

EXPLANATORY MEMORANDUM TO
THE DISABLED PERSONS (BADGES FOR MOTOR VEHICLES) (ENGLAND)
(AMENDMENT) REGULATIONS 2007
2007 No. 2531

AND

THE DISABLED PERSONS (BADGES FOR MOTOR VEHICLES) (ENGLAND)
(AMENDMENT No. 2) REGULATIONS 2007
2007 No. 2600

1. This explanatory memorandum has been prepared by the Department for Transport (DfT) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The effect of the main Instrument (The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007) is to amend the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (S.I. 2000/682) so as to extend eligibility for a Blue (disabled person's parking) Badge to cover certain children under two years of age; to amend the eligibility criterion for people with a severe disability in both arms; to re-define the issue period for a badge; to make modifications to the design of the badge, including the addition of a hologram as a security device; and to remove eligibility relating to people supplied with a vehicle at public expense, a Scheme which is long defunct.

2.2 The effect of the second Instrument (The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment No. 2) Regulations 2007) is to amend the date that the former instrument comes into effect (from 30 September 2007 to 15 October 2007) in order to give local authorities more time to prepare for the changes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 provide for a disabled persons' parking badge Scheme (known as the Blue Badge Scheme). The Scheme, which was formerly known as the Orange Badge Scheme, was first introduced in 1971 and provides a national arrangement of on-street parking concessions for severely disabled people. The 2000 Regulations prescribe, amongst other issues, the classes of person to whom a badge may be issued, the period for which a badge is valid and the form of the badge. The Regulations also provided for the issues of badges to individual disabled persons and to organisations concerned with the welfare of disabled persons.

5. Extent

5.1 This instrument applies to England only, as responsibility for the Scheme is a devolved matter. The operation of the Scheme in Scotland has been updated in a similar manner by the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007 (SSI 2007/162).

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

7.1 The Blue Badge Scheme was introduced in 1971 to provide a national arrangement of on-street parking concessions for people with severe mobility problems. There are currently around 2 million badge holders in England and subscription to the Scheme has been growing at an annual rate of around 6% since 1987.

7.2 The Scheme has been reviewed on several occasions since 1971. The previous review of the Scheme took place between 1999 and 2002. This culminated in the production of 47 recommendations by the Disabled Persons Transport Advisory Committee (DPTAC), the Government's statutory advisers on the public passenger transport needs of severely disabled people.

7.3 The Government responded in 2002 and accepted the majority of DPTAC's recommendations, but decided that some of them required additional research and further cross governmental consideration, a process that is on-going, as part of a current strategic review of the Scheme (see paragraph 7.5 below).

7.4 The draft regulations and guidance for issuing authorities were published for consultation in March 2007. The closing date for comments was 19 June. 167 consultation responses were received. Analysis of these indicated that, although the majority of proposals received broad stakeholder support, there were several issues which required further consideration. Following agreement with the Minister, the original proposed regulations were amended further, mainly to:

- include casts, for the correction of hip dysplasia, to the list of bulky medical equipment;
- remove the word "congenital" from the upper limb criteria ("severe congenital disability"), as it was considered discriminatory, since it did not cover people who had acquired the same degree of disability due to trauma or disease. The definition of "severe disability" will be explained fully in the guidance issued to local authorities; and
- make additional changes to the badge design, including the introduction of male and female markers to aid parking enforcement.

7.5 An independent strategic review of the Scheme is currently underway and is due to report to Ministers in September 2007. This review will contribute to the formulation of a Blue Badge Reform Strategy which will be in place by April 2008. It will also address all other outstanding DPTAC recommendations, such as the application fee, the issue of temporary badges, research into the mobility requirements

of other groups of disabled people, and other issues including the exploitation of new technologies to assist effective enforcement.

7.6 As well as the revised guidance to issuing authorities, the DfT is also intending to publicise examples of local authority good practice. A revised version of the explanatory booklet which is issued to all successful applicants for a Blue Badge will also be available.

7.7 This Instrument introduces a new category of eligibility for children under the age of two who, because of a specific medical condition, need to travel with bulky medical equipment or be able to use a vehicle for treatment or to travel to a place where treatment is available quickly. This will reverse legislation passed in 1982 which specifically excluded children under the age of two from the Scheme on the basis that they do not experience greater mobility problems than other children of this age. Badges issued under this criterion will expire on the day after the child's second birthday.

