



Department
for Transport

Consultation on proposals to simplify
and improve SI 2009 No 2257 *The
Street Works (Qualifications of
Supervisors and Operatives) (England)
Regulations 2009* (as amended)

September 2015

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Executive summary

Introduction

1. Street works are carried out by or on behalf of the four main utility groups, water, gas, electric and telecoms. Most utility companies are statutory undertakers (i.e. they have a statutory right to install, inspect, maintain, repair, or replace apparatus), but street authorities may also grant street works licences to others. Statutory undertakers and licensees are collectively known as undertakers.
2. Section 67 of the *New Roads and Street Works Act 1991* (NRSWA), imposes an obligation on street works undertakers to ensure that at all times when work is in progress, there is at least one operative on site with a prescribed qualification and that, in most cases, the works are supervised by someone with a prescribed qualification.
3. In England, the secondary legislation made under s67 of NRSWA is Statutory Instrument, *SI 2009 No 2257 The Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2009* (the regulations), as amended (there are separate regulations for Wales, Scotland and Northern Ireland). A copy of these regulations is included on the web page for this consultation document for reference.
4. Among other things, these regulations establish procedures that operatives and supervisors must follow to become qualified, set out the conditions under which certificates may be registered/re-registered, and provide schedules detailing the training units required to make up the various prescribed qualifications.
5. The regulations have given rise to a number of issues over the years, some of which have had financial implications (occasionally significant) for street works practitioners and their employers. In addition, the system of certificates based on various combinations of training units could benefit from simplification because it is not always clear which training units are required when renewing certificates via reassessment. The proposals contained in this consultation are intended to address these issues by simplifying and improving the regulations and rationalising the whole street works training and accreditation process.

6. Apart from views on the proposed changes, we are seeking to gather information from businesses and individuals on any potential financial impact. However, we do not envisage that the changes would impose costs of any significance on industry and in general, we anticipate that costs would reduce.
7. The regulations were amended on 6 April 2014 by SI 2015 No 384 *The Street Works (Qualifications of Supervisors and Operatives) (England) (Amendment) Regulations 2015*. The effect of the amendments was to remove the named organisations eligible to act as approving bodies from the regulations in order to open up the market for providing these services. However, those amendments are unrelated to the issues under consideration here so they can be disregarded for the purposes of this consultation. As such, all references to the regulations in this document relate to SI 2009 No 2257.

How to respond

The consultation period began on 2 September 2015 and will run for 8 weeks until 28 October. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.gov.uk/dft#consultations. You can contact Gereint Killa (contact details on page 22) if you need alternative formats (Braille, audio CD, etc.).

Please email your response to swqualifications@dft.gsi.gov.uk. If you are not able to email your response, you can send it to Gereint Killa (contact details on page 22).

When responding, please state whether you are responding as an individual or as a member of an organisation. If the latter, please state the organisation on whose behalf you are responding. If responding on behalf of a larger organisation, please make it clear what the organisation represents and, where applicable, how the views of members were assembled.

A list of those consulted is attached at Annex D. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

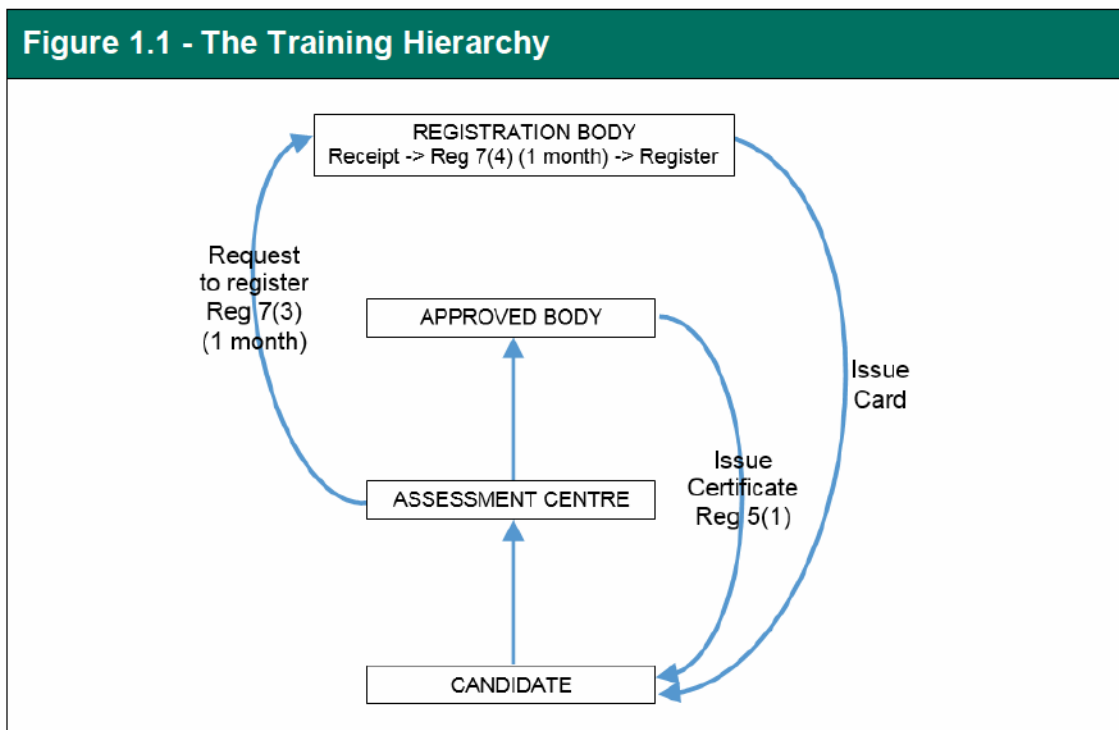
In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process any personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

