SCOTTISH STATUTORY INSTRUMENTS

2003 No. 509

ROADS AND BRIDGES

The Road Works (Sharing of Costs of Works) (Scotland) Regulations 2003

Made - - - -	*27th October 2003*
Laid before the Scottish Parliament - - - -	*28th October 2003*
Coming into force - -	*18th November 2003*

The Scottish Ministers, in exercise of the powers conferred by sections 144 and 163(3) of the New Roads and Street Works Act 1991(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Road Works (Sharing of Costs of Works) (Scotland) Regulations 2003 and shall come into force on 18th November 2003.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

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

"allowable costs" means, in relation to diversionary works, the sum of all the reasonable costs incurred in executing them, except–

(a) costs incurred in preparing the initial set of plans and estimates in relation to those diversionary works (but not in preparing any further plans and estimates which the authority may require);

(b) costs disallowed under regulation 6(3);

"authority" means a roads authority, bridge authority or transport authority;

(**1**) 1991 c. 22. Section 163(1) contains a definition of prescribed relevant to the making of these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

"the Code" means the Code of Practice entitled "Measures Necessary where Apparatus is affected by Major Works (Diversionary Works)" dated June 1992, as revised and re-issued from time to time(**2**);

"diversionary works" means measures needing to be taken in relation to an undertaker's apparatus on a road in consequence of major works or in order to facilitate their execution;

"major works" means major works for roads purposes, major bridge works or major transport works;

"section 145(3)(a) to (f) works" means major transport works which are or would, if executed by a roads authority, be major works for road purposes described in any of paragraphs (a) to (f) of section 145 of the Act.

Diversionary works executed by an undertaker because of an authority's major works

3.—(1) Where, because of major works initiated by an authority, an undertaker executes diversionary works, the authority shall pay to the undertaker–

(a) where the major works are major transport works (other than major bridge works or section 145(3)(a) to (f) works) and payment is made in accordance with regulation 8(1), a sum equal to 92.5 per cent of the allowable costs of the diversionary works;

(b) in other cases where payment is made in accordance with regulation 8(1), a sum equal to 82 per cent of the allowable costs of the diversionary works;

(c) in all other cases, the allowable costs of the diversionary works.

(2) This regulation is subject to regulation 6.

Diversionary works executed by an authority because of the authority's major works

4.—(1) Where, because of major works initiated by an authority, the authority executes diversionary works, the undertaker shall, subject to paragraph (2), pay to the authority–

(a) where the major works are major transport works other than those which–

(i) are also major bridge works, or

(ii) are section 145(3)(a) to (f) works,

a sum equal to 7.5 per cent of the allowable costs of the diversionary works;

(b) in all other cases, a sum equal to 18 per cent of the allowable costs of the diversionary works.

(2) Where an undertaker's apparatus is moved by the authority at the request of the undertaker and solely because of a change in the type of road construction, not involving an alteration in the depth of cover to a depth of less or greater than the acceptable depth referred to in Appendix B to the Code, the undertaker shall pay to the authority the allowable costs incurred by the authority in moving the apparatus.

(3) This regulation is subject to regulation 6.

Diversionary works executed by an authority or an undertaker in other cases

5.—(1) This regulation applies where major works are initiated–

(a) by an authority on behalf of another person or by an authority other than in its capacity as such; or

(**2**) As approved by the Secretaries of State for Transport, Wales and Scotland under sections 84 and 143 of the Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.