

POLICY NOTE

THE DISABLED PERSONS (BADGES FOR MOTOR VEHICLES) (SCOTLAND) AMENDMENT REGULATIONS 2019

SSI 2019/128

The above instrument was made in exercise of the powers conferred by paragraph 1(1) and (3) of Schedule 2 to the European Union (Withdrawal) Act 2018 and section 21 of the Chronically Sick and Disabled Persons Act 1970. The instrument is subject to negative procedure.

Purpose of the instrument. The instrument will update some references to the UK being member States and amend the form of badges being issued to disabled persons for display in motor vehicles.

Policy Objectives

2. Disabled person's parking badges are secure documents because of the value a fraudulent badge can have. They are printed by a contractor appointed by the Department for Transport on behalf of all badge issuing authorities in the United Kingdom. This has been the case since 1 January 2012.
3. The form of disabled person's parking badges is consistent across the UK. Up until this point it has met an EU common specification for disabled person's parking badges. In March 2019 the Department for Transport decided to change the form of the badge to reflect EU exit. This decision takes effect from 30 March 2019.
4. Under section 21 of the 1970 Act, for a disabled person's parking badge issued by a local authority to be valid, it must be of a specified form.
5. Section 21 was amended in the Disabled Persons Parking Badges (Scotland) Act 2014 to allow the specification to be made by administrative direction. However at the time the Act was considered the policy intention in Scotland was that while some specifications should be set down in this way because disclosure of these would enable fraud, others should continue to be made by way of Regulations.
6. In light of the current Scottish legislative position – where an image of what a valid badge should look like is specified in Regulations – this instrument therefore seeks to ensure that newly-issued badges have legal form.

Explanation of the law being amended by the regulations

7. The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 regulates the issue and use of disabled persons parking cards. The reason disabled persons' parking badges followed a common EU format is because this was specified in Council Recommendation 98/376/EC. This is not a binding piece of EU law therefore no guarantees could be given to UK badgeholders that they would be recognised elsewhere in the EU. But it does recommend to Member States that badges following the common EU format should be

recognised in that Member State, to be treated in the same way as a disabled person's parking badge issued by that Member State.

8. However, there is a separate international agreement that provides for mutual recognition of disabled person's parking badges. In 1978, the European Conference of Ministers of Transport Council of Ministers agreed that all Member Countries of the ECMT would grant the same parking concessions to people with disabilities as they offered their own nationals. This ECMT resolution 97/4 applies to more countries than the EU (for example, Australia and the United States of America) and provides for the same level of privileges as the EU Council Recommendation. That is to say, a Scottish badgeholder gets no more and no less than a disabled parking badgeholder within the host country would obtain.

9. The new style of badge has the international symbol of accessibility on the front hologram and the name of the holder on the rear. It is therefore considered to meet the terms of the ECMT resolution. The only practical changes being made to the pre-existing badge are removal of the EU stars and EU lettering on the background of the badge.

Reasons for and effect of the proposed change or changes on retained EU law

The form of badge is being changed to conform with the image of the badges that will be produced from 1 April 2019. The legislation and related provisions in the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 2002 are also being amended to remove two references to the United Kingdom being a member State after exit day.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement "In my view the Disabled Persons (Badges for Motor Vehicles) (EU Exit) (Scotland) (Amendment) Regulations 2019 does no more than is appropriate. This is the case because they only change the design of the badge in light of the decision by the UK Department for Transport and make minor technical amendments consequent upon EU exit".

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement "In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. Badges are printed using a UK Department for Transport model that has very recently changed and the prescribed form of badge set down in regulations in Scotland requires to be expeditiously altered to reflect the new UK-led form of badge now being issued. In addition, it is appropriate that technical adjustments necessary to reflect EU exit and ensure the law is up-to-date to reflect EU exit".

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement “In my view the Disabled Persons (Badges for Motor Vehicles) (EU Exit) (Scotland) (Amendment) Regulations 2019 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”.

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson has made the following statement “In my view the Disabled Persons (Badges for Motor Vehicles) (EU Exit) (Scotland) (Amendment) Regulations 2019 have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”.

Statement as to why the Scottish Ministers failed to make the statements required by paragraph 29(3), (5) and (6)(d) of Schedule 7 of the European Union (Withdrawal) Act 2018

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement “Due to the urgency with which these Regulations were required to be laid to ensure that they came into force on 1 April, the statements required by paragraph 29(3), (5) and (6)(d) of Schedule 7 of the European Union (Withdrawal) Act 2018 were not made to the extent required by that Act before the Regulations were laid. This was an omission, and those statements have now been made.”.

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

Statement is not applicable.

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

Statement is not applicable.

An indication of how the regulations should be categorised in relation to the significance of the change proposed.

Low – The amendments are technical in nature to allow continuity of law and do not amount to a change in policy.

Statement setting out the Scottish Ministers' reasons for their choice of procedure

Negative procedure is considered appropriate as these minor and technical amendments do no more than is necessary to ensure that the legislation continues to operate effectively following the decision of the UK Government to change the form of disabled person's badge and the UK's exit from the EU. The regulations do not include provisions which fall within paragraph 1 (2) of schedule 7 of the European Union (Withdrawal) Act 2018.

If the regulations are not to be subject to the sifting process by reason of urgency, a statement explaining the urgent circumstances

The Regulations are not subject to the sifting process by reason of urgency, as the instrument needs to be made and to come into force immediately to allow badges issued in Scotland from 1 April 2019 to be in the prescribed form. The badges are produced centrally and the UK Government, who control production of the badges, approved a new form of badge on 20 March 2019 to remove reference to the EU and the EU flag.

Further information

Consultation

10. Scottish Ministers were not consulted on the decision to change the UK badge. Because of the limited time since Scottish Ministers were informed of the decision to change badge design, and the practical impossibility of alternative arrangements to keep the pre-existing situation continuing, no consultation has taken place on this instrument.

11. Local authorities, police forces and private car parking stakeholders (such as the British Parking Association) have been provided with guidance about the new format of badges.

Impact Assessment

12. It is not considered impact assessments are required for this instrument. The equality impact of this instrument is positive, by ensuring disabled people can continue to obtain valid disabled person's parking badges.

Financial effects

13. No financial effects are anticipated from this instrument, because the Department for Transport has confirmed that the change in design results in no increased charge by the contractor to local authorities. Local authorities are charged per badge ordered for a printing and IT infrastructure.

Monitoring

14. All elements of the blue badge scheme are being monitored by Transport Scotland officials. This will include the impact of this instrument.

Transport Scotland
April 2019