

Executive Note
The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations
2007

(S.S.I. 2007/162)

The above instrument was made in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970 Act.. The instrument amends the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 (SSI 2000/59). The instrument is subject to negative resolution procedure in the Scottish Parliament.

Policy Objectives

The purpose of this instrument is to:-

- ◆ Remove the spent eligibility criteria relating to people supplied with a vehicle at public expense or in receipt of a grant pursuant to section 5(2)(a) of the NHS Act 1977 (regulation 5(3)(b));
- ◆ Extend the eligibility criteria to cover certain disabled people currently excluded from the Blue Badge Scheme (regulation 5);
- ◆ Re-define the issue period for a Badge (regulation 7(3));
- ◆ Increase the maximum fee that a local authority may charge for issuing a Badge from £2 to £20 (regulation 7(2)); and
- ◆ Update terminology in the Principal Regulations and the wording on the Badge, including the addition of a security device (regulations 3, 6, 8 to 11 and the Schedule).

Consultation

A consultation exercise was carried out between the 6 October and 29 December 2006. 114 bodies were consulted including local authorities and disabled groups. 33 responses were received.

Financial Effects

The instrument has minimum start up costs associated with the changes on the Scottish Executive. Any costs to Local Authorities should be absorbed by their existing training budget. A Regulatory Impact Assessment has been prepared for the instrument and is attached.

Scottish Executive
Education, Transport & Lifelong Learning Department
February 2007

Regulatory Impact Assessment (RIA)

1. Title of proposal

1.1 The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007

2. Purpose and intended effect of measure

Objectives

2.1 This RIA covers a proposal to amend The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 (the 2000 Regulations) made under Section 21 of the Chronically Sick and Disabled Person's Act 1970 Act (1970 Act). That section of the 1970 Act provides for a disabled persons' parking badge scheme (known as the Blue Badge Scheme).

2.2 The SSI will come into force on 1st April 2007.

2.3 The changes proposed:

- will remove the spent eligibility criteria relating to people supplied with a vehicle at public expense or in receipt of a grant pursuant to section 5(2)(a) of the NHS Act 1977;
- will extend the eligibility criteria to cover certain disabled people currently excluded from the Blue Badge Scheme (see details on p. 3);
- will re-define the issue period for a badge;
- will increase the badge fee; and
- will update the wording on the badge, including the addition of a security device.

3. The amending Regulations will:

- i) deliver the Executive's commitment to ensure that the Scheme continues to benefit those disabled people with the greatest mobility problems;
- ii) widen the eligibility criteria to enhance the benefits of the Scheme to those who fall into particular groups;
- iii) help to reduce abuse of blue badges by providing an additional security device to the badge so making it more difficult to forge; and
- iv) help to ensure that the Scheme remains credible, available and beneficial to those with the greatest mobility needs who are most in need of the concessions provided through it while seeking to prevent improper use.

There are no significant costs associated with the proposals, subject to the minimal costs involved of re-designing the badge. They are expected to be non-controversial and generally supported.

4. These changes will go some way towards meeting the concerns of badge holders, organisations representing disabled people and enforcement and issuing authorities about the number of badges on issue and perceived and actual abuse of the Scheme. The proposed measures will ensure that the Scheme remains credible, available and beneficial to those with mobility needs who are most in need of the concessions provided through it. Changes to the badge will aid enforcement which is a key element to the success of the Scheme. The Executive believes that these measures will contribute to an improved and less abused Scheme.

Background

General

5. The Blue Badge Scheme was established in 1971 to provide a national arrangement of on-street parking concessions for people with severe walking difficulties or the most severe upper limb disabilities, and for those who are registered blind.

Review of the Scheme and recommendations

A review was announced in November 1999 with the aim of ensuring the Scheme continued to benefit those disabled people with the greatest mobility problems. This followed pressure from a number of disability organisations including the Disabled Persons' Transport Advisory Committee (DPTAC), the statutory advisers on the transport needs of disabled people in England, to review the Scheme given the significant increase in the number of badges on issue in recent years and perceived abuse of the Scheme.

