



The Scottish Parliament  
Pàrlamaid na h-Alba

## RURAL ECONOMY AND CONNECTIVITY COMMITTEE

### AGENDA

7th Meeting, 2018 (Session 5)

Wednesday 7 March 2018

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Subordinate legislation:** The Committee will take evidence on the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018 [draft] from—

Humza Yousaf, Minister for Transport and the Islands, Tom Davy, Head of Bus and Local Transport Policy Unit, Transport Scotland, and Gordon Hanning, Head of Concessionary Travel and Integrated Ticketing Unit, Scottish Government.

2. **Subordinate legislation:** Humza Yousaf (Minister for Transport and the Islands) to move—

S5M-10336—That the Rural Economy and Connectivity Committee recommends that the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018 [draft] be approved.

3. **Subordinate legislation:** The Committee will consider the following negative instruments—

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2018 (SSI 2018/44)

The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018 (SSI 2018/50)

4. **Salmon Farming in Scotland:** The Committee will take evidence from—

Professor Paul Tett, Reader in Coastal Ecosystems, The Scottish Association for Marine Science;

Professor James Bron, Professor in Aquaculture, and Professor Herve Migaud, Professor of Aquatic Breeding and Physiology, University of Stirling's Institute of Aquaculture;

Steve Westbrook, Economist.

Steve Farrell  
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The papers for this meeting are as follows—

**Agenda Item 1, 2 and 3**

SSIs cover note

REC/S5/18/7/1

**Agenda Item 4**

Cover note

REC/S5/18/7/2

PRIVATE PAPER

REC/S5/18/7/3 (P)

PRIVATE PAPER

REC/S5/18/7/4 (P)

**Rural Economy and Connectivity Committee**  
**7th Meeting, 2018 (Session 5), Wednesday 7 March 2018**

**Subordinate Legislation**

1. The Committee will consider one affirmative and two negative SSI:

**Affirmative:**

- National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018 [draft] (see Annexe A)

**Negative:**

- SSI 2018/44: Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2018 (see Annexe B).
- SSI 2018/50: The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018 (see Annexe C)

2. The Annexes contain, in respect of each instrument, the clerk's note, the Scottish Government's policy note, the instrument itself and where provided, a Business and Regulatory Impact Assessment.

Rural Economy and Connectivity Committee Clerks  
2 March 2018

**Annex A –****Title of instrument**

[The National Bus Travel Concession Scheme for Older and Disabled Persons \(Scotland\) Amendment Order 2018](#) [draft]

**Type of instrument**

Affirmative

**Laid date**

26 January 2018

**Minister to attend the meeting**

Yes

**SSI's drawn to the Parliament's attention by Delegated Powers and Law Reform (DPLR) Committee**

No

**Reporting Deadline**

15 March 2018

**Procedure**

1. The Rural Economy and Connectivity (REC) Committee has been designated as lead committee for this instrument and is required to report to the Parliament.

2. Under Rule 10.6.1 (a), these regulations are subject to affirmative resolution before they can be made. It is for the REC Committee to recommend to the Parliament whether these draft regulations should be approved.

3. The Minister for Transport and the Islands has, by motion S5M-10336, proposed that the Committee should recommend the approval of this instrument.

4. The Minister will attend to answer any questions on the instrument, and then, under a separate agenda item, be invited to speak to and move the motion for approval. The formal debate on the motion may last for a maximum of 90 minutes.

5. At the end of the debate, the Committee must decide whether or not to agree the motion, and then report to Parliament accordingly. The report need only be a brief statement of the Committee's recommendations.

**Policy Objectives**

6. The National Bus Travel Concession Scheme for Older and Disabled Persons ("the Scheme") provides an entitlement to free bus travel for people in Scotland age 60 and over or meeting certain disability-related criteria. In response to surveys, card holders told the Scottish Government that the scheme provides them with social and health benefits, for example, enabling easier access to services and the ability to visit friends and relatives. In line with the Scheme objectives, operators can be reimbursed for the costs of carrying concessionary passengers provided they are left

no better or no worse off through their participation in the Scheme. This complies with EU rules relating to state aid.

