

## The Highland Council

Community Services Committee – 6 November 2014

Agenda Item	18
Report No	COM 44/14

### The Road Works (Inspection Fees) (Scotland) Regulations 2015 – Consultation Response

#### Report by Director of Community Services

##### Summary

This Committee is invited to homologate the Council's response to the Scottish Government's consultation on The Road Works (Inspection Fees) (Scotland) Regulations 2015 as contained in **Appendix A** of the report.

#### 1. Introduction

- 1.1 Transport Scotland is undertaking a consultation (**See Appendices B & C**) to determine the level of inspection fee that a Roads Authority would charge Statutory Undertaker's for inspection of works in the public road. The fee for 2014/15 is set at £36.
- 1.2 The Council has a statutory duty to maintain and manage the public road. This includes a requirement to undertake inspections of reinstatement and repair works undertaken by Statutory Undertakers to maintain and replace equipment placed in the road.
- 1.3 The performance of a Roads Authority in undertaking inspections is monitored nationally by the Office of the Road Works Commissioner. The Road Works Commissioner can take action against poorly performing Authorities if necessary.
- 1.4 The Council is currently reorganising its method of inspections and inspection fee administration to maximize recovery.
- 1.5 Historically a single fee has been applied for the whole of Scotland, based upon average cost. This has tended to lend to an under recovery of costs for the more rural Roads Authorities where inspections can incur high travelling times.
- 1.6 The Road and Utilities Committee (Scotland), consisting of Senior Officer representatives of the Roads Authorities and Statutory Undertakers has been asked by the Road Works Commissioner to set up a Fee Working Group to report on the appropriate level of fee for 2015, mechanism for future increases and the next review date. An officer from the Council is one of the 6 members of the Fee Working Group.
- 1.7 Advice from Transport Scotland and the Office of the Road Works Commissioner is that a dual fee system would introduce additional

administration costs to Statutory undertakers.

## **2 Consultation response**

2.1 The Council's response to the Consultation is enclosed in **Appendix A**.

## **3. Implications**

3.1 There are no known resource; legal; equalities; climate change/carbon clever; risk, Gaelic or rural implications arising directly from this report.

### **Recommendations**

The Committee is invited to homologate the Council's response to the Scottish Government's consultation on The Road Works (Inspection Fees) (Scotland) Regulations 2015.

Designation: Director of Community Services

Date: 24 Oct 2014

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Our Ref: RP  
Date: 23<sup>rd</sup> October 2014

For the attention of Ms J Gray

Dear Ms Gray

**The Road Works (Inspection Fees) (Scotland) Amendment Regulations 2015**

I am writing on behalf of Highland Council to confirm the Councils response to the consultation to the level of inspection fee which should be charged from April 2015.

Under current and previous amendments, the regulations set a standard fee. The fee being calculated from the historical average costs of inspections undertaken by the Roads Authorities.

It is considered that the method of calculation has a detrimental effect on rural Roads Authorities where a large proportion of inspections incur high travelling times and staff costs. This is the current situation for Highland Council.

Highland Council has concerns that over the next 3 years, inspections required as part of the delivery by BT of the High Speed Broadband programme along the North and West coasts of the Highlands will lead to higher inspection costs.

The Councils preferred option would be the introduction of a separate fee for rural authorities to allow for higher travelling costs. It is acknowledged that administration of a two tier system would place an additional financial cost on Statutory Undertakers.

It is there suggested that if a standard fee is promoted, that it is calculated and set at a level that takes into account the higher travelling costs for rural inspections.

Yours sincerely

Robin Pope  
Roads & Community Works Manager

Roads Authorities and Utility Companies  
operating in Scotland and other interested parties.

Your ref:

Our ref:

Date:  
8 August 2014

## THE ROAD WORKS (INSPECTION FEES) (SCOTLAND) AMENDMENT REGULATIONS 2015

We are seeking your views on what the appropriate level of inspection fee should be in 2015, which would be charged in certain circumstances by Scottish road authorities for utility road reinstatements they inspect. The current fee is £36 per inspection.

The proposed instrument, if required, would be being made under section 112A(4) of the New Roads and Street Works Act 1991.

The current inspection fee regime which came into force on 1 April 2014 through the Road Works (Inspection Fees) (Scotland) Amendment Regulations 2014 and will remain in force until another amendment or Regulation is made. We would like your views, supported by evidence where possible, on whether the fee should remain the same for 2015, or if not, what an appropriate level of inspection fee might be, and what the financial implications of any change would be for your organisation or business?.

Please send any comments you have to me at the email address above or by post to 2D(N) Victoria Quay, Edinburgh, EH6 6QQ. The closing date for responses is **3 November 2014**. Your response must be returned along with the **Respondent Information Form** as this will ensure your response is treated appropriately and reflects your permission or otherwise to publish your comments.

