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## STATUTORY INSTRUMENTS

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**2008 No.**

### **HIGHWAYS, ENGLAND**

#### **The Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2008**

<i>Made</i>	- - - -	2008
<i>Laid before Parliament</i>		2008
<i>Coming into force</i>	- -	2008

The Secretary of State for Transport, in exercise of the powers conferred by section 67 of the New Roads and Street Works Act 1991(a), makes the following Regulations:

#### **Citation and commencement**

1. These Regulations may be cited as the Street Works (Qualifications of Supervisors and Operatives) (England) Regulations 2008 and shall come into force on XX 2008.

#### **Amendment of the Street Works (Qualifications of Supervisors and Operatives) Regulations 1992**

2.—(1) The Street Works (Qualification of Supervisors and Operatives) Regulations 1992(b) shall be amended as follows—

(2) After regulation 1 there shall be inserted the following regulation—

“(1A.) These Regulations shall not apply to England.”

#### **Interpretation**

3. In these Regulations—

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

“approved assessment centre” means an establishment approved by an approved body for the purposes of assessing achievement of units of competence;

“approved body” means a body mentioned in regulation 6(1), which shall act as the competent body for the purpose of the Directive;

“approved register” means the Register mentioned in regulation 6(2);

“certificate of competence” means a qualification, award or an equivalent which is granted by an approved body;

“relevant State” means a member State, Iceland, Norway, Liechtenstein or Switzerland.

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(a) 1991 c.22. Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, art 2, Sch 1.  
(b) S.I. 1992/1687

“supervisor” means a person by whom street works are required to be supervised under section 67(1) of the Act;

“the Directive” means Directive 2005/36/EC of the European Parliament and of the Council;

“trained operative” means a person whose presence at the site of street works is required under section 67(2) of the Act; and

“unit of competence” means one of the areas of competence set out in Schedules 1, 3, 5 and 7 and “unit” shall be construed accordingly.

#### **Prescribed qualification for supervisors**

4.—(1) A supervisor has a prescribed qualification for a particular type of supervisory work if—

- (a) an approved body has issued that supervisor with a certificate of competence showing that the supervisor has been assessed by an approved assessment centre as having achieved the relevant unit of competence as set out in Schedule 3 and that certificate of competence as set out in Schedule 4 is registered in an approved register; or
- (b) that supervisor has obtained a qualification of a relevant State which gives an equivalent guarantee of skill and competence to that given by the certificate of competence required by paragraph (a) or an adaptation period or aptitude test, in accordance with the Directive;

provided that, for a period of two months beginning with the day on which a supervisor is assessed as having achieved the requisite unit(s) of competence, that supervisor shall be treated as having a prescribed qualification for that type of supervisory work, notwithstanding that an approved body has not issued that supervisor with a certificate of competence or that the certificate issued to the supervisor has not been registered as required by paragraph (a) above.

(2) A person shall not act as a supervisor for works of signing, lighting and guarding, and the prescribed qualification entitled ‘Monitoring signing, lighting and guarding’ specified in Schedule 4 shall not come into force, until 1 April 2010.

#### **Prescribed qualification for trained operatives**

5.—(1) A trained operative has a prescribed qualification for a particular type of work if—

- (a) an approved body has issued that trained operative with a certificate of competence showing that the trained operative has been assessed by an approved assessment centre as having achieved the relevant unit of competence as set out in Schedules 1 and that certificate of competence as set out in Schedule 2 is registered in an approved register; or
- (b) that trained operative has obtained a qualification of a relevant State which gives an equivalent guarantee of skill and competence to that given by a certificate of competence required by paragraph (a) or an adaptation period or aptitude test, in accordance with the Directive;

provided that, for a period of two months beginning with the day on which a trained operative is assessed as having achieved the requisite unit of competence, that trained operative shall be treated as having a prescribed qualification for that type of work, notwithstanding that an approved body has not issued that operative with a certificate of competence or that the certificate issued to the operative has not been registered as required by sub-paragraph (a) above.

(2) Until 1 April 2010 a person holding a unit 2 unit of competence may continue to act as a trained operative for the purposes of signing, lighting and guarding without registering a certificate of competence for that prescribed qualification.

#### **Approved bodies conferring qualifications**

6.—(1) The bodies approved for the purpose of issuing the certificates mentioned in regulations 4 and 5, and the reassessment certificates mentioned in regulation 9 are—

- (a) The City and Guilds of London Institute

(b) The Scottish Qualification Authority

(c) The CABWI Awarding Body.

