



# Disabled Persons' Parking Places (Scotland) Act 2009

2009 asp 3

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 26th February 2009 and received Royal Assent on 1 April 2009**

An Act of the Scottish Parliament to make provision for the duties of local authorities in relation to parking places for use by disabled persons' vehicles; and for connected purposes.

*Duty to promote proper use of parking places for disabled persons' vehicles*

**1 Duty to promote proper use of parking places for disabled persons' vehicles**

A local authority must promote the proper use of parking places in its area that are designated or provided for use only by disabled persons' vehicles.

*Advisory parking places for disabled persons' vehicles*

**2 Limitation of local authorities' powers in relation to advisory parking places for disabled persons' vehicles**

A local authority has no power—

- (a) to designate an advisory disabled street parking place, except in accordance with section 9;
- (b) to designate an advisory disabled off-street parking place.

*Duties in relation to certain orders under the 1984 Act*

**3 Certain orders under the 1984 Act**

- (1) Sections 4 to 8 make provision for circumstances in which a local authority must start the statutory procedure for the making of the following kinds of order under the 1984 Act.

- (2) In this Act, a “disabled street parking order” is an order made under section 45 of the 1984 Act which—
  - (a) specifies that a street parking place may be used only by a disabled persons' vehicle, and
  - (b) provides that the parking place may be so used without charge.
- (3) In this Act, a “disabled off-street parking order” is an order made under section 35 of the 1984 Act which—
  - (a) provides that an off-street parking place may be used only by a disabled persons' vehicle, and
  - (b) provides that any charge to be paid in connection with such use of the parking place may not be greater than any charge payable (whether by virtue of the order or another order under the 1984 Act) in connection with the use of any other off-street parking place in the same premises.

#### **4 Disabled street parking orders: local authorities' initial duties**

- (1) A local authority must identify every street parking place in its area that at the time of the coming into force of this Act is an advisory disabled street parking place.
- (2) In relation to each parking place that it so identifies, the authority must decide whether it is a parking place from which there is convenient access to the address of a person who holds a disabled persons' badge.
- (3) If the authority's decision under subsection (2) is that the parking place is such a parking place, it must either—
  - (a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or
  - (b) start the statutory procedure for the making of such an order.
- (4) Subsection (5) applies if—
  - (a) the authority's decision under subsection (2) is that a parking place is not a parking place from which there is convenient access to the address of a person who holds a disabled persons' badge;
  - (b) the authority makes a decision under subsection (3)(a).
- (5) The authority must—
  - (a) publish its reasons, and
  - (b) remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons' vehicle.
- (6) If the authority starts the statutory procedure under subsection (3)(b) and the result of the procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons' vehicle.
- (7) The authority must perform its duty under subsection (1) and any duty under subsection (2), (3) or (5) within the period of 12 months beginning with the coming into force of this Act.

## **5 Disabled street parking orders: requests by qualifying persons**

- (1) A qualifying person may request a local authority to make a disabled street parking order in respect of a street parking place—
  - (a) which is in the authority's area, and
  - (b) from which there is convenient access to the person's address.
- (2) If it is satisfied that the person making a request under subsection (1) is a qualifying person, the authority must—
  - (a) decide whether it is possible to identify a suitable street parking place in its area from which there is convenient access to the person's address, and
  - (b) if it decides that that is possible, identify such a parking place.
- (3) If the authority identifies such a parking place, it must either—
  - (a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or
  - (b) start the statutory procedure for the making of such an order.
- (4) Subsection (5) applies if—
  - (a) the authority is not satisfied that the person making the request is a qualifying person;
  - (b) the authority's decision under subsection (2) is that it is not possible to identify a suitable street parking place in its area from which there is convenient access to the person's address;
  - (c) the authority makes a decision under subsection (3)(a).
- (5) The authority must give the person who made the request under subsection (1) its reasons.
- (6) The form and manner in which a request under subsection (1) is to be made—
  - (a) may be prescribed by regulations made by the Scottish Ministers;
  - (b) unless regulations made under paragraph (a) are in force, may be specified by the authority.
- (7) A request under subsection (1) may be made through another person acting on behalf of the qualifying person.
- (8) A "qualifying person" is a person who holds a disabled persons' badge and whose address—
  - (a) if the person is an individual, is the same as the registered address of the registered keeper of a vehicle suitable for the carriage of the individual;
  - (b) if the person is an organisation, is the same as the registered address of the registered keeper of a vehicle used by or on behalf of the organisation to carry disabled persons.
- (9) In subsection (8)—

"the registered keeper" of a vehicle is the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 (c. 22) at the time the request is made;

"the registered address" of the registered keeper is the address recorded at that time in the record kept under that Act with respect to that vehicle as being that person's address.