This consultation, and all other Transport Scotland consultation exercises, can be viewed online on the consultation web pages of the Transport Scotland website at:  
<http://www.transportscotland.gov.uk/>

Yours sincerely

JOANNE GRAY  
Regional Transport Policy Team

# Partial Business and Regulatory Impact Assessment

## Title of Proposal

The Road Works (Inspection Fees) (Scotland) Amendment Regulations 2015

## Purpose and intended effect

- **Background**

These regulations set the rate of fees that roads authorities may charge in certain circumstances for inspections they carry out on utility company road work reinstatements. The current Regulations were amended in November 2014 to increase the inspection fee to £36. Road authorities carry out a programme of inspections which aims to check on 30% of utility company road work reinstatements in any year.

- **Objective**

The objective of the regulations is to set any inspection fee at an appropriate level. One which helps recover the Road Authority costs, so as to protect budgets and ensure there is resilience to undertake sufficient inspections to effectively monitor the quality of reinstatements while avoiding over recovery which would burden utility companies.

The purpose of consulting on this partial regulatory impact assessment is to consider whether the existing fee is appropriate in terms of recovering roads authorities true costs of conducting an Inspection level seeking views and evidence by the affected parties ie roads authorities and utility companies. If this exercise concludes that the current fee of £36 is correct then new regulations will not be required. On the other hand, where the evidence suggests that the inspection fee ought to be set at a lower or higher figure then these amending regulations will need to be taken forward.

- **Rationale for Government intervention**

The Inspection Fee contributes towards the cost to a roads authority of carrying out inspections on utility company road work reinstatements. The inspection regime helps ensure that reinstatements are properly done, helping ensure the performance of the repaired road surface and the surrounding road construction. This benefits road users and the road authorities responsible for their maintenance. Any change to the existing fee would require secondary legislation.

The inspection by road authorities of utility road works reinstatements contributes towards 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**

The proposals do not impact on any other part of Scottish Government. However, the Scottish Road Works Commissioner, an independent public body, will be consulted and this section will be updated post-consultation.

- **Public Consultation**

A 12 public week consultation will take place between ~~2~~ 8 August 2014~~7~~ and ~~2~~ 3 November 2014~~7~~ [~~Drafting Note – these dates will be finalised after Ministerial approval of the Partial BRIA~~]

- **Business**

The parties affected by the change (roads authorities and utility companies) will be informed directly by email when the consultation launches.

### Options

The options are to leave the inspection fee at its current level or amend it in line with the evidence provided by relevant stakeholders. From a roads authority perspective it may be that they feel that the current level of fees does not cover the full cost of carrying out inspections on utility reinstatements. On the other hand, and from a utility perspective they will need to be persuaded that inspection fees are justifiable.

- **Sectors and groups affected**

Roads authorities and utility companies

- **Benefits**

Setting the inspection fee at the appropriate level strikes a balance between cost recovery to roads authorities while at the same time not imposing excessive costs onto utility companies and their customers.

- **Costs**

Previous annual increases have been calculated by applying RPI increases to the existing statutory fee.

An exercise is underway through a consultative working group set up through the Road Authorities and Utilities Committee for Scotland RAUC(S) to gather evidence on the cost to road authorities of carrying out inspections to utility road work reinstatements. The results of that exercise will help inform decisions on whether the current fee needs to be changed and whether it is necessary to progress these regulations.

Any change will only impact directly on utility companies and roads authorities. At this stage we are not aware of what any potential costs might be. The results produced by the working group described above will help inform what the likely costs associated with any change will be and this section of the BRIA will be updated then.

**Scottish Firms Impact Test**

- We do not propose to follow the standard impact test model. Face to face consultations are taking place within the auspices of the working group which has been set up involving both representatives of the road authorities and utility companies. Their outputs will be further considered by the wider Road Authorities and Utilities Committee for Scotland. This section of the BRIA will be finalised post-consultation

**Competition Assessment**

- We will use the Competition & Markets Authority Competition Filter questions to assess the competition impacts of any proposals. If we are able to answer these in the negative we will be able to assert that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. This section will be finalised post-consultation.

**Test run of business forms**

- We do not anticipate that any new business forms will be created but will complete this section post-consultation.

**Legal Aid Impact Test**

we do not anticipate that any proposals which may emerge as a result of the consultation will impact on legal aid but will complete this section post-consultation..

**Enforcement, sanctions and monitoring**

Roads Authorities will be responsible for monitoring and enforcing the Regulations. Inspection fees are invoiced and charged to utility companies using the relevant road authority internal accounting processes.

**Implementation and delivery plan**

Any new Regulations will come into force on 1 April 2015.

- **Post-implementation review**  
The fees will be reviewed in 2016.

**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 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 has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:** 28 July 2014.

**Keith Brown**  
**Minister for Transport and Veterans**

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