
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 59

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

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⁽¹⁾;
- (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⁽²⁾ or section 46 of the National Health Service (Scotland) Act 1978⁽³⁾;
- (c) is a blind person within the meaning of section 64(1) of the National Assistance Act 1948⁽⁴⁾ 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⁽⁵⁾ including such a supplement by virtue of any scheme or order under article 25A of the Personal Injuries (Civilians) Scheme 1983⁽⁶⁾;
- (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.

(1) 1992 (c. 4).

(2) 1977 (c. 49).

(3) 1978 (c. 29).

(4) 1948 (c. 29).

(5) 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.

(6) 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.

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.

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(7) 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.