

Roads Service Policy & Procedure Guide : RSPPG_S016

Title: ON AND OFF-STREET PARKING ORDERS & PARKING CONCESSIONS FOR THE DISABLED

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Classification

Procedure Category : Statutory
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Notes

This document is a direct replacement for Section 1807 sub-section V of the Roads Manual as a consequence this document has not passed through the full document control system.

Certification

This document complies with Roads Service policy and practice, and is to be implemented with effect from the date of issue.

(Signed) G Allister

Director : Engineering

Certification Date: 28th May 2002

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1 Introduction

1.1 Purpose

This Roads Service Policy & Procedure Guide (RSPPG): -

- a) Is aimed at all Roads Service Staff.
- b) This PPG replaces section 1807 sub-section V of the Roads Service Roads Manual.

1.2 Definitions

- 1.2.1 "Regulation Order" – Road Traffic Regulation(Northern Ireland) Order 1997 (S.I. 1997/276(N.I.2))
- 1.2.2 "Off-Street Parking Order" – Off-Street Parking (Northern Ireland) Order 2000 (S.R. 2000 No. 384).
- 1.2.3 "On-Street Parking Order" – On-Street Parking (Northern Ireland) Order 2000 (S.R. 2000 No. 383).
- 1.2.4 "LLB" – Lands and Legislation Branch.
- 1.2.5 "RSHQ" – Roads Service Headquarters.
- 1.2.6 "DSO" – Departmental Solicitor's Office.

1.3 Background

- 1.3.1 None

1.4 Implementation

- 1.4.1 This RSPPG is to be implemented with effect from the date of issue.

1.5 Costs and Benefits

- 1.5.1 As this RSPPG is to replace an existing Roads Manual Section the Costs and benefits are not relevant at this time.

2 Roads Service Policy & Procedures

2.1 OFF-STREET PARKING

2.1.1 The law is contained in Articles 13 and 14 of the Regulation Order and the Off-Street Parking Order.

2.1.2 Article 13(1) and (2) of the Regulation Order enables the Department to make provisions, by order, as to the use of any off-street parking place and, in particular, the persons or vehicles entitled to use it, the conditions on which it may be used and the charges to be paid for its use. It is not possible to reserve a parking space or spaces for an individual or a group of individuals, e.g., doctors, within an off-street parking place. (Disabled parking bays are provided under Section 4 of the Chronically Sick and Disabled Persons (NI) Act 1978, Roads Service having deemed public car parks to be “public premises”.)

2.1.3 Article 13(3) and (4) introduces the concept of an “initial charge”, payable in respect of an initial period, an “excess charge” payable, in addition to an initial charge, in respect of any excess over an initial period, and an “alternative charge” payable where no initial charge has been paid, regardless of the period for which the vehicle is left or in such circumstances as may be specified.

2.1.4 Article 13(17) requires a copy of the off-street parking order to be exhibited in or near the parking place. This should include the relevant part of the Schedule detailing times of operation and tariffs, if any.

2.1.5 Article 27 exempts the Department from liability for the loss of or damage to any vehicles unless it is directly attributable to a negligent act of the Department or its servant or agent. This should be notified to the public in the form of a disclaimer notice incorporated in the Off-Street Parking Order exhibited in the car park. The form of notice is:

2.1.5.1 “The Department for Regional Development will be liable:-

- a) in respect of any loss of vehicles or their contents by theft only where same is proved and to the extent that it is proved to be caused by the dishonesty of the servants or agents of the Department;
- b) in respect of damage to vehicles, death or personal injury to its customers and others in the car park only where same is proved and to the extent that it is proved to be caused by the negligence, wilful act or default or breach of statutory duty of the Department’s servants or agents”.

2.1.6 The minimum period required to make an order being 12 weeks, Divisions should ensure that written requests to have car parks included in (or deleted from) the Off-Street Parking Order are sent to LLB at RSHQ at least that period in advance of the proposed operational date of the car park. The procedure to be followed is:

- a) Details of the amendment plus a copy of the District Council Notification letter should be forwarded to LLB. If the amendment is to Part III of Schedule 1 (designated car parks) then local police approval is also required.
- b) Once cleared by the DSO, the Notice of Intention will be advertised by LLB in the 3 daily newspapers. The Notice will specify the place(s) where a copy of the draft order and any relevant map or plan may be inspected and will invite objections or other representations. Objections or other representations must be made within a period of 22 days from the date of publication of the Notice. All objections or other representations must be in writing and must specify the grounds on which they are made.
- c) Objections/representations should be dealt with in accordance with the procedures set out in S002 of the Roads Manual. Unresolved objections/representations should be forwarded to LLB for decision.
- a) At the end of the 22-day waiting period confirmation that no objection or other representation has been received or that any objections/representations received have been resolved should be forwarded to LLB.

