

LEGISLATIVE CONSENT MEMORANDUM

Disabled Persons' Parking Badges Bill

Legislative Consent Motion

1. "To propose that the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that the provisions of the Disabled Persons' Parking Badges Bill, in so far as they fall within the legislative competence of the National Assembly, should be considered by the UK Parliament."

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Local Government and Communities, under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 29. SO 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales, for a purpose that falls within the legislative competence of the National Assembly, or has a negative impact on that competence.

3. The Disabled Persons' Parking Badges Bill was introduced to the UK Parliament on 20 June 2012. The Bill can be found here:

<http://services.parliament.uk/bills/2012-13/disabledpersonsparkingbadges.html>

4. Summary of the Bill and its policy objectives

4.1 This is a private member's Bill which received its second reading on 6 July 2012. In accordance with Standing Orders, a LCM is not laid in relation to a Private Members Bill unless it remains a relevant Bill after the first amending stage in the House in which it was introduced.

5. It is proposed that the Bill will make the following provisions:

5.1 **Cancellation of badges:** The Bill will provide local authorities with explicit legislative power to cancel a disabled persons' badge ("Blue Badge") in certain circumstances (e.g. where a badge should have been returned to the authority, but remains in circulation). It will also strengthen the power of enforcing authorities in situations where a holder might continue to use an original badge when a replacement has been issued. This will ensure that a badge's legal status is never in doubt.

- 5.2 **Inspection of Badges:** The Bill will also amend the powers of local authorities to inspect Blue Badges so that delegated officers in plain clothes may inspect badges. Currently only the police and uniformed civil enforcement officers have the power to inspect badges.
- 5.3 **Power for local authorities to recover badges:** The Bill will also provide local authorities with the power to recover Blue Badges on the street in certain circumstances, via the police and civil enforcement officers. Examples include badges which have been cancelled; are due to be returned to the local authority; are being misused or are fake. Currently only the police have powers to recover Blue Badges on the street. It is anticipated that these new powers will help prevent further abuse of Blue Badges.
- 5.4 **Return of the Badge to the issuing authority:** The Bill will also make it an offence to use a badge that should have been returned to the issuing authority, for example when the holder is no longer eligible for a badge, or the holder of the badge has died. This will ensure that instances of Blue Badge fraud will be reduced.
- 5.5 **Armed Forces:** The Bill will also relax residency requirements to assist Armed Forces personnel and their families posted overseas on UK bases, who meet the eligibility requirements for a badge, in applying for a badge via the Ministry of Defence. The current law provides that a badge may be issued to a disabled person of any prescribed description provided they are “resident in the area of the issuing authority”. However, members of HM Armed Forces and their families may be posted to UK bases overseas and may cease to be resident in the area of any issuing authority. Conversely, if an applicant is resident on a UK base overseas, they may not be considered to be resident in the country in which the base is located for the purpose of local equivalents of the Blue Badge Scheme. The Bill aims to remove this obstacle to obtaining a badge.
- 5.6 **Miscellaneous:** It will also remove the requirement for the Welsh Government to prescribe the badge design in regulations so as to prevent fraudsters from obtaining the security details of the new badge design. This will also prevent new regulations having to be made whenever the security details of the badge are amended in the future.

6. Provisions in the Bill for which consent is sought

- 6.1 The Bill makes provisions that apply similarly to England and Wales in relation to amendments to the Blue Badge Scheme. The Bill amends primary legislation, namely the Chronically Sick and Disabled Persons Act 1970 (“CSDPA 1970”) and the Road Traffic Regulation Act 1984 (“RTRA 1984”).

- 6.2 Clause 1 makes amendments in relation to the form of the badge. It amends section 21 CSDPA 1970 and section 117 RTRA 1984 to remove reference to prescribed form of badges which will prevent future regulations having to stipulate the form of badge, thereby increasing security and reducing instances of forgery.
- 6.3 It is the view of the Welsh Government that the provisions referred to in paragraph 6.2 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006.
- 6.4 Clause 2 relates to the cancellation of parking badges and inserts new subsection (7AB) into section 21 CSDPA 1970. New subsection (7AB) allows a local authority to cancel a badge if it appears to the authority that the person to whom the badge was issued no longer holds the badge because it was lost or stolen, or for any other reason.
- 6.5 It is the view of the Welsh Government that the provisions referred to in paragraph 6.4 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006.
- 6.6 Clause 3 deals with the use of parking badges which are no longer valid. A new subsection (4BZA) is inserted into section 21 CSDPA 1970 creating a new offence of driving a motor vehicle on a road whilst displaying a badge that has been cancelled or which should have been returned to the issuing authority.
- 6.7 It is the view of the Welsh Government that the provisions referred to in paragraph 6.6 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006
- 6.8 Clause 3 also inserts new subsection (1ZA) into section 117 RTRA 1984. New subsection (1ZA) amends the offence in section 117(1) of using a vehicle whilst displaying a badge to include badges which have been cancelled and badges that should have been returned to the issuing authority.
- 6.9 It is the view of the Welsh Government that the provisions referred to in paragraph 6.8 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006
- 6.10 Clause 4 deals with enforcement and amends section 21(4BB) CSDPA 1970 so as to include provision for badges to be inspected by persons employed by the local authority or who are authorised by the authority to perform such functions ("plain clothes officers").

- 6.11 It is the view of the Welsh Government that the provisions referred to in paragraph 6.10 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006.
- 6.12 Clause 4 also inserts new subsection 21(4BE) which provides that it is not an offence to refuse to comply with a request from a plain clothes officer to produce a badge for inspection where that plain clothes officer does not provide evidence of their authority.
- 6.13 It is the view of the Welsh Government that the provisions referred to in paragraph 6.12 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006
- 6.14 Clause 4 also inserts new subsection (4D) into section 21 CSDPA 1970 to allow enforcement officers (including plain clothes officers) and police constables to retain a badge produced for inspection if the constable or officer has reasonable grounds to believe that the badge is not valid (for the reasons set out in the subsection).
- 6.15 It is the view of the Welsh Government that the provisions referred to in paragraph 6.14 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006.
- 6.16 Clause 5 deals with the local authority's requirement to return a badge. Clause 5 amends section 21(7D) CSDPA 1970 to provide that where a badge issued by a local authority in Wales is then required to be returned to the issuing authority, regulations may prescribe the time limit by which the badge must be returned, and the badge must not be displayed on any vehicle after that time.
- 6.17 It is the view of the Welsh Government that the provisions referred to in paragraph 6.16 fall within the Assembly's legislative competence as set out in Subject 15 (social welfare) of Part 1 Schedule 7 to the Government of Wales Act 2006.

7. Advantages of utilising this Bill

It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity and ensure consistency in the provisions of Blue Badges across England and Wales.

8. Financial implications

There is no related revenue or capital expenditure if the recommendations in paragraph 3 are agreed. Local authorities currently administer the scheme, and the changes proposed do not place any extra duties on them.

Carl Sargeant
Minister for Local Government and Communities
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