
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 59

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 and shall come into force on 1st April 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the 1970 Act” means the Chronically Sick and Disabled Persons Act 1970;

“the 1982 Regulations” has the meaning given by regulation 3(1);

“the 1984 Act” means the Road Traffic Regulation Act 1984(1);

“disabled person” means a person more than 2 years old and falling within at least one of the prescribed descriptions in regulation 4;

“disabled person’s badge” means a badge in the form prescribed by regulation 11 issued by a local authority for display on a motor vehicle driven by a disabled person, or used for the carriage of a disabled person, and includes a replacement badge issued in accordance with regulation 7;

“disabled person’s concession” has the meaning given by section 117(3) of the 1984 Act;

“holder”, in relation to a disabled person’s badge, means the individual or institution to whom a disabled person’s badge was issued;

“institution” means an institution concerned with the care of disabled persons to which a disabled person’s badge may be issued in accordance with section 21(4) of the 1970 Act;

“individual’s badge” means a disabled person’s badge issued to an individual disabled person;

“institutional badge” means a disabled person’s badge issued to an institution;

“issuing authority”, in relation to a disabled person’s badge, means the local authority which issued the badge; and

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(2).

(1) 1984 (c. 27).

(2) 1994 (c. 39).

(2) In these Regulations a reference to an order made under any provision of the 1984 Act is to an order made, or having effect as if made, under that provision including an order varying or revoking an order made or having effect as if made under that Act.

(3) In these Regulations “relevant conviction” means—

(a) any conviction of—

(i) the holder of a disabled person’s badge; or

(ii) any other person using such a badge with the holder’s consent;

for an offence specified in paragraph (4); or

(b) any conviction of a person other than the holder of a disabled person’s badge of an offence under section 117(1) of the 1984 Act where the badge was displayed on the vehicle with the consent of the holder at any time during which the offence was being committed.

(4) The offences mentioned in paragraph (3)(a) are—

(a) any offence under section 5, 8, 11 or 16(1) of the 1984 Act so far as it relates to any contravention of or failure to comply with any provision of an order made under section 1, 6, 9 or 14 of that Act—

(i) prohibiting or restricting the waiting of vehicles on any road; or

(ii) relating to any of the matters mentioned in paragraph 7 or 8 of Schedule 1 to that Act; or

(b) any offence under section 35A(1) and (2), 47(1), 53(5), 53(6) or 117(1) of that Act.

(5) Any notice given under these Regulations shall be in writing.

Amendment of 1982 Regulations and transitional provisions

3.—(1) In the Disabled Persons (Badges for Motor Vehicles) Regulations 1982⁽³⁾ (in these Regulations called “the 1982 Regulations”), after regulation 2 there shall be inserted the following regulation—

“Extent

2A. These Regulations shall not apply to Scotland.”

(2) Without prejudice to section 17 of the Interpretation Act 1978⁽⁴⁾—

(a) any application made to, or other thing done under, the 1982 Regulations before the coming into force of these Regulations by or in relation to a local authority shall have effect as if made or done, and may be continued, under the corresponding provision of these Regulations;

(b) any badge issued by a local authority under the 1982 Regulations shall have effect as if issued under these Regulations and shall remain in force until—

(i) the happening of an event specified in regulation 9(1) or the giving of a notice in accordance with regulation 9(2); or

(ii) the issue of a replacement in accordance with regulation 7.

(3) Any order made under the 1984 Act which refers to a disabled person’s badge shall, in relation to times falling after the coming into force of these Regulations, have effect as if the reference included a reference to a badge issued, or having effect as if issued, in accordance with these Regulations.

⁽³⁾ S.I.1982/1740, amended by S.I. 1991/2708, and 1992/200.

⁽⁴⁾ 1978 (c. 30).

PART II

ISSUE, DURATION AND REVOCATION OF BADGES

Descriptions of disabled persons

4.—(1) The prescribed descriptions of disabled person to whom a local authority may issue a disabled person's badge are a person who is more than 2 years old who falls within one or more of the descriptions specified in paragraph (2).