7.8. This Instrument also contains provisions to revoke redundant eligibility criteria relating to people supplied with a vehicle at public expense; known as the Invalid Vehicle Scheme (IVS) (or "blue trike" Scheme). The IVS was officially closed on 31 March 2003 and no blue trikes remain in use.

7.9 The Instrument facilitates the issue of badges for a period of less than three years (currently badges can only be issued for three years) to people who are awarded the Higher Rate Mobility Component of the Disability Living Allowance (HRMCDLA) or War Pensioners' Mobility Supplement (WPMS) for less than this period. The previous regulations contained an anomaly whereby an individual in receipt of HRMCDLA or WPMS for a period of less than three years was automatically entitled to a three-year Blue Badge. In future, the period of issue of the badge will be tied directly to the period of receipt of HRMCDLA or WPMS. Individuals who qualified for a badge under the previous criteria will not have their badges rescinded but will instead be re-assessed under the new criteria once their badges expire.

7.10 Changes to the current criterion for the issue of badges to people with severe disabilities in both arms who drive a vehicle regularly and are unable to operate, or have considerable difficulty operating, all or some types of parking meters or pay and display equipment have also been included. The wording of the previous criterion required an applicant to have an inability to turn a steering wheel by hand even if the wheel is fitted with a steering knob. However, we were aware that this wording acted against our policy intention by excluding a number of people with Thalidomide-related disabilities, who could drive a vehicle without adaptations to the steering wheel, but were unable to use parking meters.

7.11 Revisions have also been made to the design of both the "individual" and "organisational" badge. A hologram has been added to the front of both individual and organisational badges for security purposes.

7.12 This Instrument will introduce additional wording ("Front – Display this side up") to both individual and organisational badges to clearly identify the front of the badge. This is designed to help those badge holders who are failing to display their badges correctly and incurring parking fines as a result because of confusion over which is the front of the badge.

7.13 This Instrument will also revise the out-dated form of wording shown on the front of the badges (“Parking Card for People with Disabilities”) to the clearer and more commonly used wording “Parking Card for Disabled People”.

7.14 This Instrument will also change the design of the badge in response to suggestions for creating easier parking enforcement.

7.15 In addition, this Instrument includes further amendments to reflect changes in primary legislation on the Blue Badge Scheme made by the Disability Discrimination Act 2005 (Schedule 1, Part 2) largely to replace outdated terminology used in the administration of the Scheme. Among these, section 21 of the Chronically Sick and Disabled Persons Act 1970 was amended to refer to a badge issued to “an organisation” instead of “an institution”. Consequential changes have been made accordingly.

8. Impact

8.1 The impact on the public sector is negligible.

8.2 A final Regulatory Impact Assessment is appended to this memorandum.

9. Contact

Sam Waugh at the Department for Transport (Tel: 020 7944 3590 or e-mail: sam.waugh@dft.gsi.gov.uk) can answer any queries regarding the Instrument.

Blue Badge: Regulatory Impact Assessment (RIA)

Title of proposal

The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007

Purpose and intended effect

Objective

1. A Regulatory Impact Assessment (RIA) is a policy tool to assess the impact, in terms of costs and benefits, of any proposals that affect business, charities or the voluntary sector. Since The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007 ("the 2007 Regulations") do not have any direct cost impact on any of these sectors, the production of a full RIA is not considered appropriate.
2. This partial RIA covers a proposal to amend The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 ("the 2000 Regulations") made under Section 21 of the Chronically Sick and Disabled Person's Act 1970 ("the 1970 Act"). That section of the 1970 Act provides for a disabled persons' parking badge Scheme (known as the Blue Badge Scheme).
3. The changes proposed to the 2000 Regulations will remove the spent eligibility criteria relating to people supplied with a vehicle at public expense; extend the eligibility criteria to cover certain children under two years of age (currently all children under that age are excluded from the Scheme); modify the eligibility criteria for people with a severe disability in both arms; re-define the issue period for a badge; and update the wording and features on the badge, including the addition of a hologram as a security device.
4. These changes will go some way towards meeting the concerns of badge holders, organisations representing disabled people and enforcement and issuing authorities about the number of badges in circulation and abuse of the Scheme. The proposed measures will ensure that the Scheme continues to be available and beneficial to those with the greatest mobility needs who are most in need of the concessions provided through it. Changes to the badge will aid enforcement which is a key element to the success of the Scheme. The Government believes that these measures will contribute to an improved and less abused Scheme.