2.2 OFFENCES UNDER THE OFF-STREET PARKING ORDER

2.2.1 If a vehicle is left in a car park in contravention of Article 4 (not of a class specified), Article 5 (not in a position specified), Article 6 (parking without entitlement in a parking bay reserved for a disabled person's vehicle), Article 7 (waiting beyond the permitted time) or Article 9 (non-payment of appropriate charge), then under Article 15 the Department may remove the vehicle or arrangement for it to be moved from the car park.

2.2.2 Article 16 permits an offending vehicle to be towed or driven or moved in such other manner as is necessary. In doing so, care should be taken not to damage the vehicle in any way.

2.2.3 If the vehicle concerned is a caravan then removal would have to be done while the caravan is unoccupied.

2.2.4 Article 17 requires that when a vehicle is removed from a car park arrangements must be made for its safe custody. It cannot, therefore, be left on a public road.

2.2.5 Article 54(1) of the Regulation Order enables the Department to recover, from "any person responsible", any costs reasonably incurred in relation to the removal or custody of a vehicle which has been removed from a parking place and to retain the vehicle until payment is received. "Any person responsible" is defined as:

- a) the person who owned the vehicle at the time of the offence, unless he can show that he was not responsible for the vehicle at that time; or
- b) the person who put the vehicle in the place from which it was removed.

2.2.6 Trading in a car park may contravene Article 19 (selling, etc, from a vehicle) or Article 27 (erection of a structure without the consent of the Department).

2.2.7 Offenders should be told that trading is prohibited and asked to stop. It is important that the offender is advised of the offence being committed and the Department's intention to prosecute. If they refuse then names and addresses, description and registration of the vehicle should be noted.

2.2.8 Article 9 makes it an offence to fail to pay the appropriate charge. Under Article 14(5) of the Regulation Order a parking attendant, where he has reasonable cause to suspect that a driver has failed to pay the appropriate charge, is empowered to:-

- a) stop a vehicle leaving a "pay and display" car park;
- b) require the driver to provide his name and address; and
- c) where an offence has been committed and is likely to lead to prosecution, before any questions are put to the driver about the offence he must caution him in the following terms –

- **"You do not have to say anything, but I must caution you that if you do not mention when questioned something which you later rely on in court, it may harm your defence. If you do say anything it may be given in evidence."**

2.2.9 Under Article 14(6), of the Regulation Order a parking attendant shall, on request, produce some document showing that he is authorised to exercise those powers. Where the person in question is –

- a) a parking attendant employed by the Department's contractor – it will be necessary for him to be issued with an authorisation document; or
 - b) an employee of the Department – the authorisation should appear on the back of his security pass.
- The form of the document to be issued is at Appendix 1.

2.2.10 The offence of failure to “pay and display” is committed by the person who parks the car, not necessarily the registered owner of the vehicle. Where it has not been possible to obtain a driver’s name and address a Notice may be served on (a) the registered owner of the vehicle or (b) on any other person requiring him to give to the Department, within 14 days of the date of the Notice, information relating to the identity of the driver. The forms of Notice to be issued are at Appendix 2 and Appendix 3.

2.2.11 It should be noted that disabled person’s badge holders are not entitled to park free of charge in off-street car parks, whether within a parking bay reserved for their use or not.

2.2.12 While Article 9 makes it an offence to fail to pay the specified charge, legal advice states that where the car park is marked out in parking bays, charges apply to the bays only, therefore, if a vehicle is not parked within a parking bay, the offence is committed under Article 5 – failure to park in a specified position.

2.3 ON-STREET CHARGED PARKING

2.3.1 The law is contained in Articles 15 to 17 of the Regulation Order and the On-Street Parking Order. Enforcement of these orders is carried out mainly by Traffic Wardens, offenders being issued with Fixed Penalty Tickets.