(2) The register approved for the purpose of registering certificates mentioned in regulations 4, 5 and 9 is the register to be kept by the Scottish Qualifications Authority as the registration body approved for the purpose by the Secretary of State.

(3) Where an approved body has issued a certificate of competence to a supervisor or a trained operative, an approved assessment centre shall, within one month thereof register that certificate in the approved register.

(4) The Secretary of State may withdraw any approval given by paragraph (1) or (2) of this regulation if the Secretary of State is satisfied that the body to whom the approval is given has failed satisfactorily to discharge the function of certification or registration under any of the provisions of these Regulations.

### **Restrictions on qualifications**

7. A prescribed qualification for a supervisor may relate to all types of work which may fall to be done by a supervisor, or may be restricted to some types of that work and the requirements of section 67 of the Act shall be deemed to be satisfied only in relation to the types of work to which that qualification relates.

8. A prescribed qualification for a trained operative may relate to all types of work which may fall to be done by a trained operative, or may be restricted to some types of that work and the requirements of section 67 of the Act shall be deemed to be satisfied only in relation to the types of work to which that qualification relates.

### **Expiry of registration, reassessment and re-registration**

9.—(1) A certificate mentioned in regulation 4 or regulation 5 shall cease to be registered on the expiry of five years from the date of registration.

(2) Subject to paragraph (5), a certificate 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 6 months prior to and no later than five years after the expiry of the previous registration and that application is accompanied by the relevant reassessment certificate of competence.

(3) A supervisor has a reassessment certificate for a particular type of supervisory work if an approved body has issued that supervisor with a certificate showing that the supervisor has been assessed by an approved assessment centre as having achieved the relevant reassessment unit of competence as set out in Schedules 7 and 8.

(4) A trained operative has a reassessment certificate for a particular type of work if an approved body has issued that trained operative with a certificate showing that the trained operative has been assessed by an approved assessment centre as having achieved the relevant reassessment unit of competence as set out in Schedules 5 and 6.

(5) For a period of [X] months to expire 1 April 2010 starting on [coming into force date] 2008 a person may re-register a certificate referred to in paragraph (2) without it being accompanied by the relevant reassessment certificate.

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Minister of State  
Department for Transport

## SCHEDULE 1

### Units of Competence for Trained 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.

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## SCHEDULE 2

### Certificates of Competence for Trained Operatives

<b>Type of Work</b>	<b>Units of Competence Required</b>
1. Excavation in the highway.	Units 1,2 and 3
2. Excavation, backfilling and reinstatement of construction layers with a cold-lay bituminous surface.	Units 1,2,3,4,5 and 6
3. Reinstatement of construction layers in hot-lay and cold-lay bituminous materials.	Units 1,2,6 and 7
4. Reinstatement of concrete slabs.	Units 1,2 and 8.
5. Reinstatement of modular surfaces and concrete footways.	Units 1,2 and 9
6. Signing, lighting and guarding.	Unit 2

## SCHEDULE 3

### Units of Competence for Supervisors

Unit 1	Location and avoidance of underground apparatus.
Unit 10	Monitoring signing, lighting and guarding.
Unit 11	Monitoring excavation in the highway.
Unit 12	Monitoring reinstatement and compaction of backfill materials.
Unit 13	Monitoring reinstatement of sub-base and roadbase in non-bituminous materials.
Unit 14	Monitoring reinstatement in bituminous materials.
Unit 15	Monitoring reinstatement of concrete slabs.
Unit 16	Monitoring reinstatement of modular surfaces and concrete footways.

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## SCHEDULE 4

### Certificates of Competence for Supervisors

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<b>Type of Supervisory Work</b>	<b>Units of Competence Required</b>
1. Monitoring excavation in the highway.	Unit 1,10, 11
2. Monitoring excavation, backfilling and reinstatement of construction layers with bituminous materials.	Units 1, 10,11,12, 13 and 14.
3. Monitoring reinstatement of construction layers in bituminous materials.	Units 1, 10 and 14.
4. Monitoring reinstatement of concrete slabs.	Units 1,10 and 15.
5. Monitoring reinstatement of modular surfaces and concrete footways.	Units1, 10 and 16.
6. Monitoring signing, lighting and guarding.	Unit 10

