SCOTTISH STATUTORY INSTRUMENTS

2011 No. 410

ROAD TRAFFIC

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment (No. 2) Regulations 2011

Made - - - - 22nd November 2011

Laid before the Scottish Parliament 24th November 2011

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970(**a**) and all other powers enabling them to do so.

In accordance with section 21(7E)(**b**) of that Act they have consulted with the Administrative Justice and Tribunals Council.

Citation and commencement

1.—(1) These Regulations may be cited as the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment (No. 2) Regulations 2011 and subject to paragraph (2), come into force on 1st January 2012.

(2) The following paragraphs of regulation 2 come into force on 1st September 2012—

(a) paragraphs (2)(a)(iii) and (3)(b) to (d); and

(b) paragraph (5)(d).

Amendment of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000

2.—(1) The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000(**c**) are amended as follows.

(**a**) 1970 c.44; Section 21 was amended by the Local Government Act 1972 (c.70), Schedule 30; the Local Government (Scotland) Act 1973 (c.65), Schedule 14; the Transport Act 1982 (c.49), section 68; the Road Traffic Regulation Act 1984 (c.27), Schedule 13, paragraph 11; the Local Government Act 1985 (c.51), Schedule 5; the Road Traffic Act 1991 (c.40), section 35 and Schedule 8; the Local Government (Wales) Act 1994 (c.19), Schedule 10, paragraph 8; and the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 86; the Transport (Scotland) Act 2001 (asp 2), section 73; the Transport (Scotland) Act 2005 (asp 12), section 49; and the Tribunal, Court and Enforcement Act 2007 (c.15) section 41(1), Schedule 6 paragraph 2. The functions of the Secretary of State, in or as regards to Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(**b**) Section 21(7E) was inserted by the Transport Act 1982 (c.49), section 68 and amended by the Tribunals, Courts and Enforcement Act 2007 (c.15), Schedule 8, paragraph 2.

(**c**) S.S.I. 2000/59, amended by S.S.I. 2000/170, 2002/451, 2007/162 and 2011/89.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) omit the definition of "the 1982 Regulations";

(ii) after the definition of "the 1984 Act" insert—

""date of issue" means the date on which a disabled person's badge is first valid for use;" and

(iii) after the definition of "holder" insert—

""independent mobility assessor" means a person ("person A") who at the time of any assessment of another person ("person B") for the purposes of the certification referred to in regulation 4(2)(f) or (g)—

(a) is recognised by the local authority to which the application for a disabled person's badge is being made as—

(i) holding a professional qualification, the obtaining of which involved person A being trained in the assessment of a person's ability to walk; and

(ii) having the expertise necessary to assess on behalf of the local authority the ability to walk of person B;

(b) has never been employed or engaged as a provider of medical services to person B where "medical services" includes all forms of medical treatment and investigations to establish whether treatment is needed but does not include an assessment conducted to establish whether person B is eligible for services provided by a local authority (including the provision of a disabled person's badge); and

(c) is not, in the opinion of the local authority, precluded by reason of personal or commercial relationship with person B from providing an independent assessment of person B's ability to walk;";

(b) for paragraph (3) substitute—

"(3) In these Regulations "relevant conviction" means any conviction for an offence specified in paragraph (4) committed in relation to a disabled person's badge of—

(a) the holder of that badge; or

(b) any other person using that badge with the knowledge of the holder at any time during which the offence was being committed."; and

(c) for paragraph (4) substitute—

"(4) The offences mentioned in paragraph (3) are any offence—

(a) under section 21(4B)(**a**) of the 1970 Act;

(b) under section 115 or 117 of the 1984 Act; or

(c) involving dishonesty or deception under—

(i) any other provision of the 1970 Act, of the 1984 Act or of any other legislation; or

(ii) common law;

applicable in the United Kingdom, or any part of the United Kingdom.".

(**a**) Section 21(4B) was inserted by the Transport (Scotland) Act 2001 (asp 2), section 73.