7. The objective of this Order is to enable operators to continue to be reimbursed after the expiry of the current reimbursement provisions on 31 March 2018 by setting the reimbursement rate and capped level of funding for the next financial year (1 April 2018 to 31 March 2019).

8. The regulations and policy note are included at Annexe A. The following documents are also available online:

<http://www.legislation.gov.uk/sdsi/2018/9780111038093/introduction>

### **Consideration by the Delegated Powers and Law Reform Committee**

8. At its meeting on [6 February 2018](#), the DPLR Committee considered this instrument and determined it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

### **Recommendation**

9. The Committee is invited to consider any issues that it wishes to raise in reporting to the Parliament on this instrument.

**Rural Economy and Connectivity Committee  
February 2018**

## POLICY NOTE

### THE NATIONAL BUS TRAVEL CONCESSION SCHEME FOR OLDER AND DISABLED PERSONS (SCOTLAND) AMENDMENT ORDER 2018

#### SSI 2018/

1. The above instrument is made in exercise of powers conferred on the Scottish Ministers by sections 40(1), (3) and (4) and 52(4) of the Transport (Scotland) Act 2005 and is subject to affirmative resolution procedure.
2. Article 12 of the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 (“the 2006 Order”), as amended by the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2010 (SSI 2010/140), the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2013 (SSI 2013/114), the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2015 (SSI 2015/133) and the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2017 (SSI 2017/71) provides for the reimbursement of operators of eligible services for carrying passengers under the Scheme.
3. This instrument further amends the 2006 Order to prescribe the rate and capped level of funding for reimbursement in 2018-19.

#### **Policy Objectives**

4. The National Bus Travel Concession Scheme for Older and Disabled Persons (“the Scheme”) provides an entitlement to free bus travel for people in Scotland age 60 and over or meeting certain disability-related criteria. In response to surveys, card holders tell us that the scheme provides them with social and health benefits, including by enabling them more easily to access services and visit friends and relatives. In line with Scheme objectives, operators can be reimbursed for the costs of carrying concessionary passengers provided they are left no better or no worse off through their participation in the Scheme. This complies with EU rules relating to state aid.
5. The objective of this Order is to enable operators to continue to be reimbursed after the expiry of the current reimbursement provisions on 31 March 2018 by setting the reimbursement rate and capped level of funding for the next financial year (1 April 2018 to 31 March 2019).
6. The reimbursement rate reflects the outputs of an economic model developed as part of research commissioned by the Scottish Government and published in

February 2013, and negotiations with the Confederation of Passenger Transport (CPT) on forecasts of future journey numbers and the growth in fares. The funding level is set on the basis of the new rate and estimates of the numbers of journeys and levels of fare rises over the next year.

7. In 2018-19, the reimbursement rate will be 56.8% (of the adult single fare) and the capped level of funding will be £202.1 million. The corresponding figures for 2017-18 are 56.9% and £196.16 million. The funding cap for 2018-19 is just over 3% higher than for 2017-18.

### **Consultation**

8. Negotiations have taken place with the CPT, which represents approximately 80% of the bus industry in Scotland in terms of volume of journeys. The negotiations were based on the economic model developed in 2012-13 and involved extensive discussions focused on updating the inputs to the model to take account of current economic forecasts, forecasts of industry costs and general inflation.

9. The negotiations with the CPT concluded in an agreement covering the reimbursement rate and budget requirement and providing for further research to continue in 2018-19 with an on-going review of the reimbursement model. The exchange of letters constituting the agreement has been published on the Transport Scotland website.

### **Impact Assessments**

10. There are no equality impact issues in relation to renewing the economic parameters of the Scheme. The Scheme is targeted at older and disabled people. User feedback highlights social and health benefits, including by enabling people more easily to access services and visit friends and relatives. From the perspective of users, this Order enables the Scheme to continue on its present terms for the next year.

11. A Business Regulatory Impact Assessment has been completed and is attached. The impact of this policy on business is to confirm arrangements for reimbursement of bus operators under the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) for the next year at levels which leave them no better and no worse off, in line with the objective in article 12(1) of the 2006 Order.

