



# Disabled Persons' Parking Places (Scotland) Act 2009

2009 asp 3

## *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).