CHAPTER 560

PARKING CONCESSIONS FOR PERSONS WITH DISABILITY ACT

To provide for parking concessions for persons with disability.

1st December, 2017

ACT XXXIX of 2016.

1. The short title of this Act is the Parking Concessions for Persons with Disability Act. Short title.

2. In this Act, unless the context otherwise requires - Interpretation.

"Access for All Standards" means the Accessibility For All in the Built Environment Maltese Standard;

"applicant" means a person with disability who applies for a Blue Badge;

"assessment" means a medical assessment by the Board carried out in order to assess whether a person is eligible to be awarded a Blue Badge;

"authorised officer" means the public officer designated by the Commissioner for the Rights of Persons with Disability as the person authorised to administer the scheme, issue Blue Badges, and, to the extent of any power delegated as hereinafter provided, includes any person delegated for the purpose by the public officer designated as the authorised officer;

"Blue Badge" means a parking card for persons with disability who qualify under this Act to hold such card;

"Board" means a medical board composed of a medical doctor, a physiotherapist and an occupational therapist;

"Commissioner for the Rights of Persons with Disability" means the Commissioner for the Rights of Persons with Disability under the provisions of the Equal Opportunities (Persons with Disability) Act; Cap. 413.

"Commissioner of Police" means the Commissioner of Police as defined in the Police Act; Cap. 164.

"designated parking space" means parking bays reserved for holders;

"disability" means disability as defined under the provisions of the Equal Opportunities (Persons with Disability) Act; Cap. 413.

"holder" means any person with disability to whom a Blue Badge has been issued under this Act;

"impairment", in the context of disability, means any loss, restriction or abnormality of psychological, physiological, or anatomical structure or function;

"medical doctor" means any person registered in the Medical Register under the provisions of the Health Care Professions Act; Cap. 464.

"occupational therapist" means any person registered as an occupational therapist according to the Third Schedule of the Health Care Professions Act; Cap. 464.

"person with disability" means any person with a disability as defined in the Equal Opportunities (Persons with Disability) Act; Cap. 413.

"physiotherapist" means any person registered as a physiotherapist according to the Third Schedule of the Health Care Professions Act; Cap. 464.

"public instrument" means a public instrument as referred to in articles 183 to 190 of the Criminal Code; Cap. 9.

"scheme" means a scheme whereby a holder is allowed parking concessions in order to alleviate the disadvantages brought by any of the impairments referred to in article 13;

"vehicle" means a mode of transportation as defined by the Motor Vehicles Regulations save for the definitions "motor cycle", "quad bike", "motor tractor", "N1 motor vehicle", "N2 motor vehicle" and "N3 motor vehicle". S.L. 65.11

Scheme for designated parking spaces.

3. (1) There shall be a scheme whereby persons with disability who qualify for such scheme are given a Blue Badge which allows a vehicle to be parked in designated parking spaces.

(2) The aim of the scheme is to facilitate the social integration and mobility of persons with disability by increasing accessibility and reducing the hardship experienced by a holder by granting a concession to reduce the distance between the parked vehicle used for the transportation of the holder and the destination of the holder.

Issuance of Blue Badges.

4. (1) The Commissioner for the Rights of Persons with Disability shall be responsible for the scheme and for authorising the issuance of Blue Badges.

(2) A Blue Badge shall have the design prescribed in Schedule III, shall be proof of its content and shall be considered for all intents and purposes as a public instrument.

(3) Blue Badges shall be issued following due assessment by the Board.

Authorised officer.

5. (1) The Commissioner for the Rights of Persons with Disability may designate a public officer falling under the responsibility of the Minister for Justice, Social Affairs, Health, Transport or Home Affairs to act as the authorised officer.

(2) A register of persons who apply to be assessed by the Board shall be kept by the authorised officer; the provisions of the Data Protection Act shall apply in connection with data kept in the register. Cap. 586.

Designated parking spaces.

6. (1) It shall be the responsibility of the Authority for Transport in Malta to create designated parking spaces in parking areas and public roads:

Provided that, when a parking area is not open to the public, suitable designated parking spaces are to be allocated for disabled

persons habitually using the said area.

