

# **DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

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

26. Individuals or organisations holding a disabled persons' badge can apply to the local authority for a disabled persons' street parking place. Section 5 sets out the local authority's duties in this respect and provides the process to be followed.
27. Subsection (1) sets out that a qualifying person can apply to a local authority for such a parking place from which there is convenient access to their address. For those living close to local authority boundaries the subsection permits application to any authority in whose area there is a space with convenient access to the applicants address.
28. "Qualifying person" is defined in subsection (8) as one who holds a disabled persons' badge and has a suitable vehicle registered at their address. Subsection (7) provides that a request may be made through another person who is acting on behalf of the qualifying person. This is to cover circumstances when the disabled badge holder is unable to make the request themselves. Subsection (8)(b) provides that when an application is received from an organisation, they must also have a vehicle registered at their address and that the vehicle should be suitable for use by disabled people. Subsection (9) links the registered keeper to the vehicles' registration with the Driver and Vehicle Licensing Agency (DVLA) and their registered address.
29. Once satisfied that the person making the application is a qualifying person subsection (2)(a) requires the local authority to decide whether it is possible to identify in their area a suitable street parking place providing convenient access to the address. The conformity of a parking place with any current specifications prescribed in regulations<sup>1</sup> is expected to be one of the factors taken into account by the local authority in determining where a space is "suitable". If they decide that it is possible then (2)(b) requires them to identify such a parking place.
30. Subsection (3)(a) requires the local authority to determine whether or not it has the power to make a disabled street parking order in respect of the parking place. To do that they must consider their duties under sections 43(5) and 122 of the 1984 Act (see paragraph 25 above).
31. Subsection (4) sets out the circumstances when subsection (5) applies. Subsection (5) applies when the local authority is not satisfied the applicant is a qualifying person, that it is not possible to identify a suitable street parking place that provides convenient access to the address or if the local authority believes it has no power to make such an order.

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<sup>1</sup> Current regulations are the [Traffic Signs Regulations and General Directions 2002 \(No 3113\)](#)

*These notes relate to the Disabled Persons' Parking Places (Scotland)  
Act 2009 (asp 3) which received Royal Assent on 1 April 2009*

32. Subsection (5) requires the local authority to provide the person making the application with the reasons for its decision not to proceed with the application under subsections (4)(a), (b) or (c).
33. It is for the local authority to determine the form and manner in which a request under this section should be made unless under subsection (6)(a) the Scottish Ministers prescribe these details. Section 13 makes provision for the making of regulations and section 13(2) requires that any made in respect of section 5(6)(a) are subject to negative resolution procedure.