



Briefing for the Public Petitions Committee

Petition Number: [PE1559](#)

Main Petitioner: George Neilson

Subject: Calls on the Scottish Parliament to urge the Scottish Government to review the effectiveness of the measures introduced in the Disabled Persons' Parking Places (Scotland) Act 2009 regarding the enforcement of disabled parking on private property and to consider further measures to grant local authorities the power to enforce disabled parking on private land.

Background

Enforceable parking places: Enforceable parking places are those which have been formally designated through a designation Order. Designation Orders are often referred to as Traffic Regulation Orders (TROs) as they share the same authorisation process as a TRO, which are promoted by the local authority. Responsibility for the enforcement of enforceable parking spaces falls to either Police Scotland or, where there has been decriminalisation of parking enforcement, parking attendants employed by the local authority.

Private car parks: The owners of a private car park can designate specific parking spaces for exclusive use by disabled people. The enforcement of these spaces remains a matter for the car park owner. There is no specific legislation governing the operation, upkeep or use of private car parks in Scotland. Parking in a privately owned car park is generally governed by contract law. Anyone who parks in a private car park is deemed to have agreed to the terms and conditions of its use, which are normally posted on signs in the car park. The terms of use effectively form the terms of the contract between the car park owner and the vehicle owner. The enforcement of these terms and conditions are a matter for the car park owner, who may have delegated this responsibility to a parking enforcement company.

Local authority powers: The Local Authorities' Traffic Regulation Orders (Procedure) (Scotland) Regulations 1999 allows local authorities to promote Traffic Regulation Orders in private car parks at the request of and in agreement with the landowner. This allows for the creation of enforceable parking places within private car parks, including disabled persons' parking places.

The Disabled Persons' Parking Places (Scotland) Act 2009: This Act places three distinct duties on local authorities with regards off-street disabled persons' parking places, these are:

1. Each local authority is required to identify every advisory off-street disabled persons' parking place within its area which existed at the date the Act come into force. Where such spaces are provided directly by the authority or in car parks managed/provided for the authority by a third party then they must begin the designation Order process within 12 months of the Act coming into force. If the parking places are within a private car park then the local authority is required to attempt to enter into an agreement with the owner to allow for the creation of enforceable disabled persons' parking places within the car park. If the owner agrees then the local authority must begin the designation Order process.

2. Each local authority is required to begin the designation Order process for any disabled parking places to be created in new developments within their area. The designation Order process should be started within three months of the date that the development is granted planning permission, or three months from the date the authority become aware of a development if it is permitted through a development order rather than through the direct grant of planning permission. Local authorities are required to monitor development within their area so they can make timely contact with the developer/owner with a view to seeing agreement to the initiation of the designation Order process to secure enforceable disabled persons' parking places in all new developments where appropriate.

3. Where local authorities have failed to secure agreement to pursue designation Orders for new and existing advisory off-street parking places they must, at least every two years, make another attempt to secure agreement to create enforceable parking places for those sites.

The only exception to these three requirements is where the authority considers that obtaining a designation Order would be detrimental to issues such as traffic flow, vehicle access etc. as set out in Section 122 of the Road Traffic Regulation Act 1984.

Scottish Government Action

Transport Scotland publishes an annual report on the implementation of the Disabled Persons' Parking Places (Scotland) Act 2009. The latest report covers [2013/14](#). Transport Scotland, working with the Society of Chief Officers of Transportation in Scotland, has produced [guidance](#) for local authorities on the implementation of the Act.

Scottish Parliament Action

The Scottish Parliament has not considered undertaking a review of the Disabled Persons' Parking Places (Scotland) Act 2009 and associated powers.

Alan Rehfisch

Senior Researcher

March 2015

SPICe researchers are not able to discuss the content of petition briefings with petitioners or other members of the public. However if you have any comments on any petitions briefing you can email us at spice@scottish.parliament.uk

Every effort is made to ensure that the information contained in petitions briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.