## **6 Disabled off-street parking orders: local authorities' initial duties**

- (1) A local authority must identify every off-street parking place in its area that at the time of the coming into force of this Act is an advisory disabled off-street parking place.
- (2) If a parking place so identified is an eligible parking place the authority must either—
  - (a) decide that, having regard to its duty under section 122 of the 1984 Act, it has no power to make a disabled off-street parking order in respect of the parking place, or
  - (b) start the statutory procedure for the making of such an order.
- (3) If a parking place identified under subsection (1) is not an eligible parking place, subsection (4) applies.
- (4) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.
- (5) In making a decision under subsection (4) the authority must have regard to its duty under section 122 of the 1984 Act.
- (6) If the authority's decision under subsection (4) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.
- (7) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.
- (8) An "eligible parking place" is a parking place that is provided—
  - (a) by the authority itself under section 32(1)(a) of the 1984 Act, or
  - (b) under arrangements that the authority has made under section 33(4) of that Act.
- (9) The authority must—
  - (a) perform its duty under subsection (1) and any duty under subsection (2) or (4) within the period of 12 months beginning with the coming into force of this Act, and
  - (b) start to perform any duty under subsection (6) within that period.

## **7 Disabled off-street parking orders: new development**

- (1) This section applies to a local authority which—
  - (a) in its capacity as a planning authority under the Town and Country Planning (Scotland) Act 1997 (c. 8), grants planning permission for a relevant development;
  - (b) learns of a relevant development in its area for which planning permission is granted by a development order.
- (2) In relation to each advisory disabled off-street parking place included in or, as the case may be, created by a relevant development, subsection (3) applies.
- (3) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

- (4) In making a decision under subsection (3) the authority must have regard to its duty under section 122 of the 1984 Act.
- (5) If the authority's decision under subsection (3) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.
- (6) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.
- (7) The authority must—
  - (a) perform its duty under subsection (3) within the relevant period, and
  - (b) start to perform any duty under subsection (5) within the relevant period.
- (8) In subsection (7), the “relevant period” is the period of three months beginning, as the case may be, with—
  - (a) the date on which the authority grants the planning permission, or
  - (b) the date on which the authority learns of the relevant development.
- (9) A local authority must monitor development in its area with a view to learning of relevant developments for which planning permission is granted by a development order.

## **8 Disabled off-street parking orders: ongoing duties**

- (1) The following duties apply to a local authority which has sought unsuccessfully to make arrangements for the provision of a parking place pursuant to a duty under—
  - (a) section 6(6);
  - (b) section 7(5);
  - (c) subsection (4) of this section.
- (2) At the end of the relevant period the authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.
- (3) In making a decision under subsection (2) the authority must have regard to its duty under section 122 of the 1984 Act.
- (4) If the authority's decision under subsection (2) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.
- (5) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.
- (6) The authority must—
  - (a) perform its duty under subsection (2) within the period of three months beginning with the last date of the relevant period, and
  - (b) start to perform any duty under subsection (4) within that period of three months.
- (7) The “relevant period” is the period of two years beginning with the date on which the authority last concluded that it was unable to make arrangements pursuant to a duty listed in subsection (1).

*Further provision about street parking places for disabled persons' vehicles***9 Designation of a temporary parking place where a request has been made under section 5**

- (1) If a local authority is required by section 5(3)(b) to start the statutory procedure for the making of a disabled street parking order in respect of a parking place, it must as soon as reasonably practicable designate the parking place as an advisory disabled street parking place.
- (2) When that statutory procedure ends, the designation of the parking place under subsection (1) is automatically revoked.
- (3) If the result of that statutory procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons' vehicle.

**10 Duty to keep disabled street parking orders under review**

A local authority which has made a disabled street parking order must keep under review the continuing provision of each street parking place in respect of which it made the order.