(2) The descriptions are a person who—

- (a) receives the higher rate of the mobility component of the disability living allowance in accordance with section 73 of the Social Security Contributions and Benefits Act 1992⁽⁵⁾;
- (b) uses a motor vehicle supplied by the Scottish Executive or the Department of Social Security or is in receipt of a grant pursuant to section 5(2)(a) of the National Health Service Act 1977⁽⁶⁾ or section 46 of the National Health Service (Scotland) Act 1978⁽⁷⁾;
- (c) is a blind person within the meaning of section 64(1) of the National Assistance Act 1948⁽⁸⁾ or is registered as blind under section 29(4)(g) of that Act;
- (d) receives a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽⁹⁾ including such a supplement by virtue of any scheme or order under article 25A of the Personal Injuries (Civilians) Scheme 1983⁽¹⁰⁾;
- (e) drives a motor vehicle regularly, has a severe disability in both upper limbs and is unable to turn by hand the steering wheel of a motor vehicle even if that wheel is fitted with a turning knob; or
- (f) has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

Institutional badges

5. An institutional badge may be issued to an institution for a motor vehicle when the vehicle is to be used to carry disabled persons as specified in regulation 4(2).

Fee for issue and period of issue of a badge

6.—(1) The fee (if any) which a local authority may charge for the issue of a disabled person's badge is a fee not exceeding £2.

(2) Subject to regulations 7(2) and 9, a disabled person's badge shall be issued for a period of three years beginning with the date of issue.

(5) 1992 (c. 4).

(6) 1977 (c. 49).

(7) 1978 (c. 29).

(8) 1948 (c. 29).

(9) S.I. 1983/883; amended by S.I. 1983/1116 and 1521, 1984/1154 and 1687, 1985/1201, 1986/592, 1988/248 and 2248, 1989/156, 1990/250 and 1308, 1991/766, 1992/710 and 3208, 1993/598, 1994/772 and 1906, 1995/766, 1996/732, 1638 and 2282, 1997/286.

(10) S.I. 1983/686; amended by S.I. 1983/1164, and 1540, 1984/1289 and 1675, 1985/1313, 1986/628, 1987/191, 1988/367 and 2260, 1989/415, 1990/535 and 1300, 1991/708, 1992/702 and 3226, 1993/480, 1994/715 and 2021, 1996/445, 1996/502, 1997/812, 1998/278.

Replacement badges

7.—(1) When a disabled person’s badge (“the original badge”) has been lost, stolen or destroyed, or has become so damaged or faded as no longer to be adequately legible when displayed on a vehicle, a replacement badge may be issued with the word “duplicate” marked on the front.

(2) A replacement badge shall be valid from the date of issue until such time as the original badge would have ceased to be valid.

Grounds for refusal to issue a badge

8.—(1) A local authority may refuse to issue a badge on any of the grounds specified in paragraph (2).

(2) The grounds are—

- (a) the applicant holds or has held a badge issued under these Regulations or under the 1982 Regulations and misuse has led to at least three relevant convictions;
- (b) the applicant fails to provide the local authority with adequate evidence—
 - (i) in the case of an individual, that he is a person to whom one of the descriptions prescribed by regulation 4 applies; or
 - (ii) in the case of an institution, that it is an institution eligible to apply for a disabled person’s badge in accordance with regulation 5;
- (c) the applicant fails to pay the fee (if any) chargeable for the issue of a badge; or
- (d) the local authority has reasonable grounds for believing that the applicant—
 - (i) is not the person that he claims to be; or
 - (ii) would permit another person to whom the badge was not issued to display it on a motor vehicle.

(3) Where a local authority receives an application for a disabled person’s badge and refuses to issue one, it shall give the applicant particulars of the grounds of refusal in its notice of determination.

Return of badge to issuing authority

9.—(1) A disabled person’s badge shall be returned to the issuing authority immediately on the occurrence of any of the following events, namely—

- (a) the expiry of the period for which the badge was issued;
- (b) the death of the holder or, in the case of an institutional badge, the institution ceasing to exist;
- (c) the holder of the badge ceases to be a disabled person or, in the case of an institutional badge, the institution ceases to be eligible under regulation 5;
- (d) a replacement badge has been issued under regulation 7 to replace a lost or stolen badge and that badge is subsequently found or recovered;
- (e) the badge has become so damaged or faded as no longer to be adequately legible when displayed on a vehicle;
- (f) the badge ceases to be required by the holder.

