
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 33

**The Road Works (Reinstatement Quality Plans,
Qualifications of Supervisors and Operatives and
Miscellaneous Amendments) (Scotland) Regulations 2023**

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Road Works (Reinstatement Quality Plans, Qualifications of Supervisors and Operatives and Miscellaneous Amendments) (Scotland) Regulations 2023 and come into force on 1 April 2023.

PART 2

Reinstatement Quality Plans

Interpretation of Part 2

2. In this Part—

“the Act” means the New Roads and Street Works Act 1991,

“Commissioner” means the Scottish Road Works Commissioner,

“general reinstatement quality plan” has the same meaning as it has in section 130A of the Act,

“specific reinstatement quality plan” has the same meaning as it has in section 130A of the Act,

“plan” means a general reinstatement quality plan or a specific reinstatement quality plan,

“SRWR” means the Scottish Road Works Register.

Process to be followed to require a plan to be entered in the SRWR

3.—(1) The Commissioner may require a person or a roads authority to enter a plan under section 130A(3) or 130B(2) of the Act in the SRWR by way of a notice entered in the SRWR.

(2) A notice under paragraph (1) must specify the date by which the recipient of the notice must enter a plan in the SRWR, being a date not less than 30 days and not more than 90 days from the date the notice was entered in the SRWR.

Requirement for a plan to be reviewed

4.—(1) A person who enters a plan in the SRWR under section 130A(2) of the Act must keep it under review for a period of 6 years from the date of its approval by the Commissioner.

(2) Where the Commissioner requires a roads authority to enter a plan in the SRWR under section 130B(2) of the Act, the roads authority must keep it under review for a period of 6 years from the date of its approval by the Commissioner.

PART 3

Qualifications of Supervisors and Operatives

Interpretation of Part 3

5.—(1) In this Part—

“the 2015 Regulations” means the European Union (Recognition of Professional Qualifications Regulations 2015(1)),

“the Act” means the Roads (Scotland) Act 1984,

“approved assessment centre” means an establishment which carries out the assessment of competence in the types of work which should be done by a trained supervisor or operative,

“approved body” means a body listed in regulation 10(1),

“approved register” means the register mentioned in regulation 10(2),

“certificate” means a certificate of competence or certificate of recognition but does not include a renewal certificate,

“certificate of competence” means a qualification, an award or an equivalent certification in a type of work issued by an approved body,

“certificate of recognition” means a certificate of a type described in regulation 6(3)(b),

“competent authority” means a competent authority for the United Kingdom for regulating Road/Street Works Operatives and Road/Street Works supervisors specified in Part 1 of schedule 1 of the 2015 Regulations,

“registration body” means the Scottish Qualifications Authority established under the Scottish Qualifications Authority (Establishment) (Scotland) Order 1996(2),

“renewal certificate” means a certificate issued in pursuance of regulation 15,

“supervisor” means a person by whom works in or on a road are required to be supervised under section 61B(2)(a) of the Act,

“trained operative” means a person whose presence at the site of works in or on a road is required under section 61B(2)(b) of the Act,

“type of work” means any of the types of work listed in schedules 1 and 2, and regulation 6(1)(b) and (2)(b).

(2) For the purposes of these Regulations, a person has been—

(a) assessed as having the required level of competence in a type of work if that person has passed a practical and theoretical assessment designed to demonstrate attainment of the required level of knowledge and understanding of, and skill in, that type of work, and

(b) reassessed as having the required level of competence in a type of work if that person has passed a theoretical assessment designed to demonstrate that the required level of knowledge and understanding of that type of work has been retained and kept up to date since the previous assessment or reassessment.

(1) [S.I. 2015/2059](#) relevantly amended by [S.I. 2019/312](#).

(2) [S.I. 1996/2248](#).

Prescribed qualifications

6.—(1) For the purposes of section 61B(2)(a) of the Act, a person has a prescribed qualification as a supervisor for a type of work (S) listed in schedule 1 if that person is qualified in—

- (a) S, and
- (b) the following additional types of work—
 - (i) S1 – monitoring of signing, lighting and guarding, and
 - (ii) LA – location and avoidance of underground apparatus.