Background

General

5. The Blue Badge Scheme provides a national arrangement of on-street parking concessions for people with severe walking difficulties or the most severe upper limb disabilities, and for those who are registered blind. It has been in existence since 1971, during which it has been the subject of several reviews.

Rationale for Government intervention

Review of the Scheme and recommendations

6. The previous review of the Scheme was completed in 2002 and resulted in 47 recommendations for reform of the Scheme from the Disabled Persons' Transport Advisory

Committee (DPTAC), the Government's statutory advisers on the public passenger transport needs of disabled people.

7. A number of the above recommendations were taken forward by issuing draft regulations and revised guidance for issuing authorities, for consultation in March 2007. The closing date for comments was 19 June.

8. 167 responses were received to the consultation. Analysis of these indicated that, although the majority of proposals received broad stakeholder support, there were several issues which required further consideration. Following agreement with the Minister, the original proposed regulations were amended further, mainly to:

- add casts, for the correction of hip dysplasia, to the list of bulky medical equipment;
- remove the word "congenital" from the upper limb criteria ("severe congenital disability"), as it was considered discriminatory, since it did not cover people who had acquired the same degree of disability due to trauma or disease. The definition of "severe disability" will be explained fully in the guidance issued to local authorities; and
- make additional changes to the badge design, including the introduction of male and female markers to aid parking enforcement.

9. A further independent strategic review of the Scheme is currently taking place and is due to report to Ministers in September 2007. This strategic review will contribute to the formulation of a Blue Badge Reform strategy by April 2008. The strategic review will address all other outstanding DPTAC recommendations, such as the fee, temporary badges, broader extension of the eligibility criteria to other groups, and more recent concerns, including how to exploit new technologies to tackle fraud more effectively.

Revoking spent eligibility criteria relating to the provision of vehicles supplied by the government departments

10. The 2000 Regulations provided for eligibility for a Blue Badge for people who had been supplied with a motor vehicle by a Government Department (the original wording in the regulations refers to the Department for Social Security). This criteria applied to the Invalid Vehicle Scheme (IVS), also known as the "blue trike" Scheme.

11. The IVS was officially closed on the 31 March 2003 and we believe the last vehicle was withdrawn in December 2004. Therefore the spent provision was revoked in the 2007 Regulations. The Department of Health have confirmed that they are content for us to proceed with this course of action.

Eligibility for children under two years

12. The rule excluding children under the age of two from the Scheme came into effect in 1983 on the advice of DPTAC, on the grounds that disabled children below this age 7 could reasonably be carried in a pram or pushchair in much the same way as non-disabled children of a similar age.

13. Since that time there has been strong representation from parents with children under two who, on account of their particular medical condition, need to travel with bulky medical equipment, or need to be able to use the vehicle for treatment or to travel to a place for treatment.

14. In the review it was accepted that this small number of children (estimated by the Department of Health to be around 12,000) should be brought within the Scheme. The 2007 Regulations amend regulation 4 of the 2000 Regulations to this effect. These children will be issued with badges for a period lasting until the day after their second birthday.

Period of Issue

15. Currently badges can only be issued for a period of 3 years (Regulation 6(2)). The 2007 regulations will amend regulation 6 of the 2000 Regulations so that the issue period for children under the age of two, with specific medical conditions, will expire on the day after their second birthday. After this point they will be required to apply for a Blue Badge in the same fashion as other children over the age of two years.

16. The 2007 Regulations will also amend regulation 6 of the 2000 Regulations so that, where entitlement for a Blue Badge is linked to the Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA) or the War Pensioners' Mobility Supplement (WPMS), the period of issue is linked to receipt of those allowances up to a maximum of 3 years.

