SCOTTISH STATUTORY INSTRUMENTS

2000 No. 59

ROAD TRAFFIC

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

Made - - - -	*9th March 2000*
Laid before the Scottish Parliament - - - -	*10th March 2000*
Coming into force - -	*1st April 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by section 21 of the Chronically Sick and Disabled Persons Act 1970(**1**) and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals in accordance with section 21(7E) of that Act, hereby make the following Regulations:

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);

(**1**) 1970 (c. 44); section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 30; by the Local Government (Scotland) Act 1973 (c. 65), Schedule 14; by the Transport Act 1982 (c. 49), section 68; by the Road Traffic Regulation Act 1984 (c. 27), Schedule 13, paragraph 11; by the Local Government Act 1985 (c. 51), Schedule 5; by the Road Traffic Act 1991 (c. 40), section 35, Schedule 8; by the Local Government (Wales) Act 1994 (c. 19), Schedule 10, paragraph 8; and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 86. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

"the 1984 Act" means the Road Traffic Regulation Act 1984(**2**);

"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(**3**).

(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.

(**2**) 1984 (c. 27).
(**3**) 1994 (c. 39).

Amendment of 1982 Regulations and transitional provisions

3.—(1) In the Disabled Persons (Badges for Motor Vehicles) Regulations 1982(**4**) (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(**5**)–

(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.

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(**6**);

(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(**7**) or section 46 of the National Health Service (Scotland) Act 1978(**8**);

(c) is a blind person within the meaning of section 64(1) of the National Assistance Act 1948(**9**) or is registered as blind under section 29(4)(g) of that Act;

(**4**) S.I.1982/1740, amended by S.I. 1991/2708, and 1992/200.
(**5**) 1978 (c. 30).
(**6**) 1992 (c. 4).
(**7**) 1977 (c. 49).
(**8**) 1978 (c. 29).
(**9**) 1948 (c. 29).

(d) receives a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(**10**) including such a supplement by virtue of any scheme or order under article 25A of the Personal Injuries (Civilians) Scheme 1983(**11**);

(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.

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–

(**10**) 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.

(**11**) 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.

(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