### **Financial Effects**

12. The scheme has capped levels of funding of £202.1 million in 2018-19.

### **Date of implementation**

13. The new rate will be effective from 1 April 2018.

**Scottish Government**

Transport Scotland

January 2018

*Draft Order laid before the Scottish Parliament under section 52(3) of the Transport (Scotland) Act 2005 for approval by resolution of the Scottish Parliament.*

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D R A F T   S C O T T I S H   S T A T U T O R Y   I N S T R U M E N T S

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**2018 No.**

**TRANSPORT**

**The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018**

<i>Made</i>	- - - -	2018
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 40(1), (3) and (4) and 52(4) of the Transport (Scotland) Act 2005(a) and all other powers enabling them to do so.

In accordance with section 52(3) of that Act, a draft of this Order has been laid before, and approved by resolution of, the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018 and comes into force on 1st April 2018.

**Amendments to the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006**

2.—(1) The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006(b) is amended as follows.

(2) At the end of article 12(2B)(g) (capped level of funding) omit “and”.

(3) At the end of article 12(2B)(h) insert—

“; and

(i) for the financial year beginning on 1st April 2018 £202,100,000”.

(4) At the end of article 12(2D)(d) (reimbursement rate) omit “and”.

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(a) 2005 asp 12.

(b) S.S.I. 2006/107, amended by S.S.I. 2010/140, S.S.I. 2013/114, S.S.I. 2015/133 and S.S.I. 2017/71.

(5) At the end of article 12(2D)(e) insert—

“; and

(f) 56.8% for the financial year beginning on 1st April 2018”.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends article 12 of the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 to set the capped level of funding and the reimbursement rate for the financial year 2018/19 (article 2).

## **Annex B – SSI 2018/44: Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2018**

**Type of Instrument:** Negative

**Laid Date:** 8 February 2018

**Coming into force:** 30 March 2018

**Minister to attend the meeting:** No

### **Procedure**

1. Under [negative procedure](#), an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

### **Consideration by the Delegated Powers and Law Reform Committee**

2. At its meeting on 20 February 2018, the [Delegated Powers and Law Reform \(DPLR\) Committee](#) considered the instrument and determined that it did not need to draw the attention of the Parliament to the instruments on any grounds within its remit.

### **Policy Objectives**

3. These Regulations amend the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000. They will allow local authorities to issue disabled person’s parking badges to people who pose a risk to themselves or others in traffic, without an applicant having to receive specified social security benefits at specified rates. The Regulations also set out requirements for Independent Mobility Assessors who assess eligibility for a disabled person’s parking badge. Further information is available in the policy note.
4. The policy note and instrument are attached and also available online at the link below:

<http://www.legislation.gov.uk/ssi/2018/44/contents/made>

### **Recommendation**

5. **The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.**

Rural Economy and Connectivity Committee Clerks  
2 March 2018

## POLICY NOTE

### THE DISABLED PERSONS (BADGES FOR MOTOR VEHICLES) (SCOTLAND) AMENDMENT REGULATIONS 2018

#### SSI 2018/44

#### **Description**

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970. The instrument is subject to the negative procedure.

#### **Policy objective and what these Regulations do**

2. These Regulations will allow local authorities to issue disabled person's parking badges to people who pose a risk to themselves or others in traffic without an applicant having to receive specified social security benefits at specified rates.

3. These Regulations will provide that an Independent Mobility Assessor, who assesses eligibility for a disabled person's parking badge in respect of cases to which regulation 4 (2)(f) and (g), and 4(2A), of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 ("the 2000 Regulations") apply, must be a member of one of the professions listed in section 60(2) of the Health Act 1999.

#### **Policy background**

4. Regulation 4 (2)(f) and (g) of the 2000 Regulations relate to cases where an applicant is unable or virtually unable to walk on either a permanent or temporary basis. Regulation 4(2A) of the 2000 Regulations set out the eligibility criteria for a disabled person's badge where the applicant:

- (a) has a mental disorder,
- (b) receives specified social security benefits at specified rates, and
- (c) lacks awareness of danger from traffic which is likely to compromise their safety, or the safety of others as a result.

5. Regulation 4(2A) was introduced by way of Amendment Regulations made in April 2016<sup>1</sup> and was tested on a pilot basis. This was to assess whether it is appropriate to explicitly extend blue badge eligibility criteria in order to handle cases of people who, as a result of a diagnosed mental disorder, have little or no awareness of danger from traffic.

