

DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 4: Disabled street parking orders: local authorities' initial duties

22. **Section 4** places requirements on local authorities in relation to existing advisory disabled street parking places. Subsection (7) provides that these requirements must be completed within 12 months of commencement of the Act. The duties under this section are one off duties, which once completed do not recur.
23. Subsection (1) requires the local authority to identify every advisory disabled street parking place in its area. Subsection (2) requires the local authority to determine if each parking place provides convenient access to the address of a person who holds a disabled persons' badge. If it does provide convenient access then subsection (3) applies.
24. 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 45(3) and 122 of the 1984 Act. These are:
- (3) ~~145~~etermining what parking places are to be designated under this section the authority concerned shall consider both the interests of traffic and those of the owners and occupiers of adjoining property, and in particular the matters to which that authority shall have regard include:
- (a) the need for maintaining the free movement of traffic;
 - (b) the need for maintaining reasonable access to premises; and
 - (c) the extent to which off-street parking accommodation, whether in the open or under cover, is available in the neighbourhood or the provision of such parking accommodation is likely to be encouraged there by the designation of parking places under this section.
- and
- (1) ~~112~~all be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway or, in Scotland the road.
- (2) The matters referred to in subsection (1) above as being specified in this subsection are—
- (a) the desirability of securing and maintaining reasonable access to premises;
 - (b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting

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

- the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
- (bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
 - (c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
 - (d) any other matters appearing to the local authority to be relevant.
25. If the local authority determines that it has power to make a disabled street parking order it is required by subsection (3)(b) to start the statutory procedure. If the outcome of this procedure is that no order is made then subsection (6) requires that the local authority removes any road markings or sign-posts for the advisory disabled street parking place. Subsections (4) and (5) require the local authority to publish reasons whenever it determines that there is no person who holds a disabled persons' badge with convenient access to an existing advisory disabled street parking place, under subsection (2). The same requirement also applies when the local authority decides that it has no power to make an order under subsection (3)(a). The local authority must also, in these circumstances, remove any road markings or sign-posts for the advisory disabled street parking place.