

Consultation on amending regulation 8 of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000

1) What is this consultation about?

This consultation seeks views on a proposal to amend regulation 8 of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (SI 2000/683 - 'the Regulations'), for the purpose of putting its meaning beyond doubt in relation to the matters detailed below.

A copy of Regulation 8 as it is currently worded is set out in Annex 1 for convenient reference.

The Regulations concern traffic orders which are made by local authorities under various sections of the Road Traffic Regulation Act 1984, and which lay down parking restrictions or impose parking charges on motorists. The effect of the Regulations is to require local authorities to include in such orders certain exemptions in favour of vehicles displaying a Blue Badge.

A Blue Badge is a card that entitles people with certain disabilities to a range of parking concessions. In order to be eligible for a Blue Badge, it is necessary to satisfy criteria laid down in the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (SI 2000/682).

We wish to address two aspects of regulation 8 in particular. These are:

- a) whether regulation 8 requires local authorities to allow Blue Badge holders to park in loading bays; and
- b) whether regulation 8 requires local authorities to allow Blue Badge holders to park on yellow lines (for up to 3 hours) when a ban on loading or unloading is in force.

Although DfT considers that the meaning of regulation 8 is already clear, that view is not widely shared. Therefore we propose to amend regulation 8 so as to put its meaning beyond any doubt. Our proposal would not affect any guidance provided in our "Rights and Responsibilities" leaflet for Blue Badge holders.

Please note that the Regulations prescribe the minimum parking exemptions that local authorities should provide for Blue Badge holders. Therefore in our view a local authority could choose to allow Blue Badge holders to park in loading bays or on yellow lines when loading or unloading restrictions apply. However this would be a matter of choice, and would not be due to any requirements arising from regulation 8.

2) Background / context

- (i) How the Regulations work

It is important to appreciate that how the Regulations will operate in a particular case is likely to depend on the way in which a particular traffic order is drafted by a local authority. However in general terms, our view of their effect is as follows.

Regulation 6 requires local authorities to include, in traffic orders to which the Regulations apply, certain exemptions in favour of a vehicle displaying a Blue Badge.

Regulation 8 relates to exemptions from prohibitions on waiting at all times or during specified periods.

(ii) Points under consideration

In some respects there is general agreement as to the effect of regulation 8. For example, it is generally agreed that it requires local authorities to allow Blue Badge holders to park on single or double yellow lines for up to 3 hours in the absence of restrictions on loading or unloading.

However, questions have been raised in relation to the matters referred to at points a) and b) above, and which are detailed further in the following paragraphs.

Please note that “TSRGD” refers to the Traffic Signs Regulations and General Directions 2002 (SI 2002/3113). This statutory instrument can be viewed on the www.legislation.gov.uk website.

In addition, please note that where the view of the Department is provided, this has been done for the purpose of explaining the context in which we are considering amendments. It is not intended as legal advice and should not be regarded as such (independent legal advice should always be sought if required, and ultimately it is for the Courts to interpret the law.)

- **Parking in loading bays**

We understand a “loading bay” to be part of a road designated by a traffic order, and for which the appropriate TSRGD sign is diagram 660.4 and the road marking is a permitted variant of diagram 1028.3 saying “Loading only”.

Put more simply, loading bays are bays reserved for the specific purpose of loading or unloading, and are often indicated by a sign displaying a symbol of a man with a trolley.

Questions have been asked as to whether regulation 8 requires local authorities to include exemptions in certain traffic orders so as to allow Blue Badge holders to park in loading bays.

The Department’s view is that regulation 8 does not in fact apply to loading bays. The reason is that regulation 8 covers exemptions from prohibitions on

waiting at all times or during specified periods, and we do not consider that it applies to places reserved for the specific purpose of loading or unloading.

Therefore we do not consider that regulation 8 has the effect of requiring local authorities to allow Blue Badge holders to park in loading bays.

- **Parking on a road where there are loading restrictions**

We understand a part of a road where there are “loading restrictions” to be a part of a road designated by a traffic order and for which the appropriate TSRGD sign for kerb dashes are either diagrams 1019 (single kerb dash – no loading during period specified) or 1020.1 (double kerb dash – no loading at any time). These may be accompanied by roadside signs or zone entry signs – for examples see TSRGD diagrams 638 and 638.1.

