

2003 No. 73

LICENCES AND LICENSING

The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003

Made 6th February 2003

Laid before the Scottish Parliament 7th February 2003

Coming into force 3rd March 2003

The Scottish Ministers, in exercise of the powers conferred by section 20(1) and (2A) of the Civic Government (Scotland) Act 1982(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003 and shall come into force on 3rd March 2003.

(2) These Regulations extend to Scotland only.

Categories of dog

2.—(1) An assistance dog is prescribed as a category of dog for the purposes of section 20(2A) of the Civic Government (Scotland) Act 1982(b).

(2) "An assistance dog" means a dog which—

- (a) is trained by a charity to assist a disabled person with a physical impairment for the purposes of section 1 of the Disability Discrimination Act 1995(c) which—
 - (i) consists of epilepsy; or
 - (ii) otherwise affects the mobility, manual dexterity, physical co-ordination of that person or the ability of that person to lift, carry or otherwise move everyday objects; and
- (b) at the time that the disabled person whom it is assisting hires a taxi, is wearing a jacket inscribed with the name of a charity.

Prescribed condition

3. The condition specified in regulation 4 below is hereby prescribed as a condition which a licensing authority shall impose in relation to taxi drivers' licences, but only in relation to those licences for which an application is made to a licensing authority on or after 3rd March 2003.

(a) 1982 c.45; subsection (1) of section 20 was amended by the Transport Act 1985 (c.67), Schedule 7, paragraph 23(3); subsection (2A) was inserted by the Disability Discrimination Act 1995 (c.50), section 39(3). 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) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

(b) Section 20(2A)(c) enables the prescription of other categories of dogs in addition to guide and hearing dogs.

(c) 1995 c.50.

4. The condition referred to in regulation 3 above is that where the taxi has been hired–
- (a) by or for a disabled person who is accompanied by a guide dog, a hearing dog or an assistance dog of that person; or
 - (b) by a person who wishes such a disabled person to accompany that person in the taxi,
- and the circumstances specified in regulation 5 below do not apply, the driver of the taxi shall carry the disabled person’s dog and allow it to remain with the disabled person and shall not make any additional charge for doing so.
5. The circumstances referred to in regulation 4 above are that–
- (a) a notice of exemption in the form set out in the Schedule to these Regulations has been issued to the driver in accordance with the procedure set out in regulation 6 below and is in force; and
 - (b) that notice is exhibited either by–
 - (i) affixing it in a prominent position on the dashboard facing upwards; or
 - (ii) affixing it to the windscreen of the taxi, facing outwards.

Notices of exemption

6.—(1) The licensing authority shall issue to a person such a notice of exemption as is referred to in regulation 5(a) above (with such deletions as it considers appropriate) if the authority is satisfied that it is appropriate on medical grounds to exempt that person from the condition specified in regulation 4 above.

(2) In determining whether to issue such a notice of exemption to a person, the licensing authority shall, in particular, have regard to the physical characteristics of the taxi which that person drives.

(3) A notice of exemption shall be issued for such period as may be specified in it.

(4) If a licensing authority requires a person to undergo a medical examination for the purpose of enabling that licensing authority to be satisfied as mentioned in paragraph (1) above, that licensing authority shall meet the cost of that medical examination.

(5) For the purpose of the discharge of their functions under this regulation, every licensing authority shall reach a final decision within 3 months of receipt of an application for a notice of exemption.

Notification of decisions and giving of reasons

7.—(1) A licensing authority shall, within the period of 7 days beginning with the day on which that decision was made under regulation 6(5) above, send written notice of their decision to the person seeking a notice of exemption.

(2) Reasons for a decision referred to in paragraph (1) above shall be given by the licensing authority on a request being made to the authority by the person seeking a notice of exemption within the period of 28 days beginning with the day on which that decision was made.

(3) A licensing authority shall, within the period of 10 days beginning with the day on which a request is received by them under paragraph (2) above, give reasons in writing for arriving at the decision.

(4) Nothing in this regulation affects the power of the sheriff under regulation 8 below to require a licensing authority to give reasons for a decision of the authority–

- (a) which is being appealed to the sheriff under that regulation; and
- (b) for which reasons have not been given under this regulation.

(5) For the purposes of this regulation any reference to anything done in writing shall include communication by electronic means.

Appeals

8.—(1) A person who may, under regulation 7 above, require a licensing authority to give reasons for their decision may appeal to the sheriff against a decision under regulation 6 above.

(2) A licensing authority may be a party to an appeal under this regulation.

(3) An appeal under this regulation shall be made by way of summary application and shall be lodged with the sheriff clerk within the period of 28 days beginning with the day on which the decision was made.

(4) On good cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the time mentioned in paragraph (3) above.

(5) For the purposes of an appeal under this regulation, the sheriff may, in the case of a decision of a licensing authority for which reasons have not been given by the authority under regulation 7 above, require the authority to give reasons for that decision, and the authority shall comply with such a requirement.

(6) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the licensing authority, in arriving at their decision—

- (a) erred in law;
- (b) based their decision on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

(7) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.

(8) On upholding an appeal under this regulation, the sheriff may—

- (a) remit the case with the reasons for such decision to the licensing authority for reconsideration of their decision; or
- (b) reverse or modify the decision of the authority.

(9) On remitting a case under paragraph (8)(a) above, the sheriff may—

- (a) specify a date by which the reconsideration by the authority must take place;
- (b) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment (including these Regulations).

(10) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.

(11) Any party to an appeal to the sheriff under this regulation may appeal on a point of law from the sheriff's decision to the Court of Session within the period of 28 days beginning with the day on which the decision was made.

Revocations

9. The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2002(**a**) and the Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Amendment Regulations 2002(**b**) are hereby revoked.

St Andrew's House,
Edinburgh
6th February 2003

PETER J PEACOCK
Authorised to sign by the Scottish Ministers

(a) S.S.I. 2002/500.
(b) S.S.I. 2002/521.

SCHEDULE
FORM OF NOTICE OF EXEMPTION

[Name of licensing authority]

[Full name of driver], the holder of taxi driver's licence No. [number of licence], is, during the period [insert dates of beginning and end of period of exemption], exempt from the duty to carry guide dogs, hearing dogs and assistance dogs—

- (a) in the taxi having registration mark [registration mark of taxi] and licence number [licence number of taxi]*;
- (b) in taxis with fixed partition segregating the driver from the passenger compartment*;
- (c) in taxis without fixed partition segregating the driver from the passenger compartment*.

* delete as appropriate

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations place a duty on taxi drivers, through the imposition of a condition in a taxi driver's licence, to carry a disabled passenger's guide dog, hearing dog or assistance dog. The Regulations provide that the taxi driver must allow the dog to remain with the disabled person and not make any additional charge for carrying the dog.

The Regulations also prescribe certain dogs helping people with epilepsy and people with certain general physical disabilities as dogs to which this obligation applies.

The Regulations further provide that a taxi driver may be exempted from the obligation to carry a disabled passenger's guide dog, hearing dog or assistance dog on medical grounds. They prescribe the form of the exemption notice which must, in those circumstances, be displayed and the manner of its display in the taxi. They also provide for the giving of reasons for, and appeals against, decisions of licensing authorities on applications for exemption. The Regulations revoke the Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2002, and Regulations amending those Regulations.

A regulatory impact assessment has been prepared and copies can be obtained from the Scottish Executive Finance and Central Services Department, Local Government Constitution and Governance Division, Area 3-H, Victoria Quay, Edinburgh EH6 6QQ.

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