6. The Working Group (see paragraphs 8-10) recommended the pilot eligibility criteria be made a permanent feature of the scheme, subject to two changes:

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<sup>1</sup> By the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2016 (SSI 2016/72)

- One was to remove the requirement for specified social security benefits at specified rates to be received. This was to make sure that people who would otherwise be eligible, but who do not claim such benefits for whatever reason, can still access the scheme.

1.

- The other recommendation was that it should be specified in the legislation the Independent Mobility Assessors who review applications for local authorities, should be regulated healthcare professionals. These Regulations implement that change in respect of cases to which regulation 4 (2)(f) and (g), and 4(2A), of the 2000 Regulations apply.

7. Scottish Ministers approved the Working Group's recommendations and these Regulations implement the legislative changes that were recommended.

### **Consultation**

8. Transport Scotland established a Working Group in 2015 to develop proposals for, and evaluate the practical consequences of, an extension to eligibility criteria. This built on work undertaken to identify the views of affected individuals and the public on whether any extension to scheme eligibility criteria was necessary. This work included a Call for Evidence and consideration by the Parliament's Public Petitions Committee.

9. The Working Group was chaired by Transport Scotland. Membership of the group includes people who currently administer the scheme within local authorities, healthcare professionals who are involved with assessments of individual eligibility, people representing disability organisations and the Convention of Scottish Local Authorities.

10. The Working Group carried out its work on the basis of co-production, including with respect to legislation. Therefore, the Working Group agreed the legislative measures to introduce the pilot and agreed these Regulations are necessary and appropriate as part of its recommendations.

### **Guidance**

11. Local authorities have been provided with guidance about how to handle cases. A communications plan is in place to ensure they understand the implications of these Regulations.

### **Impact Assessment**

12. It is not considered impact assessments are required for this instrument. The equality impact of extending the scheme eligibility criteria is positive, by ensuring consistency in application of the scheme to people with different kinds of impairments. The legislative change concerning Independent Mobility Assessors reflects existing practice so no change is required on the part of local authorities.

**Financial effects**

13. No financial effects are anticipated from this instrument.

**Monitoring**

14. All elements of the blue badge scheme are being monitored by Transport Scotland officials. This will include the impact of this instrument. Transport Scotland officials continually review the blue badge scheme.

Transport Scotland  
February 2018

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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 44**

**ROAD TRAFFIC**

**The Disabled Persons (Badges for Motor Vehicles) (Scotland)  
Amendment Regulations 2018**

<i>Made</i> - - - -	<i>6th February 2018</i>
<i>Laid before the Scottish Parliament</i>	<i>8th February 2018</i>
<i>Coming into force</i> - -	<i>30th March 2018</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970(a) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2018 and come into force on 30th March 2018.

**Amendment of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000**

2.—(1) The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000(b) are amended as follows.

(2) In regulation 2 (interpretation) for paragraph (1B) substitute—

“(1B) Person A falls within this paragraph if that person—

- (a) is a member of a profession to which section 60(2) of the Health Act 1999(c) applies; and
- (b) is recognised by the local authority as having the expertise necessary to assess on behalf of the local authority, as the case may be—
  - (i) the ability to walk of person B; or
  - (ii) whether person B lacks the awareness of danger from traffic which is likely to compromise the safety of person B, or the safety of other persons, during journeys.”.

(3) In regulation 4 (descriptions of disabled persons)—

- (a) at the end of paragraph (2A)(a) insert “and”; and

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(a) 1970 c.44. There are amendments to section 21 which are not relevant to these Regulations. The functions of the Secretary of State under section 21, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2000/59, as amended by S.S.I. 2000/170, S.S.I. 2002/451, S.S.I. 2007/162, S.S.I. 2011/89, S.S.I. 2011/410, S.S.I. 2013/65, S.S.I. 2014/145, S.S.I. 2015/9, S.S.I. 2016/72 and S.S.I. 2017/118.

(c) 1999 c.8. Section 60(2) was relevantly amended by the Health and Social Care Act 2008 (c.14), schedule 8, paragraph 1(3), the Health and Social Care Act 2012 (c.7), section 213(7)(i), S.I. 2002/253 and S.I. 2010/231.

