

DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 7: Disabled off-street parking orders: new development

41. **Section 7** applies whenever planning permission is granted for the construction of premises which include an advisory disabled persons parking place or the creation of such parking places within existing premises. These are referred to in the section as a “relevant development” and are defined in section 14. Section 14 also defines “premises” to include any land or building.
42. This section only applies when advisory disabled off-street parking places are included within the development. It is anticipated that, given local authorities and developers duties under other statutes and planning guidance,¹ such spaces will be included in every development receiving planning permission which includes provision for public parking.
43. Subsection (1) applies the section to local authorities under certain circumstances. Subsection (1)(a) applies when the local authority as a planning authority grants planning permission in respect of a relevant development; while subsection (1)(b) applies when the local authority learns that planning permission has been granted by way of a development order. Planning permission and development orders are defined in section 14 as having the same meaning as under the [Town and Country Planning \(Scotland\) Act 1997 \(c.8\)](#).
44. Subsection (3) is applied by subsection (2) to all relevant developments and requires the local authority to decide within three months (see subsection (7) and paragraph 47 below) whether or not it would have the power to make a disabled off-street parking order if arrangements under section 33(4) of the 1984 Act were in place. Subsection (4) ensures that when making its decision under subsection (3) the local authority has regard to its duties under section 122 of the 1984 Act (see paragraph 25).
45. Subsection (5) applies when the local authority decides it would have the power to make an order. The local authority is required to seek to make an arrangement with the owner or person having an interest in the land under section 33(4) of the 1984 Act. Subsection (6) provides that if such arrangements are made then the local authority must start the order making procedure.
46. Subsections (7) and (8) set out and define the timescales within which the local authority must perform its duties under subsections (3) and (5). The decision under (3) must be made within the relevant period of three months and under subsection (5) it must *start* to seek to make arrangements within the same period. Subsection (8) defines the relevant

¹ Chronically Sick and Disabled Persons Act 1970, [Disability Discrimination Act 1995 c 50](#) and Scottish Planning Policy SPP17 – Planning for Transport. August 2005

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

period as 3 months from the local authority either granting the planning permission or learning that planning permission has been granted by a development order.

47. Subsection (9) requires local authorities to monitor developments in their areas to ensure they are aware of relevant developments granted planning permission by way of development orders.