
WELSH STATUTORY INSTRUMENTS

2007 No. 306 (W.25)

ENVIRONMENTAL PROTECTION, WALES

The Highways Act 1980 (Gating Orders) (Wales) Regulations 2007

Made - - - - 6 February 2007

Coming into force - - 19 February 2007

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 129C, 129E and 129F of the Highways Act 1980(1) makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Highways Act 1980 (Gating Orders) (Wales) Regulations 2007.

(2) These Regulations come into force on 19 February 2007.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Highways Act 1980;

“communications provider” (“*darparydd dull cyfathrebu*”) has the meaning given in section 405 of the Communications Act 2003(2);

“fire and rescue authority” (“*awdurdod tân ac achub*”) has the meaning given in section 1 of the Fire and Rescue Services Act 2004(3);

“local access forum” (“*fforwm mynediad lleol*”) means a local access forum established under section 94 of the Countryside and Rights of Way Act 2000(4);

“Welsh Ambulance Services NHS trust” (“*Ymddiriedolaeth GIG Gwasanaethau Ambiwllans Cymru*”) means the Welsh Ambulance Services National Health Service Trust established by the Welsh Ambulance Services National Health Service Trust (Establishment) Order 1998 (S.I. 1998/678);

(1) 1980 c. 66. Sections 129A to 129G were inserted by section 2 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).
(2) 2003 c. 21.
(3) 2004 c. 21.
(4) 2000 c. 37.

“affected highway” (“*priffordd yr effeithir arni*”) means the highway which is the subject of a gating order or a proposal for a gating order;

“statutory undertaker” (“*ymgymerwr statudol*”) has the meaning given in section 98(6) of the Environmental Protection Act 1990(5).

Publicity relating to a proposal for the making of a gating order

3. Before making a gating order under section 129A of the Act, a council must—
 - (a) cause to be published on its website a notice—
 - (i) identifying the affected highway by—
 - (aa) name or description; and
 - (bb) a six-figure Ordnance Survey grid reference in respect of each end of the affected highway;
 - (ii) setting out the general effect of the gating order being made;
 - (iii) identifying alternative routes (if any) which would be available to pedestrians and vehicular traffic if the proposed order were to be made;
 - (iv) setting out a draft of the proposed order; and
 - (v) inviting written representations as to whether or not a gating order should be made, within such period as is specified in the notice (being a period of not less than 28 days from the date on which the notice is first published in accordance with this paragraph);
 - (b) cause to be posted at all public access points to the affected highway such notices as it considers sufficient to draw to the attention of members of the public using that highway the effect of the proposed order being made.
4. Copies of the notice referred to in regulation 3(a) must be given by the council to—
 - (a) all the occupiers of premises adjacent to or adjoining the affected highway;
 - (b) every community council through whose area the affected highway passes;
 - (c) every chief officer of a police force through whose police area the affected highway passes;
 - (d) every fire and rescue authority through whose area the affected highway passes;
 - (e) the Welsh Ambulance Services NHS trust;
 - (f) any local access forum through whose area the affected highway passes;
 - (g) any statutory undertaker who maintains services in the locality in which the affected highway is situated;
 - (h) any provider of gas, electricity or water services in the locality in which the affected highway is situated;
 - (i) any communications provider in the locality in which the affected highway is situated;
 - (j) any person who the council reasonably considers might be affected by the proposed order;
 - (k) any person who requests a copy of the notice; and
 - (l) any person who has asked to be notified of any proposed gating orders.

Representations relating to the making of a gating order

5. A council must consider any representations received by it within the period specified in accordance with regulation 3(a)(v) before making a gating order.

Public inquiries relating to the making of a gating order

6.—(1) Subject to paragraph (2) the council may cause a public inquiry to be held in relation to a proposed gating order.

(2) The council must cause a public inquiry to be held if—

- (a) the chief officer of a police force through whose police area the affected highway passes;
- (b) a fire and rescue authority through whose area the affected highway passes; or
- (c) the Welsh Ambulance Services NHS trust,

objects to the proposed gating order.