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## SCHEDULE 5

### Reassessment Units of Competence for Trained Operatives

Unit 1	Reassessed Location and avoidance of underground apparatus
Unit 2	Reassessed Signing, lighting and guarding
Unit 3	Reassessed Excavation in the road
Unit 4	Reassessed Reinstatement and compaction of backfill materials
Unit 5	Reassessed Reinstatement of sub-base and roadbase in non-bituminous materials
Unit 6	Reassessed Reinstatement in cold-lay bituminous materials
Unit 7	Reassessed Reinstatement in hot-lay bituminous materials
Unit 8	Reassessed Reinstatement of concrete slabs
Unit 9	Reassessed Reinstatement of modular surfaces and concrete footways

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## SCHEDULE 6

### Reassessment Certificates of Competence for Trained Operatives

<b>Type of Work</b>	<b>Units of competence required</b>
1. Reassessed Excavation in the Road	Reassessed Units 1,2 and 3
2. Reassessed Excavation, backfilling and reinstatement of construction layers with a cold-lay bituminous surface	Reassessed Units 1,2,3,4,5 and 6
3. Reassessed Reinstatement of construction layers in hot-lay and cold-lay bituminous materials.	Reassessed Units 1,2,6 and 7
4. Reassessed Reinstatement of concrete slabs	Reassessed Units 1,2 and 8
5. Reassessed Reinstatement of modular surfaces and concrete footways.	Reassessed Units 1,2, and 9
6. Reassessed Signing, lighting and guarding.	Reassessed Unit 2

## SCHEDULE 7

### Reassessment Units of Competence for Supervisors

Unit 1	Reassessed Location and avoidance of underground apparatus
Unit 10	Reassessed Monitoring signing, lighting and guarding
Unit 11	Reassessed Monitoring excavation in the road
Unit 12	Reassessed Monitoring reinstatement and compaction of backfill materials
Unit 13	Reassessed Monitoring reinstatement of sub-base and roadbase in non-bituminous materials
Unit 14	Reassessed Monitoring reinstatement in bituminous materials
Unit 15	Reassessed Monitoring reinstatement of concrete slabs
Unit 16	Reassessed Monitoring reinstatement of modular surfaces and concrete footways

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## SCHEDULE 8

### Reassessment Certificates of Competence for Supervisors

<b>Type of Supervisory Work</b>	<b>Units of competence required</b>
1. Reassessed Monitoring excavation in the road	Reassessed Units 1, 10 and 11
2. Reassessed Monitoring excavation, backfilling and reinstatement of construction layers with bituminous materials	Reassessed Units 1, 10, 11, 12, 13 and 14
3. Reassessed Monitoring reinstatement of construction layers in bituminous materials	Reassessed Units 1,10 and 14
4. Reassessed Monitoring reinstatement of concrete slabs	Reassessed Units 1,10 and 15
5. Reassessed Monitoring reinstatement of modular surfaces and concrete footways	Reassessed Units 1, 10 and 16
6. Reassessed Monitoring signing, lighting and guarding	Reassessed Unit 10

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations prescribe the qualifications needed for the type of work being executed by supervisors (regulation 4) and trained operatives (regulation 5), one of each of whom is required by section 67(1) and 67(2) of the New Roads and Street Works Act 1991 (subject to exceptions) to supervise or be on sites at all times when an undertaker executes road works involving, in each case both supervisors and trained operatives, breaking up the road, or any sewer, drain, or tunnel under it, or tunnelling or boring under the road and, in the case of trained operatives, opening the road. They revoke and replace the Road Works (Qualification of Supervisors and Operatives) Regulations 1992 with respect to England.

A supervisor or a trained operative has a prescribed qualification if an approved body has issued that supervisor or trained operative with a certificate of competence showing that they have been assessed as having achieved the relevant units of competence for the work being executed as set out in Schedules 1 and 2 (trained operative) and Schedules 3 and 4 (supervisors). Provision is made for the recognition of equivalent qualifications obtained in a relevant State (regulation 5). Regulation 6 prescribes the City and Guilds of London Institute, the Scottish Qualifications Authority and the CABWI as the approved bodies for the issuing of certificates of competence and provides that the Scottish Qualifications Authority is the approved registration body to keep the register of certificates. Regulation 6(4) provides that the Secretary of State may withdraw approval from a named body if it fails satisfactorily to discharge its functions.

Regulation 7 and 8 provide that prescribed qualifications may relate to all or any types of work to be done by a supervisor or trained operative. Regulation 9(2) provides that a registration expires after 5 years, but that the supervisor or trained operative may be re-registered for further successive periods of 5 years provided the application is accompanied by the relevant reassessment certificate (Schedules 5 and 6 (operative) and Schedules 7 and 8 (supervisor)).