2.3.2 Article 15(1) of the Regulation Order empowers the Department to designate, in on-street parking orders, parking places on any road maintainable by the Department and to impose charges. This Article also allows the orders to differentiate between classes of vehicles that may use parking places.

2.3.3 Article 15(2) requires the Department, in determining what parking places are necessary, to consider both the interests of traffic and those of the owners or occupiers of adjoining property.

2.3.4 Article 15(3) details particular considerations to which the Department shall have regard when designating parking places. These include the need to maintain the safe and free movement of traffic, the need to maintain reasonable access to premises and the extent to which off-street parking accommodation is available in the neighbourhood or the extent to which the designation of parking places is likely to encourage the provision of off-street parking. This requires the Department to consider traffic flows, access to premises and the implications of existing off-street parking or the lack of it.

2.3.5 Article 15(4) empowers the Department to designate a parking place, with or without charge, for use either at all times or at specified times by such people or vehicles as may be authorised for that purpose by a permit issued by the Department. This provision allows for the introduction of reserved parking places, for example, ‘residents parking places’.

2.3.6 Article 27 exempts the Department from liability for the loss of or damage to any vehicles unless it is directly attributable to a negligent act of the Department or its servants or agents.

2.3.7 Paragraph 3(4) of Schedule 4 to the Regulation Order requires the Department, in addition to publishing a Notice of Intention, to take such other steps as appear to the Department reasonably practicable for the purpose of bringing specifically to the knowledge of the occupiers of land adjacent to the proposed parking place the particulars specified in the Notice. In this instance, notification may take the form of a personal visit or a letter addressed to the occupier. Divisions should ensure that all reasonable measures are taken to notify those most affected.

2.3.8 The minimum period required to make a parking order being 12 weeks, Divisions should ensure that written requests to have parking places included in or deleted from the On-Street Parking Order are sent to LLB at least that period in advance of the proposed operational date. The procedure to be followed is:

- a) Details of the amendment, confirmation that the occupiers of land adjacent to the parking place have been notified of the proposal plus a copy of the District Council Notification letter should be forwarded to LLB. The approval of local police Traffic Management is also required as these orders are enforced by the police and Traffic Wardens.
- b) Once cleared by the DSO, the Notice of Intention will be sent to the Division for advertising in a newspaper circulating in the area in which the parking places are situated. The Notice will specify the place(s) where a copy of the draft order and any relevant map or plan may be inspected and will invite objections or other representations. Objections or other representations must be made within a period of 22 days from the date of publication of the Notice. All objections or other representations must be in writing and must specify the grounds on which they are made.
- c) Objections/representations should be dealt with in accordance with the procedures set out in S002 of the Roads Manual. Unresolved objections or other representations should be forwarded to LLB for decision.
- a) At the end of the 22 day waiting period copies of the press notice together with confirmation that no objection or other representation has been received or that any objections or other representations received have been resolved should be forwarded to LLB.

2.4 OFFENCES UNDER THE ON-STREET PARKING ORDER

2.4.1 If a vehicle is parked in contravention of Articles 6 (not of a class specified), 7 (not in a position specified), 8 (waiting beyond the permitted time), 9 (returning before one hour has elapsed), 11 (use of a suspended parking place) or 12 (non-payment of appropriate charge), then under Article 16 (or in the case of an emergency under Article 17) the vehicle may be removed by the Department or the police.

2.4.2 If a vehicle is not wholly within the limits of a parking space as is required by Article 7, the Department may, under Article 18, move the position of the vehicle in order that its position complies with that provision.

2.4.3 Article 19 permits an offending vehicle to be towed or driven or moved in such other manner as is necessary. In doing so, care should be taken not to damage the vehicle in any way.

2.4.4 Article 20 requires that when a vehicle is removed from a parking place arrangements must be made for its safe custody. It cannot therefore be left on a public road.

2.4.5 Article 54(1) of the Regulation Order enables the Department to recover, from any person responsible, any costs reasonably incurred in relation to the removal or custody of a vehicle that has been removed from a parking place. "Any person responsible" is defined as:-

- a) the person who owned the vehicle at the time of the offence, unless he can show that he was not responsible for the vehicle at that time;
- b) the person who put the vehicle in the place from which it was removed.

