

EXPLANATORY MEMORANDUM TO
THE STREET WORKS (QUALIFICATIONS OF SUPERVISORS AND
OPERATIVES) (ENGLAND) (AMENDMENT) REGULATIONS 2015

2015 No. 384

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

These Regulations remove the restriction on the bodies that can issue the necessary certificates of competence to become a trained supervisor or a trained operative in relation to the carrying out of street works. Following the coming into force of these Regulations, the certificates of competence can be issued by any body that (a) satisfies the criteria for recognition laid down in sections 132 and 133 of the Apprenticeships, Skills, Children and Learning Act 2009 (“2009 Act”); and (b) has been formally recognised by the Office of Qualifications and Examinations Regulation (“Ofqual”), or any body that may replace Ofqual, as having satisfied those criteria. It should be noted that such bodies are referred to as “recognised bodies” in the 2009 Act but as “approved bodies” in these Regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

This instrument makes amendments to the Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2009 (“2009 Regulations”).

5. Territorial Extent and Application

The Regulations have effect only in England.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

• *What is being done and why*

These Regulations amend the 2009 Regulations by removing the restriction contained in regulation 7(1) that only certain specified bodies can issue the necessary certificates of competence to become a trained supervisor or a trained operative in relation to the carrying out of street works. The intention is to give legal effect to a policy decision

to freely and fairly open up the market in providing such qualifications. Following the coming into force of these Regulations, any body that satisfies the criteria for recognition laid down in sections 132 and 133 of the 2009 Act will be able to provide the qualifications and issue the requisite certificates provided that it has been formally recognised by Ofqual, or any equivalent body that may replace Ofqual, as having satisfied those criteria.

- ***Consolidation***

These Regulations make minor changes to the 2009 Regulations. However, Ministerial approval in principle has been obtained to make more substantial changes in the next Parliament subject to the outcome of a consultation exercise to be carried out in the near future. It is considered that the most appropriate time for consolidation is when the details of those further changes have been confirmed.

8. Consultation outcome

Having taken the policy decision to open up the training accreditation market by removing the restriction in regulation 7(1) of the 2009 Regulations, steps were taken to ensure that those with a direct interest (i.e. the three named bodies and another body which had expressed an interest in entering the market) were kept fully informed of the proposal. This was done through the Training and Accreditation Working Group (“TAWG”), a sub-group of the Highway Authorities and Utilities Committee for the UK (“HAUC-UK”), of which the Department is an active member. The three named bodies are also members of TAWG which was first informed of the proposed changes in September 2013. In November 2013, this was followed up with a questionnaire sent to the three named bodies in order to gather more information about how they currently operate. The results of the questionnaire and discussions within TAWG reinforced the Department’s view that opening up the market to competition was the best way to proceed and it did not consider that a separate formal consultation exercise would serve any purpose. Ministerial approval was obtained in April 2014 to proceed by way of informing the sector and those with a direct interest in training and accreditation (including the three approved bodies) of the decision to open the market to other providers. An extraordinary meeting of TAWG took place on 6th January 2015 solely to discuss the arrangements that need to be put in place in order to accommodate the changes and the proposals have also been on the agenda at recent meetings of HAUC-England and HAUC-UK.

9. Guidance

The Department will inform TAWG when the changes will come into force and will monitor the effect of the changes through its continuing involvement in this working group.

10. Impact

This instrument has no significant effect on business, charities, voluntary bodies or the public sector.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Department will monitor the impact of these changes in light of the number of additional providers that enter the market in street works qualifications. Further changes are proposed in the next Parliament to simplify and rationalise the detailed requirements imposed on supervisors and operatives and that will be an opportunity to rectify any other issues that might come to light.

13. Contact

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