(2) Local Councils may make available further designated parking spaces according to any existing local parking schemes and give further concessions in addition to the ones granted under this Act to holders, provided that the Authority for Transport in Malta approves such concessions.

(3) Designated parking spaces are to be identified by displaying the symbol of access as may be approved by the Commissioner for the Rights of Persons with Disability from time to time and made in conformity with the Access for All Standards.

(4) Designated parking spaces shall be of a size, design and location in accordance with the Access for All Standards.

Assessment by the Board.

7. (1) A person with disability may apply for assessment by the Board in the manner prescribed by the authorised officer, who shall issue the list of documents required to be submitted to the Board and request the payment of any applicable fee as may be prescribed.

(2) The scheme may be availed of after the Board approves the application and the successful applicant receives the Blue Badge.

Blue Badge.

8. (1) The Blue Badge shall enable a vehicle -

(*a*) in which the holder is travelling, or;

(*b*) which will be used for the immediate travel of the holder,

to be parked in designated parking spaces.

(2) When a vehicle is parked in a designated parking space, the Blue Badge must be prominently displayed on the vehicle's windscreen. When in use, the Blue Badge is to be displayed at the front of the vehicle in such a way that the front of the Blue Badge, that is, the side which portrays the symbol of access, is clearly visible for checking purposes.

(3) A Blue Badge shall remain valid for a period specified in the document itself; however, in no case shall the period of validity exceed five years:

Provided that at any given time, only one Blue Badge issued in the holder's name shall be deemed to be valid.

(4) There shall not be an automatic right of renewal after the expiration of validity of a Blue Badge, but the holder shall have the right to re-apply for a new Blue Badge. Such application shall be lodged three months prior to the expiry of the Blue Badge and, upon renewal, the applicant shall surrender the expired Blue Badge in exchange for a new one:

Provided that the authorised officer shall process the application within two months from the date of assessment:

Provided further that the Commissioner for the Rights of Persons with Disability shall authorise such award without delay.

Board.

9. (1) The Commissioner for the Rights of Persons with

Disability shall appoint a board to conduct medical assessments on applicants. The Board shall be composed of:

(*a*) a medical doctor,

(*b*) a physiotherapist, and

(*c*) an occupational therapist.

(2) The Board shall exercise its functions in the place designated by the authorised officer.

(3) A refusal of the Board to grant a Blue Badge shall give rise to the right of appeal. The unsuccessful applicant may lodge an appeal in writing addressed to the Secretary to the Appeals Board by not later than thirty (30) working days from the date of the letter of refusal.

Appeals Board.

10. (1) The Commissioner for the Rights of Persons with Disability shall appoint an Appeals Board which shall be composed of:

(*a*) a Police officer not below the rank of inspector assigned to traffic duties, who shall chair the appeals, nominated by the Commissioner of Police;

(*b*) a medical doctor, other than the one appointed on the Board;

(*c*) a lawyer; and

(*d*) a member who is a person with disability nominated by the Commissioner for the Rights of Persons with Disability.

(2) The Board shall review and decide on appeals filed in accordance with article 9.

(3) The authorised officer shall appoint a Secretary to the Appeals Board.

Temporary Blue Badge and replacement.

11. (1) If a Blue Badge is accidentally or by use destroyed or defaced, the holder shall, without delay, report the fact to the authorised officer; when a Blue Badge is defaced, the holder shall surrender it to the authorised officer.

(2) If a Blue Badge is lost or stolen, the holder shall report the fact to the authorised officer, and file a report to the Executive Police or take a sworn affidavit before a Commissioner for Oaths. A temporary Blue Badge may be issued by the authorised officer, following receipt of a report that the Blue Badge has been lost, stolen, destroyed or defaced, and upon the payment of any applicable fee:

Provided that, in the case of a defaced Blue Badge, the holder is to surrender the said Blue Badge before the issuance of a temporary Blue Badge.