(b) omit paragraph (2A)(b).

St Andrew's House,  
Edinburgh  
6th February 2018

*H. YOUSAF*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 (“the principal Regulations”). The principal Regulations deal with what is known as the “Blue Badge Scheme” in relation to disabled persons and motor vehicles.

Regulation 4(2)(f) and (g) of the principal Regulations prescribes categories of disabled person who may be issued with a blue badge based on having been certified by an independent mobility assessor as unable to walk, or virtually unable to walk, on either a permanent or temporary basis.

Regulation 4(2A) of the principal Regulations prescribes a category of disabled person who may be issued with a blue badge based on the person having a mental disorder as defined by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003. Regulation 4(2A)(c) provides that such persons may be issued with a blue badge if certified by an independent mobility assessor as lacking awareness of danger from traffic which is likely to compromise their safety, or the safety of other persons, during journeys. This lack of awareness can be on either a permanent basis or, subject to certain qualifications, a temporary basis.

Regulation 2 amends the principal Regulations as follows—

- regulation 2(1B) is substituted to provide that an independent mobility assessor for the purposes of the certification required by regulation 4(2)(f) or (g), or regulation 4(2A)(c), must—
  - a) be a member of one of the professions to which section 60(2) of the Health Act 1999 applies; and
  - b) be recognised by the local authority as having the expertise necessary to assess applicants for a blue badge based on the criteria set out in regulation 4(2)(f) or (g), or regulation 4(2A)(c).
- regulation 4(2A) is amended to remove the requirement that applicants described in that regulation must be in receipt of one of the benefits listed in paragraph (2A)(b).

## **Annexe C – SSI 2018/50: The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018**

**Type of Instrument:** Negative

**Laid Date:** 9 February 2018

**Coming into force:** 1 April 2018

**Minister to attend the meeting:** No

### **Procedure**

6. Under [negative procedure](#), an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

### **Consideration by the Delegated Powers and Law Reform Committee**

7. At its meeting on 20 February 2018, [the Delegated Powers and Law Reform \(DPLR\) Committee](#) considered the instrument and determined that it did not need to draw the attention of the Parliament to the instruments on any grounds within its remit.

### **Policy Objectives**

8. The Scottish Road Works Register acts as a tool for road work authorities and utility companies to assist with the planning and coordination of road works in Scotland.
9. These Regulations set the fees and amounts payable for those road work authorities and utility companies (statutory undertakers) to access the register.
10. The fees for the 2018/19 financial year were set previously in the Scottish Road Works Register (Prescribed Fees) Regulations 2017 (SSI 2017/49). The fees for 2018/19 were previously set at £1,029,000, in SSI 2017/49, but the costs of running and maintaining the register are now considered to be lower at £750,000. This is due to a new contract being awarded to run the register. These Regulations revoke SSI 2017/49.
11. A public consultation took place with representatives of statutory undertakers such as road work authorities. There was full support for the change in fees.
12. The policy note and instrument are attached they are also available online here:

<http://www.legislation.gov.uk/ssi/2018/50/contents/made>

**Recommendation**

**13. The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.**

Rural Economy and Connectivity Committee Clerks  
2 March 2018

## **POLICY NOTE**

### **The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018**

#### **SSI 2018/50**

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

#### **Policy Objectives**

The Transport (Scotland) Act 2005 (the 2005 Act) aims to improve the co-ordination, planning and quality of road works carried out in Scotland. Part 2 of the 2005 Act, which included amendments to NRSWA, provides a framework for the appointment of the Scottish Road Works Commissioner. Subsequent provisions allow for the Commissioner to be the keeper of the Scottish Road Works Register (the Register), which was also created under the 2005 Act, and for the collection of Prescribed Fees from Scottish Roads Authorities and Utility Companies (Statutory Undertakers) as a condition of access to the Register.

This instrument exercises the powers to prescribe the fees payable for the 2018/19 financial year, and revokes the Scottish Road Works Register (Prescribed Fees) Regulations 2017 (SSI 2017/49).

Regulation 2 prescribes the methodology and formula for calculating the fees payable by each Roads Authority and Statutory Undertaker operating in Scotland during 2018/19.

