



Consultation response on Raising Standards and Improving the Quality of Road Works in Scotland

Submitted to the Scottish Government on 13 October 2017

Question 7 (a) - Should the obligation on the Scottish Road Works Commissioner to make the Scottish Road Works Register available for inspection be repealed?

1. I do not consider the proposed amendment is required.
2. In addition to the existing duties under the New Roads and Street Works Act 1991 (the NRSWA), the Scottish Road Works Commissioner (SRWC) has statutory duties to proactively make information available to the public under the INSPIRE (Scotland) Regulations 2009 (the INSPIRE Regulations) and the Environmental Information (Scotland) Regulations 2004 (the EIRs).
3. Regulation 8 of the INSPIRE Regulations requires the SRWC to provide extensive public access to the spatial data set it holds. Regulation 4 of the EIRs requires the SRWC to actively disseminate environmental information in electronic format.
4. It is unclear what the impact of repealing the duty to make the Scottish Roads Work Register (the SRWR) available for inspection would have, or what it would achieve. The SRWC would still be required to make information available under the EIRs and the INSPIRE Regulations, not just in response to a request, but also in fulfilment of the duties to actively disseminate environmental information and to make spatial data sets and spatial data services discoverable and downloadable, etc.
5. Section 112A(6) of the NRSWA requires the SRWC to make the SRWR available for inspection at all reasonable times and free of charge. There are two different levels of access to the register:
 - (i) Restricted information is accessible only to people who are carrying out works on the road or who appear to the authority to have a sufficient interest in the information, and
 - (ii) Unrestricted information is accessible to any person.
6. Similarly differentiated levels of access to registers are not uncommon. For example, the Building (Procedure) (Scotland) Regulations 2004 give public access to Part I of the Building Standards Register, with limitations on who can access information in Part II.
7. As the consultation paper explains, the restricted information is available to roads authorities and utility companies only. Unrestricted information is accessible to the public on the SRWC website. This online information is available to anyone to inspect at the time of their

choosing. So the requirements of section 112A(6) NRSWA would appear to be met, and the information is available to the public.

8. It is unclear from the consultation paper what the basis for the proposal to repeal the obligation on the SRWC to make the SRWR available is. It is suggested (in paragraph 5.34) that the format of the SRWR is a concern: the obligation to provide inspection is “more suited to a written ledger” than the electronic database format the information is held in. As the required information is already available to the public, I see no reason for the proposed amendment.
9. The consultation paper also makes reference to concerns about commercial sensitivity of plant information, and the lack of safeguards to protect information on the SRWR. However, there is already a mechanism to prescribe information as “restricted” and to only allow those carrying out works or demonstrating to the SRWC a sufficient interest in the information to have access to such information.
10. In conclusion, the proposed repeal of the obligation appears to be unnecessary and, even in the event of the repeal, the SRWC would continue to be under statutory duties to make the information in the SRWR public.

Question 7(b) - Should the duty to make the Scottish Road Works Register available for inspection be replaced with a duty on the Scottish Road Works Commissioner to actively publish information relating to the location of planned and actual road works?

11. This proposed amendment also appears unnecessary as the SRWC is already under the statutory duty in regulation 8 of the INSPIRE Regulations to allow public access to the SRWR. Regulation 4 of the EIRs also applies.

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For publication (Y/N)	
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Summary of changes to document				
Date	Action by (initials)	Version updated (e.g. v01.25-36)	New version number (e.g. v01.27, or 02.03)	Brief description (e.g. updated paras 1-8, updated HOPI to HOOM, reviewed whole section on PI test, whole document updated, corrected typos, reformatted to new branding)