The review was completed in December 2002 with the acceptance by Scottish Ministers of the majority of the 47 recommendations made by DPTAC. The conclusion of the review had been long awaited by the main disability organisations and other stakeholders.

Revoking spent eligibility criteria relating to the provision of vehicles or grants towards vehicles

The 2000 Regulation (Regulation 4(2)(b)) provide for eligibility for a blue badge for people who have been supplied with a motor vehicle, or a grant towards a motor vehicle, by a Government Health Department (the original wording in the regulations refers to the Department for Social Security). These criteria apply to the Invalid Vehicle Scheme (IVS), also known as the "blue trike" scheme.

The IVS was officially closed on the 31 March 2003, and the last vehicle was withdrawn in December 2004. It is therefore sensible to revoke the spent provision in the Amendment Regulations. The Department of Health have confirmed that they are content for us to proceed with this course of action.

Extending Eligibility:

6. Eligibility for children under two years

The rule excluding children under the age of two from the Scheme was introduced in 1983 on the grounds that disabled children below this age could reasonably be carried in a pram or pushchair in much the same way as non-disabled children of a similar age.

Since that time there has been strong representation from parents with children under two who, on account of their particular medical condition, need to travel with bulky medical equipment and need to be able to access that equipment without unreasonable difficulty, or need to be able to use the vehicle for treatment or to travel to a place for treatment.

In the review it was accepted that this small number of children (estimated to be around 12,000) should be brought within the Scheme. Regulation 5 of these Regulations amends regulation 4 of the 2000 Regulations to this effect.

Temporary mobility impairment

7. Under the 2000 Regulations (Regulation 4(2)(f)) badges can only be issued under the so-called "discretionary criterion" to those who have "a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking".

Over the years pressure has mounted for the Scheme to include people with temporary mobility impairments. That position was supported in the recent review and subsequently recommended by DPTAC. Regulation 5(2) of these Regulations accordingly amends the 2000 Regulations so as to include only those people with a temporary mobility impairment which makes it impossible or unreasonably difficult for them to walk, and which is likely to do so for a period of at least 12 months.

Period of Issue

Currently badges can only be issued for a period of 3 years (Regulation 6(2)).

8. Regulation 7(3) amends regulation 6(2) of the 2000 Regulations so that, where entitlement for a blue badge is linked to the Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA), the period of issue is linked to receipt of that allowance.

The minimum period for an award of HRMCDLA is six months. Under the 2000 Regulations the local authority can only issue a badge for a minimum of 3 years. This creates an anomaly where someone whose disability lasts for less than 3 years could still be enjoying the concessions of the Scheme beyond the period of their benefit.

The amendment allows local authorities to be able to link the period of issue of a badge to the period of receipt of the HRMCDLA where that period is less than 3 years. In all other cases, including where HRMCDLA has been granted for life, three-year period of issue will be retained as the maximum.

Fee

9. At present, the 2000 Regulations (Regulation 6) prescribe a maximum fee of £2, which most issuing authorities regard as wholly insufficient to cover the costs of administering the scheme.

In Scotland, we intend to place an upper limit of a £20 fee for all Badges. We intend to ensure that this £20 fee upper limit is at the discretion of local authorities. The current recommended fee is £2.

Hologram and additional/revised wording

10. Regulation 10 amends and the Schedule of the 2000 Regulations which prescribes the form of the badge.

During the changeover from orange to blue badges the Department for Transport (DfT) was advised that a hologram would provide little value to the overall security of the new blue badge because it would be encapsulated and subsequently placed behind a windscreen, thereby placing two additional layers between the viewer and image. As a result, the use of the hologram was withdrawn. However, with the introduction of the power for police and parking enforcement officers to inspect badges, reinstatement of the hologram on the front of the badge would now add value to security and help prevent forgeries.