2.5 AUTHORISED ON-STREET PARKING BAYS FOR DISABLED PERSONS

2.5.1 The law is contained in Article 10(4) of the Regulation Order which enables the Department to make an order authorising any part of a road to be used as a parking place. This provision is used to provide parking places for disabled persons' vehicles in a Parking Places on Roads Order.

2.5.2 From time to time applications from disabled persons for individual parking bays, at the applicant's home or at work, are made to Roads Service. It is considered that the provision of parking bays in off- and on-street car parking places reserved for the general use of disabled badge holders together with existing concessions regarding waiting restrictions, should keep the number of requests for individual sites to a minimum, particularly at the town centre end of the trip.

2.5.3 Roads Service in considering applications for disabled bays should be guided by the following:-

- a) The onus is on the applicant to make a strong case.
- b) The general level of parking in the vicinity of the site in question should be such as to make it likely that a convenient parking place would not be available to the applicant on a significant number of occasions in any week.

Parking bays will not normally be provided where an applicant has use of off-street parking facilities.

- c) Disabled bays should normally only be provided for disabled drivers but may, in cases of special hardship, be provided for disabled passengers.

- d) The degree of difficulty in getting to and from the vehicle is the main consideration. Rather than involve the medical profession directly, it is considered that if the applicant provides evidence that he/she is in receipt of, or eligible for, the higher level of the mobility component of the Disability Living Allowance, this will be acceptable as evidence of severe disability.

- e) The ability to use a wheelchair should be taken into account but it is unreasonable to expect a disabled person to propel a wheelchair for more than about 75 metres.

- f) Whether the application is in respect of a bay at the applicant's home or work, a reasonable requirement would be for the bay to be occupied for 6 hours per day, 5 days per week.

- g) The days and times a bay is reserved for disabled drivers may be restricted by the Department in which case the times of operation shall be indicated on the sign to diagram 661.

2.5.4 Parking bays shall not be located on roads where Clearway Restrictions are applicable.

2.5.5 The usage/need for such bays should be reviewed periodically and the bay removed if the criteria are not being met.

2.5.6 The pro-forma at Appendix 4 should be completed and filed for each application.

2.5.7 Paragraph 3(4) of Schedule 4 to the Regulation Order requires the Department, in addition to publishing a Notice of Intention, to take such other steps as appear to the Department reasonably practicable for the purpose of bringing specifically to the knowledge of the occupiers of land adjacent to the proposed parking place the particulars specified in the Notice. In this instance, notification may take the form of a personal visit or a letter addressed to the occupier. Divisions should ensure that all reasonable measures are taken to notify those most affected

2.5.8 Composite orders amending the Parking Places on Roads Order are usually made quarterly. The procedure to be followed is:

- a) Requests to have parking places included in the Parking Places on Roads Order should be forwarded LLB and include details of the parking place (including map), an Equality appraisal, confirmation that the occupiers of land adjacent to the parking place have been notified of the proposal plus a copy of the District Council Notification letter. The approval of local police Traffic Management is also required as these orders are enforced by the police and Traffic Wardens. Details of any parking places to be deleted should also be included.
- b) Once cleared by the DSO, the Notice of Intention will be advertised by LLB in the 3 daily newspapers. The Notice will specify the place(s) where a copy of the draft order and any relevant maps or plan may be inspected and will invite objections or other representations. Objections or other representations must be made within a period of 22 days from the date of publication of the Notice. All objections/representations must be in writing and must specify the grounds on which they are made. If enquiries are received about a parking place outside the Division's area, arrangements can be made to fax a copy of the map to the Division or post one to the individual concerned.
- c) Objections/representations should be dealt with in accordance with the procedures set out in S002 of the Roads Manual. Unresolved objections/representations should be forwarded to LLB for decision.
- d) At the end of the 22-day waiting period confirmation that no objection or other representation has been received or that any objections or other representations received have been resolved should be forwarded to LLB.

2.5.9 Parking bays should be marked in accordance with Diagram 1028.1, and may be signed to Diagram 661 using wording "Disabled Drivers Only".

2.5.10 ENFORCEMENT

2.5.10.1 The Disabled Persons Parking Order (Northern Ireland) 1997 prohibits the use by any other vehicles of a parking space (indicated by signs or markings) reserved on a road for disabled persons' vehicles. Any person who contravenes the Order shall be guilty of an offence and shall be liable to a fine, not exceeding £1,000. Enforcement will, however, be mainly by the "fixed penalty system".