(3) In regulation 4 (descriptions of disabled persons)—

(a) after paragraph (2)(d) insert—

"(da) has—

(i) received a lump sum benefit under article 15(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**a**) within tariff levels 1 to 8 (inclusive); and

(ii) been certified by the Secretary of State as having a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking;";

(b) in paragraph (2)(f) for "is" substitute "subject to paragraph (3A), has been certified by an independent mobility assessor as being";

(c) in paragraph (2)(g) for "is" where it first occurs, substitute "subject to paragraph (3A), has been certified by an independent mobility assessor as being"; and

(d) after paragraph (3) insert—

"(3A) A person is to be deemed to be within the description set out in paragraph (2)(f) or (2)(g) in the absence of the certification otherwise required if, in the opinion of the local authority to which the application for a disabled person's badge is being made, it is self evident by reason of the information the authority has about the person that the person has a permanent and substantial disability or a temporary and substantial disability which renders the person unable to walk or virtually unable to walk.".

(4) In regulation 7 (replacement badges) in paragraph (1)—

(a) after "vehicle" insert "or as otherwise prevents it from being identified correctly or distinguished from a forgery";

(b) for "with the word "duplicate" marked on the front" substitute "in a form which identifies by consecutive numbering each successive badge issued to that disabled person or organisation (as the case may be) by the issuing authority".

(5) In regulation 8 (grounds for refusal to issue a badge)—

(a) in paragraph (2)(a)—

(i) omit "or under the 1982 Regulations"; and

(ii) for "at least three relevant convictions" substitute "a relevant conviction";

(b) in paragraph (2)(b)(i) after "applies" insert "or that he is resident in the area of that local authority";

(c) after paragraph (2)(b) insert—

"(ba) the applicant already holds a valid badge which has been issued by another issuing authority;"; and

(d) after paragraph (2)(c) insert—

"(ca) in the case of an application made pursuant to regulation 4(2)(f) or (g), a report by an independent mobility assessor stating that one of the criteria specified in those provisions is satisfied has not been made available to the local authority in a form satisfactory to the local authority;".

(6) In regulation 9 (return of badge to issuing authority)—

(a) at the end of paragraph (1)(e) insert "or has suffered any other damage which otherwise prevents it from being identified correctly or distinguished from a forgery";

(b) at the end of paragraph (1)(f) insert "or another valid badge is issued to the holder by another issuing authority";

(**a**) S.I. 2011/517, to which there are amendments not relevant to these Regulations.

(c) in paragraph (2)(a) for "at least three relevant convictions" substitute "a relevant conviction"; and

(d) at the end of paragraph (2)(b) insert "or that the holder has purported to transfer the badge to another person".

(7) In regulation 10 (appeals) omit paragraph (4).

(8) For regulation 11 (form of badge) substitute—

"Form of Badge

11.—(1) Paragraph (2) applies in respect of a badge with a date of issue before 1st January 2012 and paragraph (3) applies in respect of a badge with a date of issue on or after that date.

(2) 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 in the case of an individual's badge; or

(ii) Part II of the Schedule in the case of an organisational badge; and

(b) the badge complies with the specifications in Part III of the Schedule.

(3) 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 IA of the Schedule in the case of an individual's badge (with the omission of the word "sample" where it appears); or

(ii) Part IIA of the Schedule in the case of an organisational badge (with the omission of the word "sample" where it appears); and

(b) the badge complies with the specifications in Part IIIA of the Schedule.".

(9) In the Schedule—

(a) in Part I (Individual's Badge), after the heading "Form of Individual's Badge", insert "(with a date of issue before 1st January 2012)";

(b) after Part I, insert Part IA as set out in Schedule 1 to these Regulations;

(c) in Part II (Organisational Badge), after the heading "Form of Organisational Badge", insert "(with a date of issue before 1st January 2012)";

(d) after Part II, insert Part IIA as set out in Schedule 2 to these Regulations;

(e) in Part III (Specifications for Badge), after the heading "Specifications for the Badge", insert "(with a date of issue before 1st January 2012)"; and

(f) after Part III, insert Part IIIA as set out in Schedule 3 to these Regulations.