17. The minimum period for an award of HRMCDLA or WPMS is six months. Under the 2000 Regulations the local authority can only issue a badge for a minimum of 3 years. This creates an anomaly where someone whose disability lasts for less than 3 years could still be entitled to the concessions of the Scheme beyond the period of their benefit.

18. The amendment allows local authorities to be able to link the period of issue of a badge to the period of receipt of the HRMCDLA or WPMS where that period is less than 3 years. In all other cases, including where HRMCDLA or WPMS has been granted for life, the three-year period of issue will be retained as the maximum.

Upper limb disabilities

19. It was accepted during the 1992 review of the Scheme that there was a particular parking problem for people with a severe disability affecting both arms. Eligibility for a badge was therefore extended to this group of people and the criterion established was an inability to turn a steering wheel by hand, even if the wheel is fitted with a steering knob.

20. The intention was to assist people who had a severe disability in both arms, drove a vehicle regularly, and were unable to operate, or had considerable difficulty operating, all or some types of parking meters or pay and display equipment. One of the concessions provided under the Scheme is to allow badge holders to park free of charge and without time limit at on-street parking meters and pay-and-display on-street parking.

21. It became clear that, whilst some people with a severe disability in both arms would qualify for a badge under the current criterion, it was by no means universal. We were made aware that a number of people with severe congenital disabilities in both arms were still able to drive a car without adaptations to the steering and so did not qualify. These individuals do, nonetheless, have very real problems using public transport (because of an inability to balance or grip) and in using meters and other parking equipment.

22. Accordingly, the 2007 Regulations amend the 2000 Regulations to extend eligibility to all those with a severe disability in both arms (the reference to "congenital" was taken out following comments made during consultation).

Design of badge

23. The Schedule to the 2007 Regulations amend the Schedule of the 2000 Regulations which prescribes the form of the badge and will make the following changes:

- introduce a hologram to the front of both the individual and organisational badges for security purposes;
- introduce additional wording (“Front – Display this side up”) to both individual and organisational badges to clearly identify the front of the badge;
- revise the out-dated form of wording shown on the front of the badges (“Parking Card for People with Disabilities”) to the clearer and more commonly used wording “Parking Card for Disabled People”;
- include male/female markers;
- add the serial number to both the front and back of the badge; and
- make some of the text bigger and bolder to attract attention.

24. The Disability Discrimination Act 2005 (Schedule 1, Part 2), made minor amendments to legislation concerned with the Blue Badge Scheme. Among these, section 21 of the Chronically Sick and Disabled Persons Act 1970 is amended to refer to a badge issued to “an organisation” instead of “an institution”. Various amendments are 9 made to the 2000 Regulations to reflect this change of terminology, but none of them make any change of substance in relation to such badges.

25. The 2007 Regulations provide that the introduction of the new form of badge does not affect the validity of badges already issued and consequently has effect to phase in the "new" badges as they come up for renewal, or new applications are processed, over 3 years from the date the 2007 regulations come into force. This is consistent with the phasing in of the Blue Badge in April 2000.

26. The changes to the badge would be phased in as badges were renewed or new applications were considered. The DfT will meet the set-up costs for the new-style badge pending the outcome of the strategic review looking at, amongst other things, the badge fee. These costs in the first 12 months are expected to be in the region of £35,000 for introducing a hologram to the 700,000 badges issued annually. A further reserve fund has been made available for recalling and destroying current badges held at the suppliers TSO (and local authorities). This payment will be made direct to TSO.

27. Local authorities will also be able to make savings in the way the badges and parking discs/clocks can be purchased from the supplier. Local authorities will now be able to purchase the parking disc/clocks separately – previously they had to be purchased together with the badge. Savings will therefore be made as local authorities will now be buying fewer parking discs/clocks and reusing them.

Devolved Administrations

28. Responsibility for the Scheme is devolved although the concessions provided under the Scheme are largely consistent nationally. The Scheme is operated in England by upper tier local authorities and in Wales and Scotland by Unitary Councils. Northern Ireland's Scheme is administered by the Department for Regional Development.

29. The Scottish Executive implemented similar amending regulations in April 2007. Unlike the regulations subject to this RIA, the Scottish regulations also increased the badge fee up to a maximum of £20 and introduced temporary badges for people with mobility impairments likely to last for at least 12 months.