(2) For the purposes of section 61B(2)(b) of the Act, a person has a prescribed qualification as a trained operative for a type of work (T) listed in schedule 2 if that person is qualified in—

- (a) T, and
- (b) the following additional types of work—
 - (i) O1 – signing, lighting and guarding, and
 - (ii) LA – location and avoidance of underground apparatus.

(3) For the purposes of paragraphs (1) and (2), a person is qualified in a type of work if, in respect of that work—

- (a) an approved body has issued a certificate of competence showing that the person has been assessed by an approved assessment centre as having the required level of competence, or
- (b) a competent authority has issued a certificate of recognition stating that the person meets the requirements of regulation 29(1) (conditions for recognition) of the 2015 Regulations, and the certificate is registered in the approved register.

Grace period before registration

7. For a period of two months beginning with the date on which a person is issued with a certificate or a renewal certificate for a type of work, the person is deemed to be qualified in that type of work notwithstanding that the relevant certificate has not been registered or re-registered (as the case may be) in the approved register.

Prescribed qualifications: UK equivalents

8.—(1) A person has a prescribed qualification for a type of work listed in schedule 1 or schedule 2 if the person has an equivalent qualification in respect of that type of work which is recognised in another part of the United Kingdom.

- (2) For the purposes of paragraph (1)—
 - (a) a person has an equivalent qualification if it has been approved as such by a competent authority, and
 - (b) the qualification is recognised in another part of the United Kingdom if—
 - (i) in relation to England or Wales, it is prescribed by regulations made under section 67 and 104(1) of the New Roads and Street Works Act 1991,
 - (ii) in relation to Northern Ireland, it is prescribed by regulations made under article 27 of the Street Works (Northern Ireland) Order 1995(3).

Restrictions on qualification

9. Where a person has a prescribed qualification for a type of work specified in schedule 1 or 2 the requirements of section 61B(2) of the Act are met in respect of that person in relation to that type of work only.

Qualification registration

10.—(1) The bodies approved for the purpose of issuing certificates of competence are—

- (a) The Scottish Qualifications Authority,
- (b) The City and Guilds of London Institute(4),
- (c) The CABWI Awarding Body(5), and
- (d) Lantra(6).

(2) The register approved for the purpose of registering certificates is the register kept by the registration body.

(3) Where an approved body has issued a certificate of competence, the approved assessment centre which carried out the assessment referred to in regulation 5(2)(a) must, within one month beginning with the date of issue, request the registration body to register that certificate in the approved register.

(4) Where an approved body has issued a renewal certificate, the approved assessment centre which carried out the reassessment referred to in regulation 5(2)(b) must, within one month beginning with the date of issue, request the registration body to re-register the certificate to which the renewal certificate relates in the approved register.

(5) The registration body must register or re-register (as the case may be) a certificate within one month beginning with the date of—

- (a) receipt of a request for registration made under paragraph (3);
- (b) the issue by a competent authority of a certificate of recognition, or
- (c) receipt of a request for re-registration made under paragraph (4).

Expiry of registration

11. A certificate ceases to be registered at the end of the period of five years beginning with the date on which it was issued, but may be re-registered for any number of further periods in accordance with regulations 12 to 14.

Re-registration more than 12 months before expiry

12.—(1) A certificate issued in respect of a type of work may be re-registered for a further period of five years where—

- (a) an approved body has issued to the holder of the certificate a renewal certificate for that type of work, and

(4) The City and Guilds of London Institute is a Royal Chartered Institute with the number RC117, a charity registered in England and Wales under charity number 312832 and a charity registered in Scotland under charity number SC039576.

(5) The CABWI Awarding Body is a company limited by guarantee, registered in England and Wales under company number 2638349 and is a charity registered in England and Wales under charity number 1157706. This body was previously incorporated under the name “the Certification and Assessment Board for the Water Industry” until 17th July 1998.

(6) Lantra is a company limited by guarantee and registered in England and Wales under company number 02823181, a charity registered in England and Wales under charity number 1022991 and a charity registered in Scotland under charity number SC039039.