1. Current arrangements

Introduction

- 1.1 There are four basic tiers in the training and accreditation hierarchy - Registration Body, Approved Body, Assessment Centre, and Candidate. For the whole of the UK, there is a single Registration Body, a handful of Approved Bodies, several tens of Assessment Centres, and thousands of Candidates. Figure 1.1 shows how they relate to each other
- 1.2 Candidates can be trained as operatives, supervisors, or both. These proposals mainly refer to operatives although the intention is to apply consistent amendments to the procedures for both operatives and supervisors. For simplicity, the masculine gender is used throughout.
- 1.3 All assessment centres are approved by awarding bodies who set training and assessment standards for them to work to.



- 1.4 There are six *Certificates of Competence* (i.e. prescribed qualifications) for operatives. Each certificate covers a particular

aspect of street works activity such as setting out signs, excavation, etc.

- 1.5 Someone wanting to gain a certificate in, say, *Excavation in the highway* would attend an approved assessment centre for training in the units that make up that certificate. He would then take his exams at the assessment centre.
- 1.6 If he is successful, the assessment centre asks the registration body to place his certificate on the Street Works Qualifications Register and also informs the relevant approved body of the result.
- 1.7 The approved body awards the certificate to the trained operative and confirms to the registration body that this has been done.
- 1.8 The registration body then registers the certificate and issues the trained operative with a street works card showing, in this case, a qualification in *Excavation in the highway*.

Grace period

- 1.9 To avoid delays arising from the administrative processes involved in registering certificates, Regulation 5.2 provides the operative with a 2-month grace period after he has passed the exams in which he can work as a qualified operative without the certificate being registered.
- 1.10 However, this has created a slight anomaly because regulation 10.1 says that the certificate starts for 5 years from registration, not from when he was assessed as competent. Adding the 2-month grace period to this effectively allows him to work as a qualified operative for up to 5 years and 2 months on the original certificate that was intended to be valid for 5 years.

Reassessment

- 1.11 As a certificate approaches expiry, the operative can renew it via reassessment. Undergoing reassessment is less onerous and takes less time than the original training and exams, and is meant to refresh the knowledge of experienced hands at relatively low-cost. Refresher training normally associated with reassessment is not mandatory but it can significantly increase the likelihood of passing reassessment.
- 1.12 Regulation 10.2 says that an operative's certificate can be renewed via reassessment for a further successive period of five years (i.e. the new period starts when the old certificate expires) "*provided that an application for registration is received by the*

registration body no earlier than six months prior to and no later than six months after the expiry of the previous registration".

- 1.13** The wording "*provided that an application for registration is received by the registration body ...*" is a carry-over from previous regulations before reassessment was introduced. When renewal was simply a matter of applying for a new certificate and there were no examinations to pass, relating renewal to the date of application for registration made sense - indeed, there was no other yardstick to refer renewal to. With the introduction of reassessment, it would have been more logical to link renewal to when reassessment was successfully completed. We will return to this.
- 1.14** The second part of the requirement "*... no earlier than six months prior to and no later than six months after the expiry of the previous registration*", defines the extent of the **reassessment window**. Certificates can only be renewed via reassessment for successive five year periods if the renewed certificates are registered in this 12 month reassessment window.
- 1.15** There is a slight inconsistency between the ways that original and renewed qualifications are registered. Applications to the registration body to register renewals must be accompanied by the relevant reassessment certificates although there is no similar requirement for original qualifications.