30. The Welsh Assembly Government and the Department for Regional Development Northern Ireland also propose to effect changes to the Scheme separately in their legislation, but have not yet gone out to consultation on their proposals. There will need to be further consultation after the completion of the current review in September 2007.

Consultation

Within Government

31. Consultation on these proposals has taken place with Government Departments with an interest (primarily the Department of Health, Department for Works and Pensions, Department for Communities and Local Government and the Home Office). The proposals have been cleared by DfT ministers and the Domestic Affairs Committee.

Public Consultation

32. The changes to the eligibility criteria and the hologram and wording on the badge were recommendations following a wide public consultation which formed part of the review of the Blue Badge Scheme in 2002. Responses to that consultation were largely in favour of introducing these changes.

33. The most recent consultation was conducted in March 2007 – see paragraphs 7 and 8 above.

Costs and Benefits

Sectors and groups affected

34. The proposed changes will not have a significant effect on local authorities, who already have a statutory obligation to administer the Scheme. Nor will they be expected to measurably affect the police, traffic wardens and local authority parking attendants who already enforce the Scheme.

35. This is because the Department of Health estimates that the proposed changes in eligibility are unlikely to increase uptake for the Scheme by more than 12,000 individuals. This would represent a relatively negligible increase in the 2.3 million Blue Badges already in circulation. It may also help to reduce the time Local Authorities spend dealing with approaches and appeals from formerly ineligible client groups.

Benefits

36. This proposal represents positive action in line with the 1995 Disability Discrimination Act (as amended by the DDA 2005) and should help to ensure that the Scheme continues to help the people with the greatest mobility difficulties.

37. The introduction of the badge hologram is intended to reduce the number of forged badges in use and increase parking revenue.

38. The DfT will produce revised guidance on the Scheme for issuing Authorities, the police, traffic wardens, local authority parking attendants and civil enforcement officers in England. This should help to speed up local decision making and improve administrative efficiency. 11

Costs

39. The proposed changes to the Scheme are not expected to impose any unfunded new burdens on Local Government.

40. The DfT does not expect the changes to introduce a need for additional training expenditure. The DfT envisages that it will be sufficient to provide administering officers with the revised guidance.

41. The change to the badges would be phased in as badges are renewed or new applications are considered. The DfT will meet the set-up costs for the first 12 months, as indicated at paragraph 26 above – this will be in the region of £35,000. The DfT will further ensure through the three-month strategic review of the Scheme which is currently underway that any net additional costs falling on Local Authorities are fully funded, thus meeting its obligation under the Government's new burdens rules.

Small Firms Impact Test - n/a

Competition assessment - n/a

Enforcement, sanctions and monitoring

42. Local authorities will be required to comply with these changes through the introduction of secondary legislation, namely the 2007 Regulations.

43. In the short-term, the effectiveness of the proposals will be monitored through correspondence received by, and representations made to, the DfT. Consideration will be given to carrying out a formal assessment of the impact through the DfT's research programme.

Implementation and delivery plan

44. The intention is to introduce the new regulations by the end of September 2007. The changes, with the exception of the change to the badge, would apply from the date that the new regulations come into force. The change to the badge itself would be phased in as badges were renewed or new applications were considered over a three-year period. Full revised local authority guidance will be available from November 2007 to support decision making.

Post-implementation review

45. A current independent strategic review will contribute to DfT's formulation of a Blue Badge Reform strategy by April 2008.

Summary and recommendation

46. The amending Regulations will:

- (i) deliver the Government's commitment to ensure that the Scheme continues to benefit those disabled people with the greatest mobility problems; and

(ii) help to reduce abuse of Blue Badges by providing an additional security device to the badge so making it more difficult to forge.

47. There are no significant costs associated with the proposals, subject to the minimal setting-up costs involved in updating the badge which will be met by the DfT. They are expected to be non-controversial and generally supported.

48. It is therefore recommended that the proposal be accepted and The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007 be introduced.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed Rosie Winterton Date 30th August 2007

Rt Hon Rosie Winterton MP

Minister of State for Transport

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