Many badge holders are failing to display their badges correctly and are incurring parking fines as a result. The guidance given in the Scottish Executive's advisory leaflet on the Scheme stresses that badges must be displayed on top or at the windscreen inside the vehicle with the front of the badge (i.e. the side showing the wheelchair symbol) facing forward, so that the expiry date is legible from outside the vehicle when using the parking benefits. Nevertheless, there appears to be confusion over which is the front and which is the back of the badge and those incurring fines are displaying their badges with the back of the badge uppermost.

The proposal is to include additional wording (e.g. the words "Front - Display this side up") on the badge to alleviate this problem.

It is also proposed that the wording "Parking Card for People with Disabilities" at the top right-hand corner of the badge be replaced with "Parking Card for Disabled People". Given that there is no common term in use across Europe, this would be an ideal opportunity to amend the out-of-date terminology shown on the card.

Regulation 10 provides that the introduction of the new form of badge does not affect the validity of badges already issued and consequently has effect to phase in the "new" badges as they come up for renewal, or new applications are processed, over 3 years from the date the amendment regulations come into force. This is consistent with the phasing in of the blue badge in April 2000.

Devolved Administrations

11. Responsibility for the Scheme is devolved. The Scheme is operated in England by County, Metropolitan District, London borough and Unitary Councils and in Wales and

Scotland by Unitary Councils. Northern Ireland's scheme is subject to separate legislation from the rest of the UK and is administered by the Department for Regional Development.

The Department for Transport and the Department for Regional Development Northern Ireland propose to effect these changes separately in their legislation.

Rationale for government intervention

12. The amendment of the eligibility criteria, to include eligible children under two and people with temporary mobility impairments will ensure that blue badges go to those people who most need the parking benefits available under the Scheme.

In the absence of these measures, the mobility of these disabled people would be adversely affected.

Linking the issue of a badge to the period of the temporary mobility impairment or the period in receipt HRMCDLA would reduce the risk of abuse of the Scheme, where a badge was still in circulation although the holder no longer qualified for it.

Changes to the design of the badge will also aid enforcement of the Scheme, which will help protect the integrity of the Scheme and be of direct benefit to the 2.3 million badge holders, of which some 242,000 are in issue in Scotland.

It is recognised that an increase to the fee for the badge will not be universally welcomed by badge holders. It is considered necessary to allow issuing authorities to re-coup some of their administrative costs. The £2 fee has applied since 1983 and it is estimated, allowing for inflation, that this equates to approximately £20 today.

Impact on Industry

These proposals have no impact on industry

Impact on public sector delivery

13. The proposed changes will not have a significant effect on local authorities who are already responsible for assessing applications and issuing badges, and with the police and traffic wardens who enforce the Scheme.

However, it is acknowledged that the change in the eligibility criteria to include children under two and those with temporary mobility impairment, will increase the number of applications. But this increase is not expected to be significant.

The cost of the new style of badge is expected to be broadly similar to the current one.

The proposal to increase the fee for a badge will go some way towards re-couping the local authorities' costs of administering the Scheme.

Consultation

Within Government

14. Consultation on the proposal has taken place within Scottish Executive Transport Divisions with an interest. The proposal has been cleared by the Minister for Public Consultation

- i) The changes to the eligibility criteria and the design of the badge were recommendations following a wide public consultation which formed part of the review of the Blue Badge Scheme in 2002. Responses to that consultation were largely in favour of introducing these changes.
- ii) Although covered in the review of the Scheme, a change to the fee for a badge was not a DPTAC recommendation, but broadly reflects the flavour of other respondents.

Options

Option 1: *Do nothing*

15. Disabled people who currently fall outside the eligibility criteria for the Scheme will continue to have their mobility adversely affected.

The Scheme's long-term feasibility and reputation is severely threatened if effective enforcement of the Scheme is not in place.