Units and certificates of competence

- 1.16** For operatives, the regulations prescribe nine different Units of Competence (or training modules) and six Certificates of Competence (or prescribed qualifications) - see schedules 3 and 4 of the regulations. Each unit covers a specific activity and, in various combinations, the units go to make up the certificates.
- 1.17** With the exception of the stand-alone certificate in *Signing, lighting and guarding* (for operatives whose actions only involve opening the street e.g. meter reading, lifting inspection covers, etc.), each certificate comprises at least three units, two of which - unit 1 - *Location and avoidance of underground apparatus* (L&A), and unit 2 *Signing, lighting and guarding* (SLG) - are common to all. For example, certificate 4 *Reinstatement of concrete slabs*, requires the candidate to prove his proficiency in unit 1 L&A, unit 2 SLG and unit 8 *Reinstatement of concrete slabs*.
- 1.18** The aim is to ensure that for all works that involve breaking up the street, the operative is trained in units 1 and 2. However, the

prescribed combinations mean that there is considerable duplication of units among the certificates, which can cause confusion over which units to train for when renewing certificates. The composition of certificates can also be confusing to highway authority inspectors.

2. Consultation proposals

- 2.1 The following proposals are aimed at making it easier for practitioners to comply with the guiding principles of the regulations whilst ensuring that appropriate standards of training are maintained. The intention is to make the regulations less prescriptive, simpler, clearer and more logical. The expected outcomes are that costs will be reduced, practitioners will better understand what is required of them, and street works operatives and supervisors will be more likely to be appropriately trained for the activities they are engaged in.
- 2.2 The proposed changes we wish to consult on appear throughout this section in boxes. Each box is inserted after its relevant introductory text. The change boxes are later repeated, each with a question added, where they collectively form the consultation questions in Annex B.
- 2.3 The first of the proposed changes is a matter of logical sequencing. Currently "supervisors" comes before "operatives" in the title of the statutory instrument, throughout the body of the regulations and in the schedules. It is proposed to reverse this order because it is more logical to deal with operatives first.

1 - General	
a)	Change the title of the regulations so that "Operatives" comes before "Supervisors".
b)	Change the order that operatives and supervisors are covered in the body of the regulations and in the schedules.

- 2.4 Regulations 5(1) and 10(4) require the approved body to award certificates to the trained operative (see paragraph 1.7). There similar requirements in respect of supervisors in regulations 4(1)(a) and 10(3) respectively. In practice, certificates are sometimes issued to assessment centres who pass them on to the operative, or to third parties such as the operative's employer. What matters

most is that the registration body is notified that a certificate has been issued confirming the candidate's success.

- 2.5** Removing the requirement for the approved body to award certificates directly to trained operatives would bring the regulations into line with preferred practice and the use of digital communications.

2 - Regulations 4(1)(a), 5(1)(a), 10(3) and 10(4)

- a) Delete "the supervisor with" in regulation 4(1)(a).
- b) Delete "the trained operative with" in regulation 5(1)(a).
- c) Delete "that supervisor with" in regulation 10(3).
- d) Delete "that trained operative with" in regulation 10(4).

- 2.6** Regulation 10(1), in effect, means that the five year life of an original certificate starts from the date the certificate was registered, which could be up to 2 months after the exams were passed. We consider that it would be more logical to start it from the date the candidate was assessed as having passed the exams. Making this change would remove the anomaly whereby the 2 month grace period can be added to the 5 year life of the certificate instead of running concurrently with it. It would also be consistent with a similar change being proposed for reassessed certificates as covered by regulation 10(2).

- 2.7** The proposed changes only relate to *certificates of competence* - not to be confused with *certificates of recognition* which are only relevant in the context of equivalent EU qualifications. We do not propose to materially change any text surrounding certificates of recognition.

3 - Regulation 10(1)

- a) Amend the wording so that the five year life of an original certificate runs from the date the candidate was assessed as having passed the exams instead of "the date of registration".
- b) Exclude certificates of recognition from this change. They would continue to be based on the date of registration.

- 2.8** We propose to make three key changes to regulation 10(2). The relevant parts of regulation 10(2) are quoted here for ease of reference and the three specific issues we propose to address have been underlined.

Regulation 10(2) from SI 2009 No 2257:

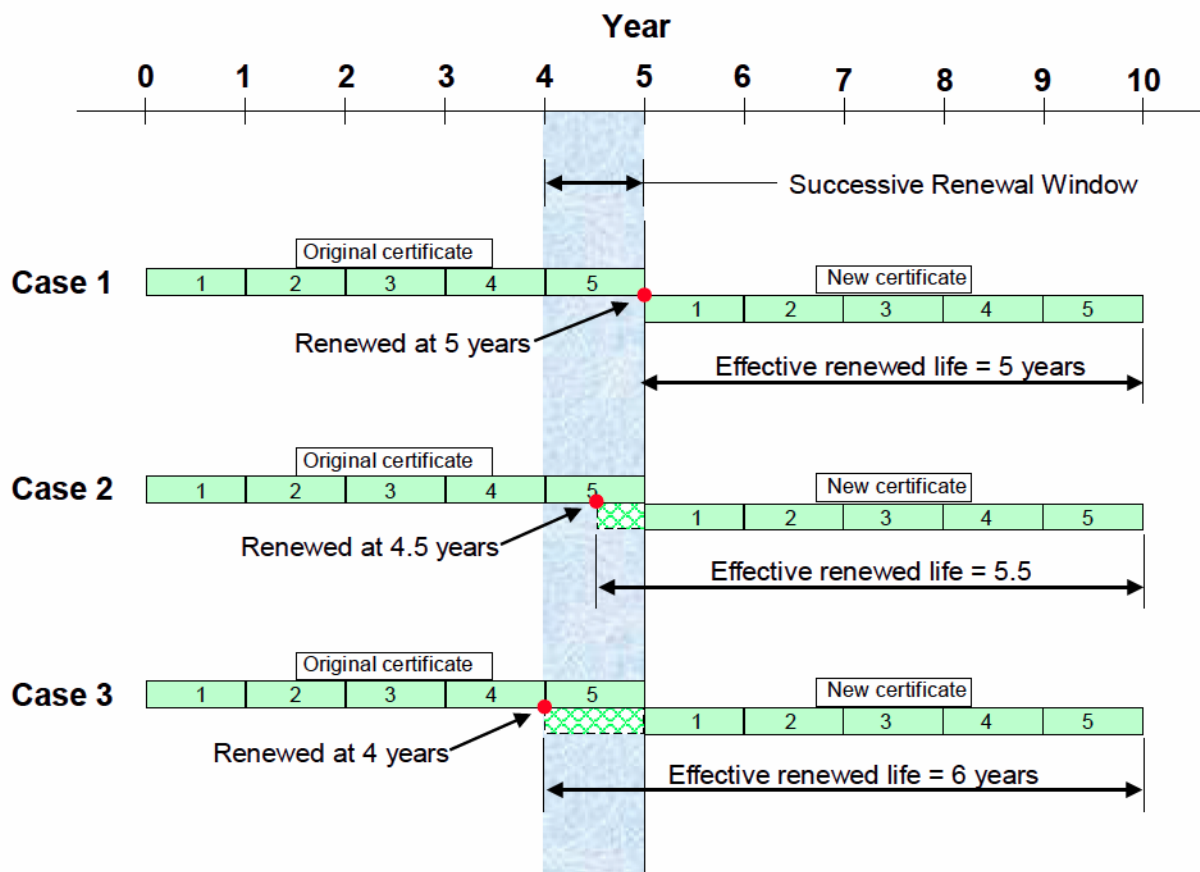
"A certificate of competence ... may be registered for further successive periods of five years provided that an application for registration is received by the registration body no earlier than six months prior to and no later than six months after the expiry of the previous registration and ... that application is accompanied by the relevant reassessment certificate of competence."

- 2.9** Before going further, it is necessary to introduce a new term to describe the reassessment window, as discussed in paragraph 1.14. Reassessment window is an accurate term for describing the existing arrangement but we propose extending the ability to renew via reassessment outside this window, hence the need for a new term. From here on therefore, we refer to the existing reassessment window as the "Successive Renewal Window" as it is only within this period that a certificate can currently be renewed for "*further successive periods of five years*".
- 2.10 Regulation 10(2), issue 1:** The regulation fixes the successive renewal window (SRW) in terms of the date that "*an application for registration is received by the registration body*". It is proposed to reword it so that the window relates to the date "*of reassessment by an assessment centre as having achieved the certificate of competence*". This would be more logical and would remove a problem that candidates can find themselves faced with.
- 2.11** The problem arises when they take their reassessments within a month or so of the end of the SRW. Situations have arisen where a candidate has passed reassessment only to lose the certificate because of delays by third parties in registering the renewed certificate within the SRW. He has then had no option but to retake the original exams, at a considerable additional cost in time and money.
- 2.12 Regulation 10(2), issue 2:** The regulation defines the extent of the SRW as being from "*six months prior to and no later than six months after*" expiry of the certificate. Reassessments registered within this window allow operatives to renew certificates for "*further successive periods of five years*", i.e. a certificate renewed via

reassessment anytime within this window will last for five years from the expiry date of the certificate being renewed.