KEITH BROWN
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
22nd November 2011

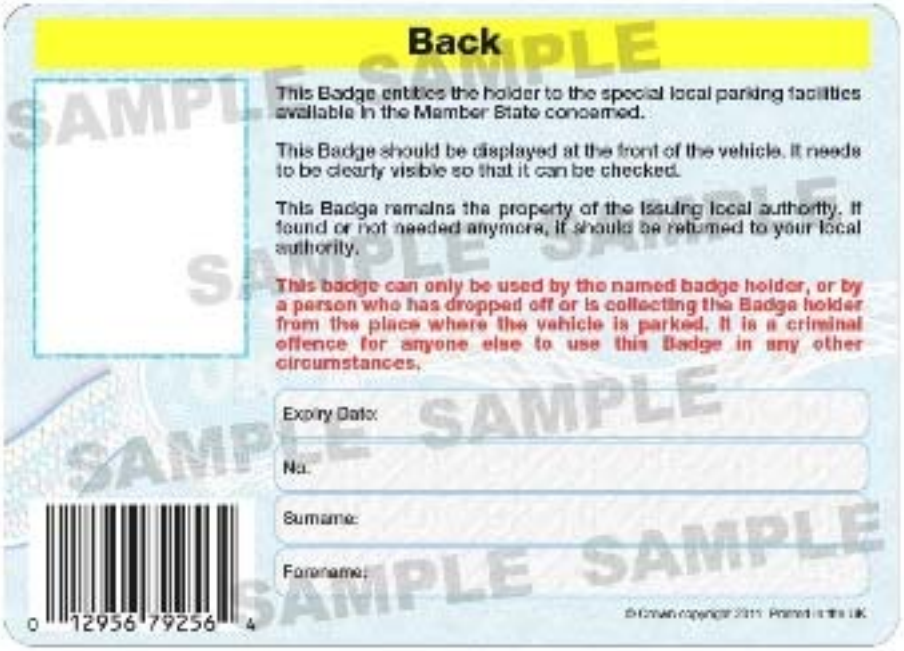
SCHEDULE 1 Regulation 2(9)(b)

"PART IA

INDIVIDUAL'S BADGE

(WITH A DATE OF ISSUE ON OR AFTER 1ST JANUARY 2012)





