



DISABLED PARKING SPACES

Where a congregation has designated a particular space within their church car park as being a disabled parking space, they may find they are approached by the Local Authority with the suggestion that the designated space be incorporated into an Order in terms of the Disabled Persons' Parking Places (Scotland) Act 2009.

The Act places an obligation on Local Authorities to identify disabled off-street parking places to which the public have access but which is not yet regulated in terms of the Road Traffic Regulations Act 1984.

If a parking space is encompassed within an Order the Local Authority will have considerable powers to regulate the use of the space, including access to it and the hours during which it has to be available for use. In return, the Local Authority will police the space and can issue Statutory Penalty Notices on drivers who use the space illegally, ie without the benefit of a disabled parking badge.

The Local Authority has no ability to compel an owner to allow their disabled parking space to be regulated. However, they do have a statutory obligation to make an approach to the owner with a proposal to bring the space within an Order. They may do this by attempting to purchase the space, by leasing it or by a voluntary agreement between the owner and the Local Authority. At present, given the financial position of most Local Authorities, the latter approach is more likely.

Congregations should be aware that, if the parking space is regulated, they will lose control of the parking space and may lose the ability to secure their car park whilst not in use for church events and use it as they wish. In particular the Local Authority may insist on the disabled parking space being available at all times regardless of whether or not the remainder of the car park is available. Further the space will be available for members of the public and not just people attending the Church buildings.

A regulated disabled space will no longer be available for use by members of the congregation or those attending the Church buildings who do not have disabled parking badges. If entering into a letting arrangement with the Local Authority, it may be that the agreement of Presbytery and the General Trustees will be required if the effect of the agreement is to take the parking space outwith the control of the congregation for an extended period. Legal advice should be sought in respect of any agreement (written or otherwise) that is contemplated.

A congregation as owners of a disabled car parking space is in no way obliged to grant the Local Authority the right to regulate the space and should carefully consider the implications of doing so as it may in fact be against the best interests of the congregation to permit this. If you are in doubt in any way at all about an approach from the Local Authority, please contact the Law Department at lawdept@cofscotland.org.uk for specific legal advice.

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