- 2.13** Allowing reassessments to be registered before expiry is useful as it allows an operative to be reassessed early without sacrificing any of the five year life of the original certificate. However, where a certificate has been allowed to expire, there is no advantage in renewing for a further successive (i.e. consecutive) period.
- 2.14** For example, if certificate renewal is registered, say, 3 months after expiry, the start of the renewed period is backdated 3 months - in effect, he loses 3 months of the renewed certificate's 5 year life. This serves no purpose because he would not have been qualified in those 3 months and backdating the start could not retrospectively alter that.
- 2.15** It therefore is proposed that the current SRW is brought forward by 6 months so that it starts 12 months before expiry and ends upon expiry. This would serve two purposes - it would avoid backdated certificate start dates and it would give candidates a whole year before certificate expiry in which to undergo reassessment. They would then have a better chance of finding a suitable time to renew their qualifications.
- 2.16** Bringing the window forward so that it ends at certificate expiry would provide another benefit. As the current SRW remains open for 6 months after expiry, it has led to an assumption in some cases that an expired certificate remains valid during this period. This is incorrect - an operative is not qualified if a certificate has expired and it has not been renewed. Ending the window at certificate expiry would remove the source of any such confusion.
- 2.17** Figure 2.1 illustrates how certificates renewed within the proposed new SRW would be treated.

Figure 2.1 - Certificate renewal and the successive renewal window



2.18 Regulation 10.2, issue 3: The regulation requires that applications to register certificates renewed via reassessment are "accompanied by the relevant reassessment certificate of competence". This is not consistent with the initial registration process and introduces unnecessary delay and administrative effort in the re-registration process when the existence of the certificate could be verified by electronic notification. It is proposed that this requirement be dropped.

4 - Regulation 10(2)

- a) Change the wording so that renewal of a certificate of competence for a further successive period of five years is related to the date of "being reassessed by an approved assessment centre as having achieved the certificate of competence" instead of the date of "application for registration". (Certificates of recognition will continue to be based on the date of receipt of the registration application.)
- b) Bring forward the current 12 month successive renewal window by 6 months so that the window runs from 12 months before expiry to actual expiry.
- c) Remove the requirement for an application to register a successful reassessment to be "accompanied by the relevant reassessment certificate of competence".

2.19 So far, we have only concerned ourselves with renewals undertaken within the proposed new 12 month SRW. We also propose to allow operatives to renew certificates by reassessment either after an original certificate has expired, or before the SRW starts (i.e. when the original certificate is less than 4 years old).

2.20 For renewals after expiry, we propose amending the regulations to allow for renewal via reassessment up to 5 years after the original certificate has expired. This would benefit operatives who have missed the proposed new 12 month SRW, or those who may be returning to street works sometime after their original certificate had expired. In this case, the renewed certificate would run for 5 years from reassessment.

2.21 For renewals before the SRW starts, an amendment is proposed that would allow for renewal via reassessment any time in the first 4 years of a certificate's life. We see a key benefit here. An operative who wants to renew a number of certificates with differing expiry dates could choose to be prematurely reassessed in the more recently acquired certificates so that all the renewed certificates expire at around the same time.

2.22 It is in the interests of operatives to have all their certificates expiring at around the same time. It means they can be reassessed in the certificates at the same time thus making attendance at an assessment centre necessary only once in every 5 years. Similarly, the street works card (see paragraph 1.8) would only need to be replaced once every 5 years.

- 2.23** For such premature reassessments, the renewed certificate would run for 6 years from the time of successful reassessment. This 6 year period requires some explanation. If we return to figure 2.1, it is apparent that within the SRW, the earlier a certificate is renewed, the greater the "effective renewed life" of the certificate up to a maximum of 6 years. To summarise, an operative who renewed at 5 years would get another 5 years, at 4.5 years he would get 5.5 years, and at 4 years he would get 6 years.
- 2.24** In effect, the unexpired portion of the original certificate is being added on to the 5 year life of the new certificate. In all these cases therefore, the total life of the original plus the new certificate is 10 years. A logical progression from here would suggest that an operative renewing prematurely at, say, 3.5 years would get another 6.5 years (because $3.5 + 6.5 = 10$). However, we would not want to extend the maximum possible time between reassessments in this way. We therefore propose to cap the effective renewed life at 6 years for any renewal undertaken within the first 4 years of a certificate's life.

5 - New regulations for improved flexibility

- a) Allow candidates to renew a certificate by reassessment up to 5 years after it has expired. The renewed certificate would last for five years from the date of reassessment.
- b) Allow candidates to renew a certificate by early reassessment anytime in the first 4 years of a certificate's life. The renewed certificate would last for 6 years from the date of reassessment.

- 2.25** The above discussion on certificate renewal has focused on renewal via reassessment. We propose that the duration of a certificate renewed by resitting the original exams would be treated in the same way as one renewed via reassessment. This would mean that an operative who prefers to retake the more rigorous original exams would not be put at a disadvantage compared with someone who chose to renew via reassessment,
- 2.26** The existing system of prescribed qualifications could benefit from simplification. The current system is based on nine *Units of Competence* (see schedule 3 of SI 2009 No 2257) and six *Certificates of Competence* (see schedule 4). Each unit covers a particular aspect of street works activity and each certificate is made up of one or more units. Table 2.1 is derived from schedules

3 and 4 and it shows the relationship between units and certificates.