(2) Subject to the provisions of regulation 10, a disabled person’s badge shall, within the prescribed period, be returned to the issuing authority if the authority gives to the holder a notice—

- (a) stating that the authority refuses to allow the badge to continue in use on account of its misuse leading to at least three relevant convictions and giving particulars of that misuse; or

- (b) stating that the authority is satisfied that the badge was obtained by false representation.
- (3) For the purposes of paragraph (2) the prescribed period is—
 - (a) where no appeal is made in accordance with regulation 10, the period of 28 days beginning with the day on which the notice under paragraph (2) was issued;
 - (b) where any appeal is made in accordance with regulation 10(1) and the appeal is not allowed and no further appeal is made under regulation 10(11), the period of 28 days beginning with the day on which the Scottish Ministers give notice of their determination of the appeal;
 - (c) where any appeal is made in accordance with regulation 10(11) and the appeal is not allowed, the period of 28 days beginning with the day on which the sheriff gives notice of his determination of the appeal.
- (4) The issuing authority may take such action as may be appropriate to recover a disabled person's badge which the holder is liable to return in accordance with this regulation.

Appeals

10.—(1) An applicant for a disabled person's badge whose application has been refused on the ground specified in regulation 8(2)(a) or the holder of a badge who has been required to return it in accordance with regulation 9(2) may appeal to the Scottish Ministers against the determination of the local authority in accordance with this regulation.

(2) The appeal shall be made by notice given within the period of 28 days beginning with the day on which the notice of the determination is given and the procedure specified in the following provisions of this regulation shall apply, except that, if the Scottish Ministers consider it appropriate in the circumstances of a particular case, they may determine an appeal even though the provisions of paragraphs (3) to (5) have not been complied with.

(3) The notice of appeal shall be dated and signed by the appellant (or by a person authorised to sign on his behalf) and shall state the grounds of appeal.

(4) The notice of appeal shall be served on the Scottish Ministers either by posting it in a prepaid envelope or by delivering it by hand to the Scottish Executive Development Department, Transport Division 2, Victoria Quay, Edinburgh EH6 6QQ.

(5) On receipt of the appeal the Scottish Ministers shall send a copy of it to the local authority against whose determination the appeal is made and, within the period of 28 days beginning with the date of the notice of appeal, the local authority shall send to the Scottish Ministers and the appellant—

- (a) a copy of the notice issued by it to the appellant in accordance with regulation 8(3) or 9(2); and
- (b) any representation that it wishes the Scottish Ministers to take into account in determining the appeal.

(6) The appellant may make representations by way of reply to any representations made by the local authority within the period of 28 days beginning with the date of those representations.

(7) Any representations made by the local authority or the appellant shall be dated and signed and submitted to the Scottish Ministers on the date they bear.

(8) The Scottish Ministers may in a particular case give directions setting later time limits than those prescribed by these Regulations.

(9) When the Scottish Ministers determine an appeal they shall—

- (a) give notice to the appellant of their determination and of the reasons for it; and
- (b) send a copy of the notice to the local authority.

(10) If the Scottish Ministers refuse an appeal and further appeal is not made under paragraph (11) the appellant shall return the disabled person's badge to the local authority within the time prescribed by regulation 9(3)(b).

(11) A person aggrieved by a notice given by the Scottish Ministers under paragraph (9) may, within the period of 28 days beginning with the day on which that notice is given, appeal under section 50 of the Sheriff Courts (Scotland) Act 1907(11) to the sheriff by way of summary application and the sheriff may confirm, vary or quash the notice as he thinks just, and make such order in the matter as he considers equitable, and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final.

(12) If the sheriff refuses an appeal the appellant shall return the disabled person's badge to the local authority within the time prescribed by regulation 9(3)(c).

(13) In this regulation references to representations include a reference to supporting documents.