Put more simply, restrictions on loading or unloading are indicated by kerb dashes, often in conjunction with roadside signs on plates.

It has been queried whether regulation 8 requires local authorities to include exemptions in certain traffic orders so as to allow Blue Badge holders to park on yellow lines when loading restrictions apply. In our view this is not the case.

By way of explanation, the Department’s view is that, when construing the TSRGD as a whole, the kerb dash sign necessarily implies a restriction on parking as much as on loading or unloading. Therefore, while regulation 8 of the 2000 Regulations would require an exemption in favour of vehicles displaying a Blue Badge from a prohibition on waiting “(except for the purposes of loading or unloading)”, it would not require an exemption from restrictions on loading / unloading which themselves imply a restriction on waiting.

In other words we consider that regulation 8 has the effect of requiring local authorities to include exemptions in certain traffic orders so as to allow Blue Badge holders to park on yellow lines for up to 3 hours where there are no loading restrictions. However where there are loading restrictions (or a “ban” on loading or unloading) – as indicated by kerb dashes – we do not consider that an exemption in favour of Blue Badge holders is required.

(iii) Summary of DfT view

- a) A distinction can be drawn between parking places reserved specifically for loading or unloading (ie: loading bays), and stretches of road where parking is prohibited other than for loading / unloading purposes (indicated by yellow lines, often in conjunction with roadside signs).
- b) Regulation 8(1)(a) requires local authorities to include an exemption in a traffic order which prohibits the waiting of vehicles in a road, other than for the purpose of loading or unloading, “at all times of day or during one or more specified periods”.

- c) Regulation 8 would therefore require an exemption to be included in traffic orders which provide for restrictions indicated by yellow lines, so as to allow Blue Badge holders to park on yellow lines (for essentially 3 hours). It would not apply in relation to traffic orders which provide for loading bays, or where there are loading restrictions (indicated by kerb dashes).

(iv) Explanation of DfT policy

The Department's policy has always been that Blue Badge holders should not be allowed to park in loading bays. The reason for this is that the purpose of such bays would be frustrated if parking by Blue Badge holders was allowed. This could result in traffic obstructions and public safety concerns, or prevent commercial deliveries from taking place.

Similarly our policy has always been that Blue Badge holders should not park on yellow lines when loading restrictions (also referred to as a ban on loading or unloading) are in force. The reason is that kerb dashes are used to avoid obstructions to traffic flow. Therefore allowing Blue Badge holders to park in such places would be likely to cause greater congestion.

While we consider that regulation 8 as drafted does in fact reflect our policy intention with respect to both of these matters, we propose to revise the wording so as to put its meaning beyond any doubt.

(v) Possible amendments to regulation 8

In relation to both parking in loading bays and parking where there are loading restrictions, the questions appear to stem largely from the parenthesised words in regulation 8(1)(a) of the Regulations - namely "(except for the purposes of loading or unloading)".

We therefore propose to consider alternative options, and it may well be that other changes to regulation 8 are required as a result.

3) Who needs to read and contribute to this consultation?

The consultation is mainly aimed at local authorities and we would be grateful for their views on the proposal.

In addition we would particularly welcome the views of:

- a) disabled groups
- b) other relevant Government departments
- c) devolved administrations.

4) Timing

This consultation will run for a period of 6 weeks. While this is shorter than the usual 12 week period for consulting on changes to legislation, we consider

that it is sufficient given that the changes will not alter the current legal position and are of interest specifically to local authorities (to whom this consultation is primarily directed). This shorter consultation has been approved by the Minister.

5) Questions

(i) We would welcome your views on the proposal to put the intended meaning of regulation 8 beyond doubt, namely:

- that it does not require local authorities to allow Blue Badge holders to park in loading bays; and
- that it does not require local authorities to allow Blue Badge holders to park on a road where there are loading or unloading restrictions.

(ii) We would also like to know if local authorities consider that the proposal would result in them wishing to amend existing Traffic Regulation Orders - and if so the likely costs involved.

(iii) We are also interested to know if you have any other relevant comments that you wish us to consider.

6) Impact

We expect that the changes under consideration would not impact on local authorities. This is because any amendments would not change the current legal position - which in our view reflects our policy that local authorities are not required to allow Blue Badge holders to park in loading bays or on yellow lines when loading restrictions (or a ban on loading or unloading) are in force.

