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WELSH STATUTORY INSTRUMENTS

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**2000 No. 1786**

**The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000**

**PART II**

**ISSUE, DURATION AND REVOCATION OF BADGES**

**Descriptions of disabled persons**

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

(2) The descriptions are a person who —

- (a) receives a 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 Department of Social Security or the Scottish Executive 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 registered as blind under section 29(4)(g) of the National Assistance Act 1948 (4) or, in Scotland, is a blind person within the meaning of section 64(1) 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 motor vehicles 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.

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(1) 1992 c. 4.

(2) 1977 c. 49.

(3) 1978 c. 29.

(4) 1948 c. 29.

(5) S.I. 1983/883, as amended by S.I. 1983/1116 and 1121, 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, and 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 and 502, 1997/812, and 1998/278.

### **Institutional badges**

5. An institutional badge may be issued by an authority 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) A local authority may not charge a fee of more than £2 for the issue of a disabled person's badge.

(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 of badges that have been lost etc**

7.—(1) When a disabled person's badge ("the original badge") has been lost, stolen or destroyed, or become so damaged or faded as no longer to be adequately legible when displayed on a motor vehicle, a badge may be issued in its place 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 or she is a person who fits one or more of the descriptions prescribed by regulation 4; 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 —
  - (i) that the applicant is not the person claimed to be; or
  - (ii) that the applicant would permit another person (to whom the badge was not issued) to display it on a motor vehicle.

(3) When 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 —

- (a) that the period for which the badge was issued has expired;
- (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 mutilated or faded as no longer to be clearly legible when displayed on a vehicle;
  - (f) the badge ceases to be required by the holder.
- (2) Subject to the provision 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 for 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) above was issued;
  - (b) where an appeal is made in accordance with regulation 10(1) and the appeal is not allowed, the period of 28 days beginning with the day on which the National Assembly gives notice of its 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 National Assembly 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 date 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 National Assembly considers it appropriate in the circumstances of a particular case, it 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 or her behalf) and shall state the grounds of appeal.

(4) The notice of appeal shall be served on the National Assembly either by posting it in a prepaid envelope or by delivering it by hand to the National Assembly for Wales, Cathays Park, Cardiff, CF10 3NQ.

(5) On receipt of the appeal the National Assembly 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 National Assembly —

- (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 National Assembly 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 signed and dated and submitted to the National Assembly on the date they bear.

(8) The National Assembly may in a particular case give directions setting later time limits than those prescribed by the Regulations.

(9) When the National Assembly determines an appeal it shall —

(a) give notice to the appellant of its determination and of the reasons for it; and

(b) send a copy of the notice to the local authority.

(10) If the National Assembly refuses an appeal, the appellant shall return the disabled person's badge to the local authority within the time prescribed by regulation 9(3)(b).

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