PART III

FORM AND DISPLAY OF BADGES

Form of badge

11. A disabled person's badge is in the prescribed form if—
- (a) the front and reverse of the badge are in the form shown in—
 - (i) Part I of the Schedule to these Regulations in the case of an individual's badge; or
 - (ii) Part II of the Schedule in the case of an institutional badge, and
 - (b) the badge complies with the specifications in Part III of the Schedule.

Manner in which a badge is to be displayed

12. For the purposes of section 21(4A) of the 1970 Act a disabled person's badge is displayed on a vehicle in the prescribed manner if—

- (a) the badge is exhibited on the dashboard or fascia of the vehicle; or
- (b) where the vehicle is not fitted with a dashboard or fascia, the badge is exhibited in a conspicuous position on the vehicle,

so that the front of the badge is clearly legible from the outside of the vehicle.

Display of an individual's badge when a vehicle is being driven

13.—(1) This regulation prescribes for the purposes of section 21(4A) of the 1970 Act the circumstances in which an individual's badge may be displayed while a vehicle is being driven.

(2) An individual's badge may also be displayed on a vehicle while the holder is either driving or being carried in it.

- (3) An individual's badge may be displayed on a vehicle if—
- (a) the vehicle is being used for the collection of the holder and no other purpose;
 - (b) a disabled person's concession (other than a concession relating to parking) would be available to a vehicle lawfully displaying a disabled person's badge; and

- (c) it would not be practicable for the vehicle to be lawfully driven to, or to stop at, the place at which the holder is to be collected if the concession did not apply to the vehicle.
- (4) An individual's badge may be displayed on a vehicle if—
 - (a) the vehicle, after being driven by or carrying the holder, is leaving the place where he got out;
 - (b) a disabled person's concession (other than a concession relating to parking) is available to a vehicle lawfully displaying a disabled person's badge; and
 - (c) it would not have been practicable for the vehicle to have left that place if the concession did not apply to the vehicle.

Display of an individual's badge when a vehicle is parked

14.—(1) This regulation prescribes for the purposes of section 21(4A) of the 1970 Act the circumstances in which an individual's badge may be displayed while a vehicle is parked.

- (2) An individual's badge may be displayed on a vehicle while it is parked if it—
 - (a) has been driven by the holder, or has been used to carry the holder, to the place where it is parked; or
 - (b) is to be driven by the holder, or is to be used to carry the holder, from that place.

Display of institutional badge when a vehicle is being driven

15.—(1) This regulation prescribes for the purposes of section 21(4A) of the 1970 Act the circumstances in which an institutional badge may be displayed while a vehicle is being driven.

(2) An institutional badge may be displayed on a vehicle while it is being driven by or on behalf of the holder and is carrying a disabled person.

(3) An institutional badge may also be displayed on a vehicle while it is being driven by or on behalf of the holder and—

- (a) the vehicle is being used for the collection of a disabled person and for no other purpose;
- (b) a disabled person's concession (other than a concession relating to parking) is available to a vehicle lawfully displaying a disabled person's badge; and
- (c) it would not have been practicable for the vehicle to be lawfully driven to or to stop at the place at which the disabled person is to be collected if that concession did not apply to the vehicle.

(4) An institutional badge may also be displayed on a vehicle while it is being driven by or on behalf of the holder and—

- (a) the vehicle, after carrying a disabled person, is leaving the place where that person alighted from that vehicle;
- (b) a disabled person's concession (other than a concession relating to parking) is available to a vehicle lawfully displaying a disabled person's badge; and
- (c) it would not have been practicable for the vehicle to have left that place if the concession had not applied to the vehicle.

Display of an institutional badge when a vehicle is parked

16.—(1) This regulation prescribes for the purposes of section 21(4A) of the 1970 Act the circumstances in which an institutional badge may be displayed while a vehicle is parked.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) An institutional badge may be displayed on a vehicle while it is parked if it has been, or is to be, used by or on behalf of the holder for carrying a disabled person to or from the place where it is parked.

St. Andrew's House,
Edinburgh
9th March 2000

SARAH BOYACK
A member of the Scottish Executive