In summary:

- Traffic orders which do not allow Blue Badge holders to park in loading bays would not need to be amended.
- If any traffic orders do allow Blue Badge holders to park in loading bays they would not fall foul of the law - as regulation 8 does not prevent this, but simply does not require it.

Although no impact on local authorities is anticipated (as explained above), an impact assessment will be produced to accompany the statutory instrument that will make any amendments.

7) How to respond

The consultation period began on 28 June 2011 and will run until 8 August 2011. Please ensure that your response reaches us by that date. If you would like further copies of this consultation document it can be found at www.dft.gov.uk or you can contact the address below.

Please send consultation responses to

Name : Peter Colmans

Address : Zone 3/14, Great Minster House, 76 Marsham Street, London SW1P 4DR

Email address: peter.colmans@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

8) Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure requirements in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR).

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential.

If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

9) Geographical coverage

The consultation covers England only, as other parts of the UK have their own Blue Badge Schemes.

10) What will happen next

Following this consultation, the DfT will analyse responses and publish a summary by October 2011 on the web at www.dft.gov.uk. Paper copies will be available on request. Any legislative changes that it is decided should be made will be taken forward at the earliest opportunity.

11) The consultation criteria

The consultation is being conducted in line with the Government's Code of Practice on Consultation. The Code of Practice on Consultation is available on the Better Regulation Executive website at:
<http://www.bis.gov.uk/files/file47158.pdf>

12) Contact details

If you consider that this consultation does not comply with the criteria (listed at Annex 2) or have comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 2/25 Great Minster House
76 Marsham Street
London, SW1P 4DR
email: consultation@dft.gsi.gov.uk

ANNEX 1 – Regulation 8

Below is the relevant regulation from the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000

“Exemptions from prohibitions on waiting at all times or during specified periods

8.—(1) *This regulation applies to an order made under section 1, 6, 9, 35, 45 or 46 of the 1984 Act which includes a provision which—*

(a) prohibits (except for the purposes of loading or unloading) the waiting of vehicles, or any class of vehicles, in a road at all times of day or during one or more specified periods of the day;

(b) does not apply to a bus lane or cycle lane during its hours of operation;
and

(c) is not a provision of the kind referred to in regulation 7(1).

(2) An order to which this regulation applies shall include an exemption from the prohibition in accordance with whichever of paragraphs (3) and (4) is appropriate in favour of any vehicle displaying a disabled person's badge in the relevant position.

(3) Where the period of the prohibition does not exceed 3 hours the exemption shall be for the whole of that period.

(4) Where the period of the prohibition exceeds 3 hours the exemption shall be for a period of 3 hours subject to the conditions that—

(a) the period of exempted waiting does not begin less than one hour after a previous period of exempted waiting by the same vehicle in the same road on the same day;

(b) a parking disc is displayed in the relevant position on the vehicle marked to show the quarter hour period during which the period of exempted waiting began.

(5) In this regulation “parking disc” means a device which—

(a) is 125 millimetres square and coloured blue, if issued on or after 1st April 2000 or orange, if issued before that date;

(b) has been issued by a local authority and has not ceased to be valid; and

(c) is capable of showing the quarter hour period during which a period of waiting has begun.”

ANNEX 2 – Consultation criteria

Code of Practice on Consultation

The Government has adopted a Code of Practice on consultations. The Code sets out the approach Government will take to running a formal, written public consultation exercise. While most UK Departments and Agencies have adopted the Code, it does not have legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law).

The Code contains seven criteria. They should be reproduced in all consultation documents. Deviation from the code will at times be unavoidable, but the Government aims to explain the reasons for deviations and what measures will be used to make the exercise as effective as possible in the circumstances.

The Seven Consultation Criteria

- 1. When to consult:** Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2. Duration of consultation exercises:** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3. Clarity of scope and impact:** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. **Accessibility of consultation exercises:** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation:** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises:** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult:** Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A full version of the code of practice is available on the Better Regulation Executive web-site at: <http://www.bis.gov.uk/files/file47158.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the **consultation process** please contact:

Consultation Co-ordinator
Department for Transport
Zone 2/25 Great Minster House
76 Marsham Street
London, SW1P 4DR
email: consultation@dft.gsi.gov.uk