payment to the Commissioner of the prescribed fee, calculated in accordance with paragraph (5), is a condition of access to the SRWR by relevant undertakers under section 112A(3) of the Act.

(2) For financial year 2023/2024—

(a) payment to the Commissioner of the prescribed fee, calculated in accordance with paragraph (6), is a condition of access to the SRWR by roads authorities under section 112A(3) of the Act,

(b) payment to the Commissioner of the prescribed fee, calculated in accordance with paragraph (7), is a condition of access to the SRWR by relevant undertakers under 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 2022/2023 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$R \times (£882{,}933 - £A)$$

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 2022/23 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 2022/2023 for the purpose of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$\frac{N}{TN} \times (£882{,}933 - £A) \times 0.65$$

where—

N is the number of notices entered by the relevant undertaker to which the calculation relates in the SRWR in the first relevant period,

---

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

(**b**) The Scottish Road Works Commissioner was created by section 16(1) of the 2005 Act and has functions under section 112A(1) of the 1991 Act. Section 112A(1) of that Act defines "the Commissioner".

(**c**) Section 145(1) of the 1991 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.

TN is the total number of notices entered by all relevant undertakers in the SRWR 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 2023/2024 for the purposes of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$R \times (£950{,}387 - £A)$$

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 2023/24 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 2023/2024 for the purpose of section 112A(4)(a) of the Act must be calculated in accordance with the formula—

$$\frac{N}{TN} \times (£950{,}387 - £A) \times 0.65$$

where—

N is the number of notices entered by the relevant undertaker to which the calculation relates in the SRWR in the second relevant period,

TN is the total number of notices entered by all relevant undertakers in the SRWR 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 2021(**a**) are revoked.

GRAEME DEY
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
17th January 2022

(**a**) S.S.I. 2021/48.

SCHEDULE

Regulation 3(4) and (6)

FIGURES FOR ROADS AUTHORITIES IN RELATION TO FORMULAE FOR CALCULATION OF PRESCRIBED FEES UNDER REGULATION 3(4) and (6)

Column 1 *Roads Authority*	*Column 2* *Figure*
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
The 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") 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 1 April 2022 and 1 April 2023, 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. The term "relevant undertakers" is defined in regulation 2.

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 commencing on 1 April 2022.

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 commencing on 1 April 2023.

Regulation 4 revokes the Scottish Road Works Register (Prescribed Fees) Regulations 2021.

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.

© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen's Printer for Scotland.

£4.90

http://www.legislation.gov.uk/id/ssi/2022/9

ISBN 978-0-11-105305-8