The cost of operating the register for 2018/19 was previously calculated at £1,029,000. However, due to the award of the new contract for the Scottish Road Works Register, the calculated fee has been reduced to £750,000.

#### **Consultation**

To comply with the requirements of Section 163A of NRSWA, the Scottish Government has carried out a public consultation, which was brought to the attention of the Scottish Roads Authorities and Statutory Undertakers. In addition, the underlying proposals have been discussed and agreed through the Roads Authorities and Utilities Committee (Scotland) (RAUC(S)), which provides, at a national level, co-ordination and an overview of activities carried out on roads under NRSWA. A list of respondents, all of whom agreed to the release of their response is contained within the BRIA, which is attached.

#### **Impact Assessments**

There is no aspect of the proposal which have a differential or discriminatory impact on equality groups.

**Financial Effects**

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The immediate impact of this policy will be a decrease in the financial cost to users of the Register. The coordination of works in roads in Scotland will benefit Scottish Roads Authorities, Statutory Undertakers, and all road users.

**Scottish Government  
Transport Scotland  
01 February 2018**

Final  
Business and Regulatory Impact Assessment

**Title of Proposal**

The Scottish Road Works Register (Prescribed Fees) Amendment Regulations 2018

**Purpose and intended effect**

• **Background**

The New Roads and Street Works Act 1991 enables the Scottish Ministers to provide, by Regulation, that a payment is made to the Scottish Road Works Commissioner for access to the Scottish Road Works Register (“the register”).

These regulations set the levels of prescribed fees and amounts that can be levied as a charge to those accessing the register. The register is a central tool for road works authorities and utility companies to use to assist them in the planning and coordination of works on Scottish roads. Road authorities and utility companies (the latter group are commonly referred to as “statutory undertakers” in the legislation) have a duty to submit information relating to road works in the form of notices placed onto the register.

• **Objective**

This Amendment Regulation will change the overall fee figure used in the formula to calculate the proportion of the cost of providing the register to be paid by individual roads authorities and statutory undertakers.

The fee is calculated using a series of formulas that share the cost of running the register annually between the roads authorities (who between them bear 35% of the cost) and the undertakers (who make up the remaining 65%).

The existing Regulations “The Scottish Road Works Register (Prescribed Fees) Regulations 2017” set a fee of £1,029,000 based on the cost of operating the register at that time. It is now considered that the cost of running and maintaining the register will be lower than originally calculated due to a new contract award for operating the register. This Regulation would reduce the overall Prescribed fee to £750,000, significantly reducing the cost to users of the register.

• **Rationale for Government intervention**

The fees are designed to cover the cost of operating and maintaining the Register. The formula used was developed and agreed by the road users community through the Roads Authorities and Utilities Committee (Scotland) (“RAUC(S”). The fee is calculated based on activity in the previous year taking account of anticipated costs of running and providing the service of the Register.

The coordination of road works through the use of the Register helps meet the following strategic objectives within the National Performance Framework:

- We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- We value and enjoy our built and natural environment and protect it

- and enhance it for future generations; and
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

### Consultation

- **Within Government**

Transport Scotland, as trunk road authority in Scotland, will be consulted as part of the consultation process. In addition, the Scottish Road Works Commissioner, an independent public body, was consulted in the cost of operating the register.

- **Public Consultation**

The New Roads and Street Works Act 1991 requires the Scottish Ministers to consult representatives of statutory undertakers, road works authorities and other as appropriate. We undertook a short consultation on the proposed changes and as expected there was full support for the change from all of the respondents.

- **Business**

The parties affected by the change (road works authorities and utility companies) were informed directly by email when the consultation launched.

### Options

Provide a list and a brief description of each of the options you are considering. This should include [non-regulatory](#) options and the 'Do Nothing' option must be one of the options you consider.

Option 1 – Do Nothing ie leave the fees at their current level

Option 2 – Amend the current Regulation to the reduced amount required to operate the register in 2018-19

### Sectors and groups affected

Option 1 – road works authorities and utility companies

Option 2 – road works authorities and utility companies

### Benefits

Option 1 - There are no benefits to either party in the Do Nothing. In fact, option 1 would have a punitive effect on both parties, who would contribute more than is required for the operation of the register.