- (b) the renewal certificate was issued earlier than 48 months before the date of the expiry of the previous registration.
- (2) A certificate issued in respect of a type of work may be re-registered for a further period of six years if—
 - (a) an approved body has issued to the holder of a certificate a renewal certificate for that type of work, and
 - (b) the renewal certificate is issued earlier than 12 months (but no earlier than 48 months) before the date of the expiry of the previous registration.
- (3) The further period for which a certificate is registered under this regulation begins on the day on which the renewal certificate is issued.

Re-registration within 12 months of expiry

- 13.**—(1) A certificate issued in respect of a type of work may be re-registered for a further period of five years if—
- (a) an approved body has issued to the holder of the certificate a renewal certificate for that type of work, and
 - (b) the renewal certificate was issued within the period of 12 months ending on the date of expiry of the previous registration.
- (2) The further period for which a certificate is registered under this regulation begins on the day immediately after the expiry of the previous registration.

Re-registration after expiry

- 14.**—(1) A certificate issued in respect of a type of work may be re-registered for a further period of five years if—
- (a) an approved body has issued to the holder of the certificate a renewal certificate for that type of work, and
 - (b) the renewal certificate is issued within the period of five years beginning with the day after the expiry of the previous registration.
- (2) The further period for which a certificate is registered under this regulation begins on the day on which the renewal certificate is issued.

Renewal certificates

- 15.** An approved body may issue a person with a renewal certificate for a type of work if that person has been assessed or reassessed by an approved assessment centre as having the required level of competence in that type of work.

Exemption for the Scottish Fire and Rescue Service

- 16.**—(1) This regulation applies where the Scottish Fire and Rescue Service is executing works in a road which involve breaking up the road.
- (2) The duty under section 61B(2)(b) of the Act does not apply in relation to those works.

PART 4

Miscellaneous Road Works Amendments

Amendment of the Road Works (Reinstatement) (Scotland) Regulations 1992

17.—(1) The Road Works (Reinstatement) (Scotland) Regulations 1992(7) are amended in accordance with this regulation.

(2) In regulation 2(1)—

(a) for the definition of “the Code” substitute—

““the Code” means the code of practice entitled “Specification for the Reinstatement of Openings in Roads”(8) approved by the Scottish Ministers in February 2019 as revised and reissued from time to time,”

(b) in the definition of “immediate works” for “a deferred set macadam” substitute “deferred set mixtures”.

(3) In regulation 3, for paragraph (1) substitute—

“(1) For the purposes of applying the requirements specified in regulation 4, the Code specifies—

(a) the categories of roads based on loads arising due to traffic capacity,

(b) the reinstatement categories for footpaths and footways, and

(c) the method of determining traffic flow to facilitate the categorisation of roads.”.

(4) In regulation 3(2)—

(a) for “types” substitute “categories”,

(b) for “workmanship” substitute “work”, and

(c) for “type” substitute “category”.

(5) In regulation 3(3) for “workmanship” substitute “work”.

(6) In regulation 3(4)—

(a) for “workmanship” substitute “work”, and

(b) for “type” in both places where it occurs substitute “category”.

(7) For regulation 4 substitute—

“Requirements as to materials to be used and standards of work to be observed

4.—(1) Except as provided in regulation 3(3), an undertaker executing road works must in reinstating the road comply with the requirements specified in paragraph (2) as to the specification of materials to be used and as to the standards of work to be observed.

(2) The materials to be used and standards of work to be observed must satisfy the performance standards specified in regulation 5.”.

(8) In regulation 5 omit “Chapter S2 of”.

(9) Omit regulation 7.

(10) Omit regulation 8.

(11) Before regulation 9 insert—

(7) S.I. 1992/1674 relevantly amended by S.S.I. 2003/417.

(8) Available in electronic form on <https://roadworks.scot/index.php/legislation-guidance/codes-practice>.

“Guarantee period for permanent reinstatements

8A.—(1) The period prescribed for the purposes of section 130(2)(b) of the Act in relation to permanent reinstatement completed before 1 October 2023 is—

- (a) three years from the date of completion, in the case of excavation to a depth exceeding 1.5 metres to the top of the apparatus over a length of 5 metres or more, or
- (b) two years from the date of completion in any other case.