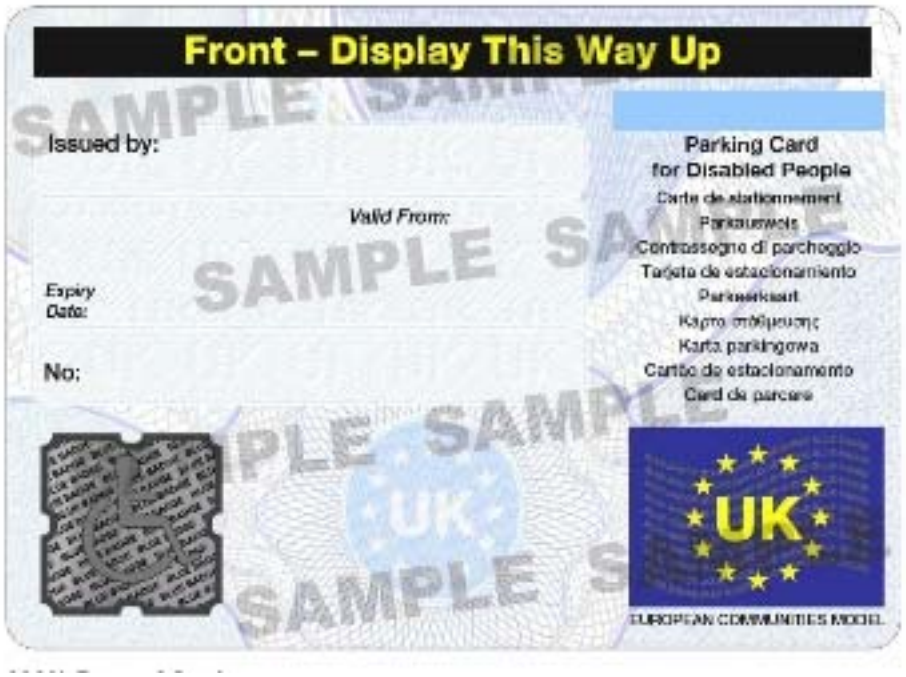
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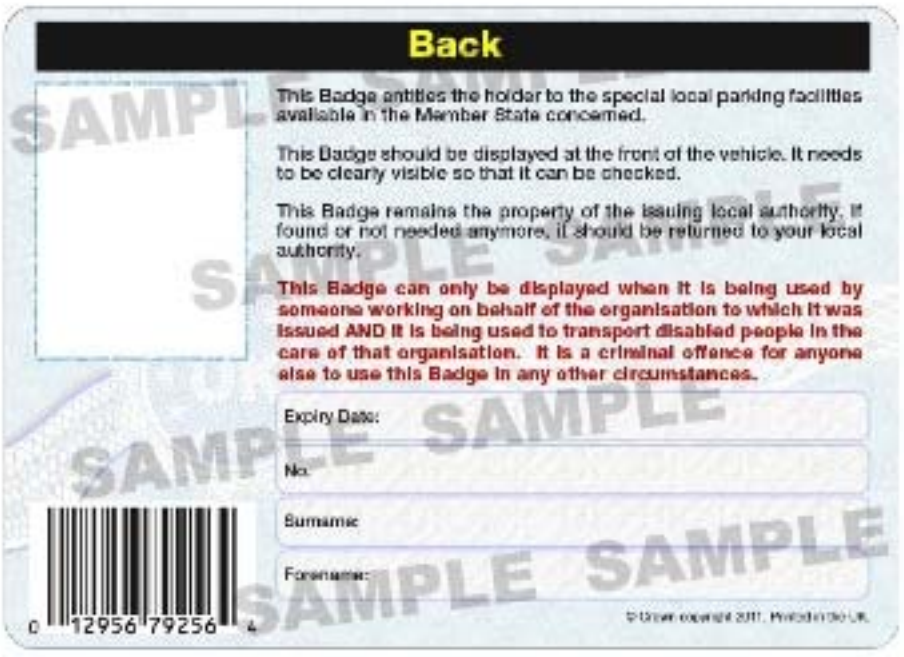
SCHEDULE 2 Regulation 2(9)(d)

"PART IIA

ORGANISATIONAL BADGE

(WITH DATE OF ISSUE ON OR AFTER 1ST JANUARY 2012)





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SCHEDULE 3

Regulation 2(9)(f)

"PART IIIA

SPECIFICATIONS FOR BADGES

(WITH DATE OF ISSUE ON OR AFTER 1ST JANUARY 2012)

1. All Badges

The specifications applicable to all badges are as follows—

(a) the badge must be 106 millimetres in height, 148 millimetres in width (with 5 millimetres radius rounded corners) and 720 microns in thickness, with height and width tolerances of plus or minus 1 millimetre and a thickness tolerance of plus or minus 20 microns;

(b) the badge must be printed on white polyvinyl chloride core sheets and all print must be fused with clear plastic outer layers;

(c) the badge must be printed with a unique serial number, comprising a series of numbers and letters that identify key information about the badge and the holder, including the consecutive number of each replacement badge issued to the badge holder by the issuing authority;

(d) the background on the front and reverse sides of the badge must be lithographically security printed to include fine line guilloche, numismatics, variable width text workings and other fine line structures which are consistent with sub-paragraph (l);

(e) a security printed, tamper evident background must be printed in the boxes which identify the expiry date and number of the badge and the name of the holder;

(f) micro text features which are only visible under magnification must be printed on the front and reverse sides of the badge;

(g) embossed tactile and Braille features (which incorporate visual, line structure patterns) must be included on the front side of the badge, without any corresponding indentation on the reverse side of the badge;