(3) A replacement of the lost, stolen, destroyed or defaced Blue Badge may be issued by the authorised officer, provided that the temporary Blue Badge is surrendered to the authorised officer.

(4) A Blue Badge shall be deemed to have been lost if the

authorised officer is satisfied that it is not recoverable.

Withdrawn Blue Badge.

12. (1) For the purposes of this Act, a Blue Badge which has not been tampered with shall, unless it is invalid, be evidence of the identity of the holder, and shall be accepted as such.

(2) Any public officer or any interested party who suspects that the person making use of the Blue Badge is not doing so in the manner prescribed by the provisions of this Act, or that the Blue Badge has been tampered with, is to file a Police report.

(3) Whenever for any reason any of the particulars or any other information contained in a Blue Badge is or becomes incorrect, the holder shall, without delay, report the fact to the authorised officer and shall surrender the incorrect Blue Badge to, and give all such information as may be required by, that officer.

(4) The authorised officer shall thereafter cause the Blue Badge to be indelibly marked as "Withdrawn as Incorrect" and, or destroyed and shall issue another Blue Badge in substitution thereof.

Eligibility criteria.

13. The following persons are eligible to qualify for a Blue Badge:

(*a*) persons with a permanent visual impairment resulting in a visual acuity not exceeding 6/60 in the better eye with correction, or a limit in the field of vision that is less than a 20° angle (tunnel vision) and who use a motor vehicle on a regular basis; or

(*b*) persons with a severe permanent impairment in both upper limbs, who regularly drive a motor vehicle but cannot turn the steering wheel of a motor vehicle by hand even if that wheel is fitted with a turning knob; or

(*c*) persons with a permanent and substantial physical impairment resulting in an inability to walk or very considerable difficulty in walking or as a result of which the effort of walking could be life threatening, and who use a motor vehicle on a regular basis; or

(*d*) persons with a severe and permanent mental impairment and with severe behavioural problems and who need help and supervision frequently throughout the day and during the night and who use a motor vehicle on a regular basis:

Provided that persons under two years of age are exonerated from being examined by the Board.

Applicability of other provisions.

14. (1) The following provisions shall apply in the implementation of the provisions of this Act:

(*a*) the description of the Blue Badge to be used in Malta in accordance with Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities, as referred to in Schedules I and III;

(*b*) the recommendation on the Mutual Recognition of EU

Blue Badge according to Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities and its subsequent amendments, referred to in Schedule II; and

(*c*) the recommendation on the Mutual Recognition of third country Blue Badge in accordance with the provisions of Schedule II.

(2) Vehicles displaying a Blue Badge shall be exempt from clamping or towing, but any related fines (*multi*) which the driver or owner of the vehicle may be liable to shall by increased by one degree.

Offences and penalties.

15. (1) Any person who -

(*a*) uses a Blue Badge that is no longer valid; or

(*b*) uses a Blue Badge whose holder is deceased; or

(*c*) being a relative, carer or cohabitant of the holder, fails to return the Blue Badge to the authorised officer upon the demise of the holder; or

(*d*) not being the holder, misuses a Blue Badge without the holder's knowledge or permission; or

(*e*) not being the holder, uses a Blue Badge in any manner other than that prescribed in article 8; or

(*f*) being a holder, uses a Blue Badge that has been reported destroyed, lost or stolen; or

(*g*) in any manner whatsoever tampers with, copies, forges, or alters a Blue Badge; or

(*h*) steals, donates, buys or sells a valid, expired or copied Blue Badge; or

(*i*) aids or abets the commission of any offence against paragraphs (*a*) to (*h*),

shall be guilty of an offence against the provisions of this Act.

(2) Any person who commits an offence against the provisions of sub-article (1) shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and thirty euro (€230) and not more than five hundred euro (€500) and the towing of the vehicle; upon conviction for a subsequent offence, the person will be liable to a fine (*multa*) of not less than one thousand euro (€1,000) and not more than one thousand and five hundred euro (€1,500) and the towing of the vehicle.

Further provisions in relation to offences.