*Annual reports on local authorities' functions in relation to parking places for disabled persons' vehicles***11 Annual reports by local authorities**

- (1) In relation to each reporting period, a local authority must—
  - (a) prepare a report on its performance of its functions in relation to parking places for disabled persons' vehicles during the reporting period,
  - (b) publish the report, and
  - (c) send a copy of the report to the Scottish Ministers.
- (2) Part 1 of the schedule makes provision for the content of a report prepared under subsection (1)(a).
- (3) The Scottish Ministers may by regulations make any modification to Part 1 of the schedule that they consider necessary or expedient.
- (4) The authority must perform its duties under subsection (1) within the period of three months beginning with the last date of the reporting period.

**12 Annual report by the Scottish Ministers**

- (1) In relation to each reporting period, the Scottish Ministers must—
  - (a) prepare a report on the performance by the local authorities of their functions in relation to parking places for disabled persons' vehicles during the reporting period,
  - (b) publish the report, and
  - (c) lay a copy of the report before the Scottish Parliament.

- (2) Part 2 of the schedule makes provision for the content of a report prepared under subsection (1)(a).
- (3) The Scottish Ministers may by regulations make any modification to Part 2 of the schedule that they consider necessary or expedient.
- (4) The Scottish Ministers must perform their duties under subsection (1) within the period of six months beginning with the last date of the reporting period.

### *Final provisions*

## **13 Regulations**

- (1) Regulations made by the Scottish Ministers under this Act—
  - (a) must be made by statutory instrument;
  - (b) may make different provision for different purposes.
- (2) A statutory instrument containing regulations under section 5(6)(a) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) A statutory instrument containing regulations under section 11(3) or 12(3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Scottish Parliament.

## **14 Interpretation**

- (1) In this Act—
  - “the 1984 Act” means the Road Traffic Regulation Act 1984 (c. 27);
  - “advisory disabled off-street parking place” means an off-street parking place —
    - (a) to which the public have access,
    - (b) which is marked or sign-posted as being for use only by a disabled persons' vehicle, and
    - (c) which is not the subject of an order under section 35 of the 1984 Act providing that it may be used only by a disabled persons' vehicle;
  - “advisory disabled street parking place” means a street parking place which—
    - (a) is marked or sign-posted as being for use only by a disabled persons' vehicle, and
    - (b) is not the subject of an order under section 35 or 45 of the 1984 Act specifying or providing that it may be used only by a disabled persons' vehicle;
  - “development order” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 30);
  - “disabled persons' badge” means—
    - (a) a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44),
    - (b) a badge issued under a provision of the law of Northern Ireland corresponding to that section, or
    - (c) a badge issued by any member State other than the United Kingdom for purposes corresponding to the purposes for which badges under that section are issued;

“disabled persons' vehicle” means a vehicle lawfully displaying a disabled persons' badge;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“planning permission” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 277);

“premises” includes any land or building;

“relevant development” means—

- (a) the construction of premises which include an advisory disabled off-street parking place, or
- (b) the creation of an advisory disabled off-street parking place in existing premises;

“reporting period” means—

- (a) the period beginning with the date on which this Act comes into force and ending with the second succeeding 31 March, and
- (b) each successive financial year;

“road” has the same meaning as in the Roads (Scotland) Act 1984 (c. 54) (see section 151);

“the statutory procedure”, in relation to the making of a disabled off-street parking order or a disabled street parking order, means the procedure to be followed in connection with the making of an order under section 35 or 45 (as the case may be) of the 1984 Act in accordance with regulations made under paragraph 21 of Schedule 9 to that Act;

“street parking place” and “off-street parking place” refer respectively to a parking place on land which does, and which does not, form part of a road.

(2) References in this Act to a person's address—

- (a) in the case of an individual, are references to the address of the individual's main home;
- (b) in the case of an organisation, include a reference to any address at which the organisation has a place of business.

## **15 Short title and commencement**

(1) This Act may be cited as the Disabled Persons' Parking Places (Scotland) Act 2009.

(2) This Act (except this section) comes into force at the end of the period of six months beginning with the date of Royal Assent.