Option 2: *Amend the legislation*

16. This would actively demonstrate the Executive's commitment to disabled people by ensuring that the Scheme continues to benefit those with the greatest mobility problems.

The Executive propose that the best course of action to ensure the mobility of disabled people is guaranteed is to pursue Option 2. The RIA is based on pursuit of that option.

Sectors and Groups affected

17. Those affected by the proposals include:

- All local authorities in Scotland
- Traffic enforcers
- Police Departments
- Local Authority car park attendants
- Children under 2 years and their parents/carers
- People with temporary mobility impairments

Benefits

18. This proposal represents positive action undertaken to reinforce the independent mobility needs of disabled people and, on a more general basis, emphasise the importance of

the needs of disabled people. Improving the design of the badge to aid enforcement helps to safeguard the integrity of the Scheme and ensure that the benefits continue to be available to those disabled people with the greatest mobility difficulties.

Economic

See section above on impact on public sector delivery.

Environmental

There are no environmental benefits associated with these proposals.

Social

19. The amendment of the eligibility criteria, to include eligible children under two and people with temporary mobility impairments, will improve the quality of life for those disabled people who had previously been excluded from the Scheme and therefore denied access to the parking benefits available under it.

The changes to the design of the badge will discourage the misuse of badges and should have a positive effect on blue badge related crime.

Costs

Economic

20. Local authorities have a statutory obligation to administer the Scheme and powers exist under current legislation to tackle abuse. The change in the eligibility criteria may require some further training and/or guidance for issuing officers and can be carried out as part of the ongoing training programme and is therefore likely to be absorbed by existing training budgets.

The Scottish Executive will fund and produce comprehensive guidance on the Scheme and this will include specific guidance on the change in eligibility criteria and design of the badge for issuing local authorities, the police, traffic wardens, and local authority parking attendants.

The change to the design of the badges would be phased in as badges were renewed or new applications were considered. There would therefore be minimal costs associated with the change.

Environmental

There are no environmental costs associated with these proposals.

Social

There are no social costs associated with these proposals.

Equity and Fairness

21. The Blue Badge Scheme is open to all permanent residents of the UK who are entitled to apply for a badge. The Scheme is designed specifically to prevent disabled people being discriminated against by allowing them to access services that would otherwise be impossible for them to use by parking in close proximity to them.

It is the Executive's expressed policy to achieve comprehensive civil rights for disabled people. The Executive is also committed to ensuring that disabled people have equality of opportunity. An essential part of this policy is to enable disabled people to continue to park close to the places they wish to visit. The Scottish Executive is committed to ensure that the Blue Badge Scheme continues to benefit those disabled people who most need the parking benefits.

Consultation with small business: the 'Small Firms' Impact Test

A Small Firms Impact Test has not been carried out as the proposals are not anticipated to have any impact on small businesses. However we would welcome comments from any small business on possible impacts.

Test run of business forms

There are no statutory business forms introduced by these rules.

Competition Assessment

These proposals have no impact on business there is no impact on competition.

Enforcement, sanctions and monitoring

22. The proposal will aid the enforcement of the Blue Badge Scheme so that the concessions are available to those who most need the benefits. The current Power to Inspect legislation came into force on 1 January 2004 updating Section 73 of Transport Scotland Act 2001. This is going some way in tackling perceived abuse of the Scheme, and making people more aware of their duties. It includes a provision to give police, traffic wardens, local authority parking attendants and civil enforcement officers the power, when carrying out their other parking enforcement functions, to require an occupant of a vehicle or anyone who they consider may be returning to or leaving a vehicle displaying the blue badge, to produce the badge for inspection.

In the short-term, the effectiveness of the proposals will be monitored through correspondence received by, and representations made to the Scottish Executive. Consideration will be given to carrying out a formal assessment of the impact through the Executive's research programme.

Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

**Tavish Scott
Minister for Transport**

Date

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