

DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

34. **Section 6** makes provision for disabled off-street parking orders. Subsection (1) requires local authorities to identify all advisory disabled off-street parking places in their area.
35. For those parking places identified under subsection (1) which are eligible parking places subsection (2) applies. "Eligible parking places" are defined in subsection (8) as those provided by the local authority under section 32(1)(a) of the 1984 Act or provided under arrangements the local authority has made under section 33(4) of that Act.
36. Under section 32 of the 1984 Act a local authority has power to provide off-street parking places for the purpose of relieving or preventing congestion of traffic. Disabled parking places could be provided within such an off-street area. Section 33(4) of that Act allows a local authority to make arrangements with a private owner for the provision of parking places on such terms as it sees fit.
37. **Section 6(2)** requires local authorities to start the order making procedure for all eligible parking places that it has identified unless it decides, having regard to its duties under section 122 of the 1984 Act that it has no powers to make the order. Subsection (9) also requires that this duty is started within 12 months of the Act coming into force.
38. Subsections (3) to (7) set out the procedure for advisory disabled off-street parking places which are not eligible parking places. Subsection (4) requires the local authority within 12 months (as per subsection (9)) to decide whether it would have the power to make a disabled off-street parking order should an arrangement under section 33(4) of 1984 Act be in place. Subsection (5) requires that when making its decision under subsection (4) the local authority also has regard to its duties under section 122 of the 1984 Act (see paragraph 25 above).
39. When a local authority decides under subsection (4) that it would have power under section 33(4) of the 1984 Act to make an arrangement then subsection (6) requires the local authority to try to reach such an arrangement with the owner, or person having an interest in the car park. Subsection (7) requires the local authority to start the order making process whenever it has been successful in making such an arrangement.
40. Subsection (9) gives the local authority 12 months from the Act coming into force to start seeking arrangements with private providers.