16. (1) In the cases referred to in article 15(1)(*c*), (*d*), (*e*), (*f*) and (*g*) criminal intent shall be presumed, unless the accused proves that he has acted without such intent.

(2) Without prejudice to the provisions of sub-article (1), whenever a person is convicted in relation to the provisions of article 15, the person shall also be liable for traffic offences.

(3) A holder shall be warned that the Blue Badge shall be withdrawn after receiving a conviction for misusing or allowing the

badge to be misused.

(4) The Commissioner for the Rights of Persons with Disability shall withdraw a Blue Badge if the holder is found guilty of two convictions for misuse.

(5) Police officers and community officers shall have the power to inspect Blue Badges, and failure to produce a valid Blue Badge without a reasonable justification when asked to by any police officer or community officer shall amount to a criminal offence.

(6) Only Police officers shall have the power to seize a Blue Badge where it is required as evidence in a criminal prosecution.

FIRST SCHEDULE

DESCRIPTION AND FACSIMILE OF A BLUE BADGE

The description of the Blue Badge to be used in Malta is taken from Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities.

A. The overall dimensions of the Community-model parking card for people with disabilities shall be:

- height: 106 mm,
- width: 148 mm.

B. The colour of the parking card shall be light blue, except for the white wheelchair-user symbol, which shall have a dark blue background.

C. The parking card for people with disabilities shall be plastic-coated, with the exception of the space reserved for the holder's signature on the left-hand side of the reverse.

D. The parking card for people with disabilities shall be divided vertically into two parts on both the front and reverse.

The left-hand side of the front shall contain:

- the wheel-chair user symbol in white on a dark blue background,
- the date of expiry of the parking card,
- the serial number of the parking card,
- the signature of the Commissioner for the Rights of Persons with Disability and the designation of the signatory.

The right-hand side of the front shall contain:

- in bold type letters, the words **'Parking card for people with disabilities'** in the language(s) of the Member State issuing the card; after a suitable space, the words 'Parking card' shall appear in small type in the other languages of the European Union,
- the words 'EUROPEAN COMMUNITY MODEL' in the language(s) of the Member State issuing the card,
- as background, the distinguishing code of the Member State issuing the parking card.

The left-hand side of the reverse shall contain:

1. the holder's surname;
2. the holder's forename(s);
3. the holder's signature or other authorised mark, if allowed under national legislation;
4. the holder's photograph.

The right-hand side of the reverse shall contain:

1. the statement:

'This Blue Badge gives the right to the holder to park in disabled parking spaces';

2. the statement:

'Can ONLY be used by the holder';

3. the statement:

'Can be withdrawn if misused such as when allowing others to use it, or falsify it';

4. the statement:

'If a vehicle not displaying a Blue Badge is parked in a disabled parking space you can call the Police on 119';

5. the statement:

'If you find this Blue Badge and do not own it, please take it to a Police Station'.

E. With the exception of the right-hand side of the front, entries shall be shown in the language(s) of the Member State issuing the parking card.

SCHEDULE II

LIST OF THIRD COUNTRIES WHERE MUTUAL RECOGNITION OF BLUE BADGES EXISTS

Blue Badges to be used within the territory of the Republic of Malta should be issued in Malta or a Member State of the European Union or of a State of the European Economic Area: provided that a State of the European Economic Area means Iceland, the Principality of Liechtenstein, the Kingdom of Norway and Switzerland:

Provided that further to the provisions of the Resolution no. 97/4 on Reciprocal Recognition of Parking Badges for Persons with Mobility Handicaps adopted by the European Conference of Ministers of Transport in Berlin on 21 - 22 April 1997, such mutual recognition is also given to Blue Badges issued in Australia, Canada, Japan, South Korea, New Zealand and the United States.

SCHEDULE III

FACSIMILE OF A BLUE BADGE



SCHEDULE IV

PERSONS AUTHORISED TO USE THE CARD

1. Only the persons indicated under article 13 of this Act are eligible for the issuance of the Card.

2. The Card may only be used in accordance with article 8 of this Act.

3. Any breach of the provisions of this Act shall result in the consequences laid down by this Act.