(h) the wheelchair user symbol that appears on the front side of the badge must be a security hologram enclosed within a square with sides each measuring 30 millimetres, incorporating an image flip, micro-text, nano-text, a separate nano-feature and the design of the wheelchair logo against a background of the words "blue badge";

(i) the rear side of the badge must contain a variable bar code which identifies the expiry date of the badge;

(j) the coloured block which appears on the front side of all badges issued during any calendar year must be a consistent year identifier colour which differs substantially from the colours used in prior calendar years;

(k) the badge must be constructed so that it is heat resistant and stable to a temperature of at least 120 degrees Celsius (and a local authority must satisfy itself that badges it proposes to issue are compliant with this requirement (before issuing any such badges) by obtaining a report verifying such compliance (by reference to a sample badge) from an appropriate body);

(l) the badge must include such additional security features as will further mitigate the risk of forgery by, so far as practicable, preventing the badge from being copied readily and allowing genuine badges to be distinguished from forgeries.

For the purposes of sub-paragraph (k) an "appropriate body" means a body accredited to Standard ISO 9001:2008 (Quality Management Systems) (prepared by the International Organization for Standardization(**a**)) and which, in the opinion of the local authority, has the necessary expertise to provide the report.

2. Individual's Badges

The additional specifications applicable to an individual's badge as follows:—

(a) subject to sub-paragraph (b), the rear side of an individual's badge must contain a close-up digital photograph of the head and shoulders of the badge holder. The photograph must have a strong definition between face and background and must be:

(i) in colour;

(ii) 45 millimetres in height and 35 millimetres in width (passport size);

(iii) taken—

(aa) within the month prior to the date of the application;

(bb) against a light grey or cream background;

(iv) undamaged;

(v) free from 'redeye', shadows, reflection or glare from spectacles;

(vi) of the full head of the holder (without any other person visible or any covering, unless it is worn for religious beliefs or medical reasons)—

(aa) facing forward;

(bb) with nothing covering the face;

(cc) looking straight at the camera;

(dd) with a neutral expression and mouth closed;

(ee) with eyes open and clearly visible (without sunglasses or tinted spectacles and without hair or spectacle frames obscuring the eyes);

(vii) in sharp focus and clear;

(viii) printed professionally or in digital format;

(ix) a true likeness, without amendment;

(b) sub-paragraphs (a)(vi)(cc) and (a)(vi)(dd) do not apply to photographs of children aged five years and under;

(c) the variable bar code on the rear side of the badge must identify the year of birth and (in code) the gender of the holder;

(d) the serial number printed on the badge must identify the month and year of birth and (in code) the gender of the holder.

3. Organisational Badges

The additional specifications applicable to an organisational badge is that the reverse side of an organisational badge must contain a colour copy of the logo (if any) of the organisation which must be 45 millimetres in height and 35 millimetres in width. If the organisation does not have a logo, the space that would otherwise include the logo must contain a copy of the flag that appears on the front of the badge."

(**a**) The British Standards Institution publication of the Standard has the ISBN 9780580687389.

EXPLANATORY NOTE

(This note is not part of the Regulations)

A disabled person's badge (known as a "Blue Badge") enables the holder to benefit from a range of parking concessions and exemptions from certain charges which apply to other motorists. The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 ("the Principal Regulations") make provision regarding the issue of the badges by local authorities.

These Regulations amend the Principal Regulations, by requiring that the design and manufacture of badges must comply with new technical requirements, designed to mitigate the risk of forgery, as per Schedule 3 to these Regulations.

Regulation 2(3) amends the description of persons to whom a disabled person's badge may be issued to include those in receipt of a specified benefit under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 who have been certified by the Secretary of State as having a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

Other amendments include the imposition of a requirement to obtain an independent mobility assessment as a condition of eligibility in certain circumstances at regulation 2(3); and enabling local authorities to refuse to issue or to withdraw badges following a single conviction in relation to misuse of a badge (regulation 2(5) and (6)).

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