Table 2.1 - Units and certificates of competence for operatives		
No.	Units of Competence (from Schedule 3 of SI 2009 No 2257)	
1	Location and avoidance of underground apparatus (L&A)	
2	Signing, lighting and guarding (SLG)	
3	Excavation in the highway	
4	Reinstatement and compaction of backfill materials	
5	Reinstatement of sub-base and roadbase in non-bituminous materials	
6	Reinstatement in cold-lay bituminous materials	
7	Reinstatement in hot-lay bituminous materials	
8	Reinstatement of concrete slabs	
9	Reinstatement of modular surfaces and concrete footways	
No.	Certificates of Competence (from Schedule 4)	Units reqd
1	Excavation in the highway	1, 2, 3
2	Excavation, backfilling and reinstatement of construction layers with a cold-lay bituminous surface	1, 2, 3, 4, 5, 6
3	Reinstatement of concrete slabs	1, 2, 6, 7
4	Reinstatement of construction layers in hot-lay and cold-lay bituminous materials	1, 2, 8
5	Reinstatement of modular surfaces and concrete footways	1, 2, 9
6	Signing, lighting and guarding (SLG)	2

2.27 With the exception of certificate 6 SLG, each certificate comprises at least three units, two of which are common to all - unit 1 *Location and avoidance of underground apparatus (L&A)*, and unit 2 SLG. Units 1 and 2 are the two key safety related units for operatives involved in works that require breaking up the street. (There is also some minor unit duplication involving units 3 and 6.)

2.28 This duplication of units was mainly intended to ensure that whichever certificate from Nos 1 to 5 was held, the operative would have to be trained in units 1 and 2. However, the arrangement has

unintentionally allowed candidates to renew duplicated units without being reassessed in them, which could compromise safety.

- 2.29** For example, if an operative with *Excavation in the highway* (units 1, 2 and 3) adds *Reinstatement of concrete slabs* (units 1, 2, 6 and 7) four years later, he only needs units 6 and 7 because he already has units 1 and 2 from the previous certificate. As the added certificate lasts for five years, units 1 and 2 have been artificially extended by four years to last the lifetime of the added certificate.
- 2.30** The changes proposed below would simplify things considerably. The aim is to remove all unit duplication by introducing new certificates that each correspond to a single unit. The content of each certificate would then be unique. In effect, each of the nine current units would become a new certificate in its own right. This would make separate schedules for units and certificates unnecessary. As a consequence, four of the eight schedules in the regulations could be dispensed with.
- 2.31** In dispensing with unit duplication, we need to introduce a new way of ensuring that operatives are always trained in the key units (or key certificates as they would now become). To this end, we propose that holding certificates in SLG and L&A would be a requirement for any other certificate to be valid. Should either SLG or L&A expire, the other certificates would all become temporarily invalid until the expired key certificate was renewed. We consider that this simpler approach will remove a burden from operatives and their employers.
- 2.32** Currently, an operative whose actions only involve opening the street such as meter reading, lifting inspection covers, etc., needs no certificate other than SLG. This would remain the case under the proposed amendments.
- 2.33** The proposed simplification would also make it easier for local authority inspectors to verify that people with the correct skills are on site. There is anecdotal evidence of inspectors asking for evidence of an operative's SLG certificate when presented with a street works card showing a certificate in *Excavation in the highway* (which already includes SLG). This sort of confusion should be avoided under the proposed certificate structure.
- 2.34** We propose retaining the current content of the units of competence so whilst the order of training might alter slightly, training materials would remain unchanged, and the new certificates would be fully compatible with existing units and hence, existing certificates. During the transition, operatives should be able to seamlessly transfer to the new certificates as their old ones

expire. This compatibility would also mean there is a clear correlation between the proposed certificates in England and certificates elsewhere in the UK. Annex A explains the proposed changes to certificates for operatives (and supervisors) in more detail. Some examples of how the street works card might look under the proposed changes are included on the web page for this consultation document.

2.35 It can be seen from paragraph 2.30 that four of the eight schedules in the regulations could be dispensed with if the proposed changes to the certificate structure were adopted. However, original certificates and certificates renewed via reassessment currently have separate schedules, offering scope for further simplification.

2.36 This could be realised if we were to adopt the view that a certificate that has been renewed via reassessment has the same status as an original certificate. In practical terms, there is no difference - original and reassessment certificates allow operatives (and supervisors) to do exactly the same work. We therefore propose to dispense with separate schedules for reassessment certificates of competence thus further reducing the number of schedules from eight to two.