(2) The period prescribed under section 130(2)(b) of the Act in relation to permanent reinstatement completed on or after 1 October 2023 is 6 years from the date of completion, regardless of the depth of reinstatement.”.

Amendment of the Road Works (Inspection Fees) (Scotland) Regulations 2003

18.—(1) The Road Works (Inspection Fees) (Scotland) Regulations 2003⁽⁹⁾ are amended in accordance with this regulation.

(2) In regulation 3(4)(c)—

- (a) after “preceding the end of” insert “the period prescribed in relation to permanent reinstatement by regulation 8A of the Road Works (Reinstatement) (Scotland) Regulations 1992⁽¹⁰⁾.”, and
- (b) omit heads (i) and (ii).

(3) For the purposes of any permanent reinstatement completed on or after 1 October 2023 but before 1 April 2028 regulation 3(4) is to be read as if, for sub-paragraph (c), there were substituted—

- “(c) the period of 4 years immediately preceding the end of the period prescribed in relation to permanent reinstatement by regulation 8A of the Road Works (Reinstatement) (Scotland) Regulations 1992.”.

Amendment of the Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008

19.—(1) The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008⁽¹¹⁾ are amended in accordance with this regulation.

(2) In regulation 2(1), after the definition of “urgent works”, insert—

““working hours” means the period between 8 a.m. and 4.30 p.m. on a working day.”.

(3) In regulation 3(2)(f) omit “S1.3 and S1.4 of”.

(4) After regulation 3(4) insert—

“(4A) For the purposes of section 112B(2A)⁽¹²⁾ the date on which the works were completed must be entered in the SRWR within two working hours of such works being completed.”.

(5) After regulation 3(5) insert—

“(5A) For the purposes of section 112B(5A), the date on and time at which the works began must be entered in the SRWR within two working hours of such works beginning.”.

(6) After regulation 3(6) insert—

“(6A) For the purposes of section 112B(6) the date of the completion of the works must be entered in the SRWR within two working hours of such works being completed.”.

⁽⁹⁾ S.S.I. 2003/415 to which there are amendments not relevant to these Regulations.

⁽¹⁰⁾ S.S.I. 1992/1674.

⁽¹¹⁾ S.S.I. 2008/88.

⁽¹²⁾ Section 112B was inserted by section 19(1) of the 2005 Act and relevantly amended by section 117(2) of the 2019 Act.

(7) After regulation 7 insert—

“Notice confirming start of works

7A. For the purposes of section 114A(2) an undertaker must give notice of the date and time at which works began within 2 working hours of beginning to execute those works.”.

(8) After regulation 9(1) insert—

“(1A) For the purposes of section 117(1)(**13**), the period prescribed is—

- (a) three years following reconstruction or resurfacing of a carriageway,
- (b) one year following other substantial works for roads purposes in a carriageway, and
- (c) one year following reconstruction or resurfacing of a footway or footpath, or other substantial works for roads purposes in a footway or footpath.”.

(9) In regulation 9(2), for “paragraph (1)” substitute “paragraphs (1) and (1A)”.

(10) In regulation 13, after “(duty of undertaker to reinstate)” insert “must be given within two working hours of the reinstatement being completed and”.

Amendment of the Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 2017

20.—(1) The Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 2017(**14**) are amended in accordance with this regulation.

(2) In regulation 2—

- (a) omit the definition of “adaptation period”,
- (b) omit the definition of “aptitude test”, and
- (c) in the definition of “certificate of recognition”, omit “or (c)”.

(3) In regulation 3(3)(b)—

- (a) omit “(a) or (b)”,
- (b) after “relevant” insert “European”.

(4) Omit regulation 3(3)(c).

(5) Omit regulation 7.

(6) In regulation 8(5)(b), omit “or (c)”.

St Andrew’s House,
Edinburgh
7th February 2023

JENNY GILRUTH
Authorised to sign by the Scottish Ministers

(13) Section 117(1) was amended by paragraph 6(3) of schedule 1 of the 2019 Act.

(14) [S.S.I. 2017/147](#) to which there are amendments not relevant to these Regulations.