2.5.10.2 Parking bays will not be reserved for any particular individual.

3 Appendix

3.1 Appendix 1 Form of Authorisation under Article 14(6) of the Road Traffic Regulation (Northern Ireland) Order 1997

DOCUMENT No. _____

DEPARTMENT FOR REGIONAL DEVELOPMENT

HOLDER'S NAME _____

This is to certify that the holder of this document/pass is authorised by the above Department to exercise the powers conferred under Article 14(5) of the Road Traffic Regulation (Northern Ireland) Order 1997.

Signed Divisional Roads Manager

Dated

3.2 Appendix 2 Form of Notice under Article 14(8)(a) of the Road Traffic Regulation (Northern Ireland) Order 1997

[Name]
[&]
[Address]

RECORDED DELIVERY

THE ROAD TRAFFIC REGULATION (NORTHERN IRELAND) ORDER 1997 – ARTICLE 14(8) AND 14(9)

WHEREAS it has been brought to the attention of the Department for Regional Development that on the [] day of [month] 200 at [name of parking place, town] the driver of vehicle registration number [], a [colour and make], did [state nature of offence using appropriate wording from relevant Article(s) of the Off-Street Parking Order (NI) 2000] in contravention of Article(s) [] of the Off-Street Parking Order (Northern Ireland) 2000 and is alleged to be guilty of an offence under Article 14(1) of the Road Traffic Regulation (Northern Ireland) Order 1997.

TAKE NOTICE that in accordance with Article 14(8), the Department for Regional Development as road authority for the said [name of parking place, town], hereby requires you as the registered keeper of the said vehicle, to give to the Department, **within 14 days of receipt of this notice**, the name and address of the driver of the vehicle when the offence was committed.

AND FURTHER TAKE NOTICE that if you fail to comply with the terms of this notice you will be guilty of an offence under Article 14(9) of the Road Traffic Regulation Order (Northern Ireland) 1997 unless you can show to the satisfaction of the court that you did not know and could not with reasonable diligence have ascertained who was the driver of the vehicle and if convicted would be liable to a fine not exceeding £1,000.

Dated this day of 200
Signed on behalf of the Department for Regional Development.

[Name]
AUTHORISED OFFICER

3.3 Appendix 3 Form of Notice under Article 14(8)(b) of the Road Traffic Regulation (Northern Ireland) Order 1997

[Name]
[&]
[Address]

RECORDED DELIVERY

THE ROAD TRAFFIC REGULATION (NORTHERN IRELAND) ORDER 1997 – ARTICLE 14(8) AND 14(9)

WHEREAS it has been brought to the attention of the Department for Regional Development that on the [] day of [month] 200 at [name of parking place, town] the driver of vehicle [make and colour] registration number [], did [state nature of offence using appropriate wording from relevant Article(s) of the Off-Street Parking Order (NI) 2000] in contravention of Article(s) [] of the Off-Street Parking Order (Northern Ireland) 2000 and is alleged to be guilty of an offence under Article 14(1) of the Road Traffic Regulation (Northern Ireland) Order 1997.

TAKE NOTICE that in accordance with Article 14(8), Department for Regional Development as road authority for the said [name of parking place, town], hereby requires you as the registered keeper of the said vehicle, to give to the Department, **within 14 days of receipt of this notice**, any information which it is in your power to give and which may lead to the identity of the driver of the vehicle when the offence was committed.

AND FURTHER TAKE NOTICE that if you fail to comply with the terms of this notice you will be guilty of an offence under Article 14(9) of the Road Traffic Regulation (Northern Ireland) Order 1997 unless you can show to the satisfaction of the court that you did not know and could not with reasonable diligence have ascertained who was the driver of the vehicle and if convicted would be liable to a fine not exceeding £1,000.

Dated this day of 200

Signed on behalf of the Department for Regional Development

[Name]
AUTHORISED OFFICER

3.4 Appendix 4 Application for 'Disabled Parking Bay'
APPLICATION FOR "DISABLED PARKING BAY"

For Official Use Only
Application No.