2.37 The remaining schedules would therefore be:

- Schedule 1 - Certificates of competence for operatives
- Schedule 2 - Certificates of competence for supervisors

6 - Simplification of street works certificates

- | | |
|----|---|
| a) | Rationalise the system of units and certificates of competence (see Annex A). |
| b) | Make acquiring certificates in "Signing, lighting and guarding" and "Location and avoidance of underground apparatus" a requirement for any other certificate to be valid. (New regulation to restate an existing requirement). |
| c) | Dispense with separate schedules for original certificates and reassessment certificates. |

2.38 Although we propose treating original certificates and reassessed certificates as equivalent for the purpose of the regulations, we would retain the current practice in England whereby on the street works card, an "RA" suffix is appended to renewals gained via

reassessment. This would allow for potential differences in legislation in the devolved administrations who might not want to adopt reassessment in the same way as it is proposed for England.

- 2.39** There is some confusion over the applicability (and the appropriateness) of these regulations with regard to the Fire and Rescue Services (FRS) when they are carrying out hydrant checks and the like in the street. To remove any doubt, it is proposed to explicitly exempt the FRS from having to comply with the regulations.

7 - FRS exemption

Introduce an explicit exemption from the regulations for the Fire and Rescue Services.

What will happen next?

Your response should be sent to swqualifications@dft.gsi.gov.uk.

A summary of responses, including the next steps, will be published within three months of the consultation closing on www.gov.uk/dft#consultations. Paper copies will be available on request.

If you have questions about this consultation please contact:

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Further background information can be found at www.gov.uk/dft#consultations

Annex A: Proposed new certificate structure

The following shows how the proposed new certificate structure would work. Please refer to Schedules 1 to 4 in SI 2009 No 2257.

Unit No.	Existing Units of Competence for operatives
Unit 1	Location and avoidance of underground apparatus
Unit 2	Signing, lighting and guarding
Unit 3	Excavation in the highway
Unit 4	Reinstatement and compaction of backfill materials
Unit 5	Reinstatement of sub-base and roadbase in non-bituminous materials
Unit 6	Reinstatement in cold-lay bituminous materials
Unit 7	Reinstatement in hot-lay bituminous materials
Unit 8	Reinstatement of concrete slabs
Unit 9	Reinstatement of modular surfaces and concrete footways

Existing Certificates of Competence for operatives	Which comprise Unit Numbers ...
Excavation in the highway	1, 2, 3
Excavation, backfilling and reinstatement of construction layers with a cold-lay bituminous surface	1, 2, 3, 4, 5, 6
Reinstatement of construction layers in hot-lay and cold-lay bituminous materials	1, 2, 6, 7
Reinstatement of concrete slabs	1, 2, 8
Reinstatement of modular surfaces and concrete footways	1, 2, 9
Signing, lighting and guarding	2

The proposed new certificates of competence for operatives would be numbered O1, O2, etc., where "O" would indicate that it is an **operative's** certificate. Each one would be based on the existing units of competence and would be numbered like for like with the exception of *Location and avoidance of underground apparatus* and *Signing, lighting and guarding* which would swap over. This is because *Signing, lighting and guarding* is the minimum requirement for a qualified operative and should therefore come first. Note that "roadbase" has been changed to "base" in line with current terminology.

New operative certificate number	Proposed new Certificates of Competence for operatives
O1	Signing, lighting and guarding
O2	Location and avoidance of underground apparatus
O3	Excavation in the highway
O4	Reinstatement and compaction of backfill materials
O5	Reinstatement of sub-base and base in non-bituminous materials
O6	Reinstatement in cold-lay bituminous materials
O7	Reinstatement in hot-lay bituminous materials
O8	Reinstatement of concrete slabs
O9	Reinstatement of modular surfaces and concrete footways

An operative with expiring certificates in, say, *Excavation in the highway* and *Reinstatement of construction layers in hot-lay and cold-lay bituminous materials* would get reassessed in new certificates O1, O2, O3, O6 and O7 - previously Units 2, 1, 3, 6 and 7 respectively. He would not have to renew or retake certificates O1 or O2 to add further qualifications - O1 and O2 would simply need to remain in date.

As there are only eight Units of Competence for supervisors, there would be eight new Certificates of Competence for them, numbered S1 to S8 as shown below.