## SCHEDULE

*(introduced by sections 11(2) and 12(2))*

### ANNUAL REPORTS ON PERFORMANCE OF FUNCTIONS IN RELATION TO PARKING PLACES FOR DISABLED PERSONS' VEHICLES

#### PART 1

##### CONTENT OF ANNUAL REPORTS BY LOCAL AUTHORITIES

- 1 A report prepared by a local authority under section 11(1)(a) must contain the following information in respect of the reporting period—
- (a) details of the action that it took in fulfilment of its duty under section 1;
  - (b) the number of parking places designated as being for use only by a disabled persons' vehicle by virtue of the provisions of this Act (except section 9);
  - (c) the following information related to its performance of its duties under section 4—
    - (i) the number of advisory disabled street parking places identified under section 4(1), if any;
    - (ii) its reasons for any decision under section 4(2) or (3)(a);
    - (iii) the number of parking places in relation to which it started the statutory procedure under section 4(3)(b), if any;
  - (d) the following information related to its performance of its duties under section 5—
    - (i) the number of requests made to it under section 5(1);
    - (ii) the number of parking places which it identified under section 5(2)(b);
    - (iii) its reasons for any decision under section 5(3)(a);
    - (iv) the number of parking places in relation to which it started the statutory procedure under section 5(3)(b);
    - (v) the period, in each case, between the identification of a parking place under section 5(2)(b) and the starting of the related statutory procedure under section 5(3)(b);
  - (e) the following information related to its performance of its duties under section 6—
    - (i) the number of advisory disabled off-street parking places identified under section 6(1), if any;
    - (ii) its reasons for any decision under section 6(2)(a);
    - (iii) the number of parking places in relation to which it started the statutory procedure under section 6(2)(b), if any;
    - (iv) its reasons for any decision under section 6(4) that it would not have power to make a disabled off-street parking order;
    - (v) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 6(6), if any;
    - (vi) the reasons why it was unsuccessful in making any such arrangements;
    - (vii) the number of parking places in relation to which it started the statutory procedure under section 6(7);

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*Status: This is the original version (as it was originally enacted).*

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- (viii) the date by which it performed its duty under section 6(1) and any duties under section 6(2), (4) or (6), relative to the period of twelve months referred to in section 6(9);
- (f) the following information related to its performance of its duties under section 7—
  - (i) the number of relevant developments for which a planning permission mentioned in section 7(1) was granted;
  - (ii) its reasons for any decision under section 7(3) that it would not have power to make a disabled off-street parking order;
  - (iii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 7(5);
  - (iv) the reasons why it was unsuccessful in making any such arrangements;
  - (v) the number of parking places in relation to which it started the statutory procedure under section 7(6);
- (g) the following information related to its performance of its duties under section 8—
  - (i) its reasons for any decision under section 8(2) that it would not have power to make a disabled off-street parking order;
  - (ii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 8(4);
  - (iii) the reasons why it was unsuccessful in making any such arrangements;
  - (iv) the number of parking places in relation to which it started the statutory procedure under section 8(5);
- (h) the following information about disabled street parking orders and disabled off-street parking orders—
  - (i) the number of such orders for the making of which it started the statutory procedure in accordance with this Act;
  - (ii) the number of parking places designated as being for use only by a disabled persons' vehicle under such an order;
  - (iii) in relation to each such order, the period between the start of the statutory procedure and the making of the order;
  - (iv) in respect of each case in which it started the statutory procedure for the making of such an order but did not make an order, the reasons why not.

- 2 A report prepared by a local authority under section 11(1)(a) may contain any other information about its performance of its functions in relation to parking places for disabled persons' vehicles during the reporting period that the authority considers appropriate.

## PART 2

### CONTENT OF ANNUAL REPORT BY THE SCOTTISH MINISTERS

- 3 A report prepared by the Scottish Ministers under section 12(1)(a) must contain the following information in respect of the reporting period—
- (a) details of the action that each local authority took in fulfilment of its duty under section 1;

- (b) the total number of parking places designated by the local authorities as being for use only by a disabled persons' vehicle by virtue of the provisions of this Act (except section 9);
- (c) for each category of information under paragraph 1 that requires the reporting of a number or a date, a table setting out the number reported by each local authority;
- (d) for each category of information under paragraph 1 that requires the reporting of a period, a table setting out the period reported by each local authority;
- (e) for each category of information under paragraph 1 that requires the reporting of reasons, a summary of the reasons reported by each local authority.

4 A report prepared by the Scottish Ministers under section 12(1)(a) may contain any other information about the performance by local authorities of their functions in relation to parking places for disabled persons' vehicles during the reporting period that the Scottish Ministers consider appropriate