1. Name of Disabled Person _____
Address _____

Tel No. _____

Date Received

MT

Response Due

2. Location of requested parking bay(s) _____

3. Is the Disabled Person the car driver? _____ YES/NO
If Yes, Driving Licence Number _____
If No, please state the name and address of the driver

4. Details of existing parking arrangements. Please indicate when parking is most difficult.

5. Any other relevant information

6. Is the applicant receiving the higher level of the mobility component of Disability Living Allowance? (If No, please give details of any other disability allowance which the applicant receives.) _____ YES/NO

7. Is the applicant dependent on the use of a wheelchair? _____ YES/NO

8. Is the applicant over 65? _____ YES/NO

9. Applicant's National Insurance Number _____

10. Applicant's Blue/Orange Badge Number _____

I can confirm that the details given in this application are correct and I understand that if the circumstances change the bay (if provided) may be removed.

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SIGNED DATE

Please return this form to DRD Roads Service, Network Development, Hydebank, 4 Hospital Road, Belfast BT8 8JL. If there are any exceptional circumstances that you wish to include, these may be described in a separate letter and attached to the form.

3.5 Appendix 5 Disabled Parking Bay Procedures

1. Enquiry from or on behalf of a potential applicant.
2. Send out Application Form and leaflet.
3. Receive completed form; log details and issue acknowledgement.
4. Check if applicant would qualify for a bay.-----

Yes
No
5. If answer to 4 is No: Inform applicant giving reason(s) for refusal.
6. If answer to 4 is Yes: Carry out parking surveys at location.-----

Parking Problem
No Parking Problem
7. If answer to 6 is No Parking Problem: Inform applicant giving reason for refusal.
8. If answer to 6 is Parking Problem: Inform application that a bay will be provided subject to no objections.
9. Check with DVL (Driver Vehicle Licensing Branch of Social Services Agency) and DLA to confirm that applicant has a current driving licence and is in receipt of the requisite allowance.
10. Prepare location plan.
11. Send to Police for their comments.
12. Notify the relevant Council.
13. Notify Neighbours.
14. Receive Police comments.
15. Submit to RSHQ for inclusion in the next Order. (Amendment)
16. If there are objections, deal with these; try to overcome them and have them withdrawn.
17. Draft Order: HQ queries, etc.
18. Respond to HQ: Agree Order details.
19. Order published.
20. Order operative.
21. Issue instructions to mark out the bay.

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Document History

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Overall Reasons For This Version

Version	Reasons
1	First issue of RSPPG
2	Consolidation of Off-Street and On-Street Parking Orders
3	Revised application form and introduction of procedures guide (Appendix 5) for dealing with applications for disabled parking bays

Revision Details

Version	Amendments
2	Ref 1.2.2 Off-Street Parking (Northern Ireland) Order 1997 (S.R. 1997 No. 199) changed to Off-Street Parking (Northern Ireland) Order 2000 (S.R. 2000 No. 384) and 'as amended' deleted.
2	Ref 1.2.3 On-Street Parking (Northern Ireland) Order 1998 (S.R. 1998 No. 370) changed to On-Street Parking (Northern Ireland) Order 2000 (S.R. 2000 No. 383) and 'as amended' deleted.
2	Ref 2.2.1 Article 8 changed to Article 9 and Article 13 to Article 15.
2	Ref 2.2.2 Article 14 changed to Article 16.
2	Ref 2.2.4 Article 15 changed to Article 17.
2	Ref 2.2.6 Article 17 changed to Article 19 and Article 25 to Article 27.
2	Ref 2.2.8 and Ref 2.2.12 Article 8 changed to Article 9.
2	Ref 3.2 Off-Street Parking Order (NI) 1997 changed to Off-Street Parking Order (NI) 2000, Off-Street Parking Order (Northern Ireland) 1997 changed to Off-Street Parking Order (Northern Ireland) 2000 and Dated this day of 19 changed to

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	Dated this day of 200 .
2	Ref 3.3 Off-Street Parking Order (NI) 1997 changed to Off-Street Parking Order (NI) 2000, Off-Street Parking Order (Northern Ireland) 1997 changed to Off-Street Parking Order (Northern Ireland) 2000 and Dated this day of 19 changed to Dated this day of 200 .
3	Ref Appendix 4 Revised application form inserted.
3	Ref Appendix 5 New appendix inserted.