New supervisor certificate number	Proposed new Certificates of Competence for supervisors
S1	Monitoring signing, lighting and guarding
S2	Monitoring location and avoidance of underground apparatus
S3	Monitoring excavation in the highway
S4	Monitoring reinstatement and compaction of backfill materials
S5	Monitoring reinstatement of sub-base and base in non-bituminous materials
S6	Monitoring reinstatement in bituminous materials
S7	Monitoring reinstatement of concrete slabs
S8	Monitoring reinstatement of modular surfaces and concrete footways

Summary of how the proposed new certificates would relate to existing units			
Operatives		Supervisors	
New certificate	From existing ...	New certificate	From existing ...
O1	Unit 2	S1	Unit 10
O2	Unit 1	S2	Unit 1
O3	Unit 3	S3	Unit 11
O4	Unit 4	S4	Unit 12
O5	Unit 5	S5	Unit 13
O6	Unit 6	S6	Unit 14
O7	Unit 7	S7	Unit 15
O8	Unit 8	S8	Unit 16
O9	Unit 9	-	-

Annex B: Full list of consultation questions

Responses are invited from any individual or body although we anticipate that this consultation will be of most interest to English highway authorities and those who carry out street works in England.

These questions should be considered in conjunction with Statutory Instrument SI 2009 No 2257 *The Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2009*, and Annex A of this document - *Proposed new certificate structure*.

The questions have been grouped so that those in each box relate to a particular area of the regulations we are seeking to change. You are invited to comment particularly where you disagree with any of the proposals, but all comments are welcome.

Please state whether you are responding as an individual or as a member of an organisation. If the latter, please state the organisation on whose behalf your are responding. If responding on behalf of a larger organisation, please make it clear what the organisation represents and, where applicable, how the views of members were assembled.

1 - General			
a)	Change the title of the regulations so that "Operatives" comes before "Supervisors".		
b)	Change the order that operatives and supervisors are covered in the body of the regulations and in the schedules.		
See paragraph 2.3			
Do you agree?	Yes	No	If No, please comment

2 - Regulations 4(1)(a), 5(1)(a), 10(3) and 10(4)

- a) Delete "the supervisor with" in regulation 4(1)(a).
- b) Delete "the trained operative with" in regulation 5(1)(a).
- c) Delete "that supervisor with" in regulation 10(3).
- d) Delete "that trained operative with" in regulation 10(4).

These changes are aimed at avoiding the need to issue certificates directly to supervisors or operatives. See paragraphs 2.4 - 2.5

Do you agree?

Yes

No

If No, please comment

If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

3 - Regulation 10(1)

- a) Amend the wording so that the five year life of an original certificate runs from the date the candidate was assessed as having passed the exams instead of "the date of registration".
- b) Exclude certificates of recognition from this change. They would continue to be based on the date of registration.

See paragraphs 2.6 - 2.7

Do you agree?

Yes

No

If No, please comment

If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

4 - Regulation 10(2)

- a) Change the wording so that renewal of a certificate of competence for a further successive period of five years is related to the date of "being reassessed by an approved assessment centre as having achieved the certificate of competence" instead of the date of "application for registration". (Certificates of recognition will continue to be based on the date of receipt of the registration application.)
- b) Bring forward the current 12 month successive renewal window by 6 months so that the window runs from 12 months before expiry to actual expiry.
- c) Remove the requirement for an application to register a successful reassessment to be "accompanied by the relevant reassessment certificate of competence".

See paragraphs 2.8 - 2.17

Do you agree?	Yes	No	If No, please comment
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If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

5 - New regulations for improved flexibility

- a) Allow candidates to renew a certificate by reassessment up to 5 years after it has expired. The renewed certificate would last for five years from the date of reassessment.
- b) Allow candidates to renew a certificate by early reassessment anytime in the first 4 years of a certificate's life. The renewed certificate would last for 6 years from the date of reassessment.

See paragraphs 2.18 - 2.24

Do you agree?	Yes	No	If No, please comment
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If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

6 - Simplification of street works certificates

- a) Rationalise the system of units and certificates of competence (see Annex A).
- b) Make acquiring certificates in "Signing, lighting and guarding" and "Location and avoidance of underground apparatus" a requirement for any other certificate to be valid. (New regulation to restate an existing requirement).
- c) Dispense with separate schedules for original certificates and reassessment certificates.

See paragraphs 2.25 - 2.37

Do you agree?	Yes	No	If No, please comment
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If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

7 - FRS exemption

Introduce an explicit exemption from the regulations for the Fire and Rescue Services.

See paragraph 2.39

Do you agree?	Yes	No	If No, please comment
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If you think any of the above would have a financial or other impact on you or your organisation, please comment. Please include values for money and time saved (or costs incurred) wherever possible.

8 - Request for additional information

We would welcome any further information you might want to provide about financial or other impacts that the changes could have on you or your organisation, including supporting evidence wherever possible. Please also suggest any practical enforcement or implementation issues, and any possible unintended consequences of the proposed changes.

Annex C: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Annex D: List of those consulted

English local highway authorities

Joint Authorities Group

National Joint Utilities Group

Highway Authorities and Utilities Committee

Chief Fire Officers Association