Option 2 – Setting the fee at the appropriate level will ensure that the full costs of operating the register will be covered.

### Costs

The level of fees paid by users depends on a number of factors. A formula developed with the road works community shares the estimated cost of operating the register across utility company and road authority users.

The fees paid by users are currently linked to the overall income required to operate the register. In the case of utility companies the fee is calculated based on the

number of notices placed onto the register; and in the case of road works authorities, a proportion of the total fee income required having taken into account of fixed amounts (“prescribed amounts”) that each authority is required to pay.

Option 1 – The road works community has already indicated that they are willing to pay the Prescribed Fees at this level.

Option 2 – Present a reduced cost for users.

### **Scottish Firms Impact Test**

Face to face discussions took place agreeing the original figure of £1.029,000 for the overall Fee. Given that this proposal represents a saving for users no further discussions were deemed to be required.

### **Competition Assessment**

The answers to the Competition and Markets Authority Filter questions in the original Regulation indicated that this proposal would not directly or indirectly limit the range of suppliers or the ability of suppliers to compete, or reduce suppliers; incentives to compete vigorously. The proposed amendment will not change this.

### **Test run of business forms**

No new business forms will be created.

### **Legal Aid Impact Test**

The Scottish Legal Aid Board did not anticipate any impact on the Legal Aid Fund from the original Regulation. The proposed amendment does not materially affect this position.

### **Enforcement, sanctions and monitoring**

The Scottish Road Works Commissioner is responsible for the collection of fees set under these Regulations.

How will the proposal be implemented and in what timescale?

The Regulation will come into force on 1 April 2018.

- **Post-implementation review**

The Scottish Road Works Register working group will continue to consider the level of fees required in the future.

### **Summary and recommendation**

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	User costs will remain the same, however, an excess of funds will be accumulated by the Commissioner, which can only be spent on the register in the future.	No change would have a punitive effect on users, by charging more than is necessary for the running of the register.



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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 50**

**ROADS AND BRIDGES**

**The Scottish Road Works Register (Prescribed Fees)  
Amendment Regulations 2018**

*Made* - - - - - *7th February 2018*

*Laid before the Scottish Parliament* *9th February 2018*

*Coming into force* - - - *1st April 2018*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 112A(4) 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) Amendment Regulations 2018 and come into force on 1st April 2018.

**Amendment of the Scottish Road Works Register (Prescribed Fees) Regulations 2017**

2. In regulation 3(6) and (7) (prescribed fees) of the Scottish Road Works Register (Prescribed Fees) Regulations 2017(c), for “£1,209,000” substitute “£750,000”.

*H YOUSAF*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
7th February 2018

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- (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.
- (b) Section 163A was inserted by section 39 of the 2005 Act.
- (c) S.S.I. 2017/49.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Scottish Road Works Register (Prescribed Fees) Regulations 2017 to alter the formulas for the calculation of the prescribed fees payable by each roads authority and each relevant undertaker for financial year 2018/19 for the purposes of section 112A(4)(a) of the New Roads and Street Works Act 1991 (regulation 2). The fees are payable by each roads authority and each relevant undertaker as a condition of access to the Scottish Road Works Register.

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](http://www.legislation.gov.uk).

**Rural Economy and Connectivity Committee**

**7th Meeting, 2017 (Session 5), Wednesday, 7 March 2018**

**Salmon farming in Scotland inquiry**

**Background**

1. The Rural Economy and Connectivity (REC) Committee has agreed to conduct an inquiry into salmon farming in Scotland<sup>1</sup>. The inquiry aims to consider the current state of salmon industry in Scotland, identify opportunities for its future development and explore how the various fish health and environmental challenges it currently faces can be addressed.
2. On 7 March, the Committee will take evidence from the Scottish Association of Marine Science, University of Stirling's Institute of Aquaculture and Steve Westbrook, an economist.
3. A SPICe briefing on Salmon Farming in Scotland was published on 13 February 2018 and is available [here](#).
4. Further information on the inquiry can be found on the Scottish Parliament website: <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/107585.aspx>

Rural Economy and Connectivity Committee clerks  
March 2018

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<sup>1</sup> <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/107585.aspx>