Making of a gating order

7. A council must not make a gating order before—

- (a) the expiration of 28 days, beginning on the day on which notice is first published in accordance with regulation 3;
- (b) the conclusion of any public inquiry held under regulation 6.

Content of gating orders

8. A gating order must—

- (a) identify the affected highway by—
 - (i) name or description; and
 - (ii) a six-figure Ordnance Survey grid reference in respect of each end of the affected highway;
- (b) contain a statement to the effect that the council has satisfied itself in respect of the matters set out in section 129A(3) of the Act;
- (c) specify the times, days or periods in respect of which the public right of way over the affected highway is restricted;
- (d) specify the description of persons (if any) who are excluded from the effect of the restriction imposed by the order.

Publicity relating to the variation and revocation of gating orders

9. Before varying or revoking a gating order, the council must—

- (a) cause to be published on its website a notice—
 - (i) identifying the affected highway by—
 - (aa) name or description; and
 - (bb) a six-figure Ordnance Survey grid reference in respect of each end of the affected highway;
 - (ii) setting out the general effect of the proposed variation or revocation (as the case may be) of the gating order being made;
 - (iii) setting out, in the case of a proposal to vary a gating order, a draft of the order as it would be if the variation proposed was made; and

- (iv) inviting written representations within such period as is specified in the notice (being not less than 28 days beginning with the date on which the notice is first published in accordance with this paragraph), as to whether or not the variation or revocation (as the case may be) should take effect;
- (b) cause to be posted at all public access points to the affected highway such notices as it considers sufficient to draw to the attention of members of the public using the affected highway the effect of the proposed variation or revocation (as the case may be) taking effect.

10. Copies of the notice referred to in regulation 9(a) must be given by the council to the persons specified in regulation 4 and to such other persons (if any) as it appears to the council are likely to be affected by the variation or revocation (as the case may be).

Representations relating to the variation or revocation of a gating order

11. A council must consider any representations received by it within the period specified in accordance with regulation 9(a)(iv) before varying or revoking (as the case may be) a gating order.

Public inquiries relating to the variation or revocation of a gating order

12.—(1) Subject to paragraph (2) a council may cause a public inquiry to be held in relation to a proposal to vary or revoke a gating order.

- (2) A council must hold a public inquiry if—
 - (a) the chief officer of a police force through whose police area the affected highway passes;
 - (b) a fire and rescue authority through whose area the affected highway passes; or
 - (c) the Welsh Ambulance Services NHS trust,

objects to the proposed variation or revocation (as the case may be) of a gating order.

Variation or revocation of a gating order

- 13.** A council must not vary or revoke a gating order before—
- (a) the expiration of 28 days beginning on the day on which notice is first published in accordance with regulation 9;
 - (b) the conclusion of any public inquiry held under regulation 12.

Procedure relating to public inquiries held under regulation 6 or 12

14.—(1) An inquiry must begin not less than 42 days after the first publication of the notice given under regulation 3 or 9.

- (2) A council must—
 - (a) publish at least once in a local newspaper circulating in the area in which the affected highway is situated a notice containing the particulars specified in regulation 15;
 - (b) give notice in writing containing the particulars specified in regulation 15 to each person who has made representations as to the making, variation or revocation (as the case may be) of a gating order; and
 - (c) take such other steps as it may consider appropriate for ensuring that adequate publicity about the inquiry is given to persons likely to be affected by the provisions of the order to which it relates and, without prejudice to the generality of this sub-paragraph, such other steps may include—

- (i) the display of notices on roads or other places affected by the order;
 - (ii) the delivery of notices or letters to premises or premises occupied by persons appearing to the council to be likely to be affected by any provision in the order;
- 15.** The particulars to be contained in the notice specified in regulation 14(2) are as follows—
- (a) the title of the gating order or proposed gating order;
 - (b) the name of the council;
 - (c) the name, or a description of, the affected highway;
 - (d) a six-figure Ordnance Survey grid reference in respect of each end of the affected highway;
 - (e) a statement which refers to the notice of proposals for the making, variation or revocation (as the case may be) of the gating order and which indicates that a public inquiry will be held in connection with the proposal;
 - (f) a brief statement of the general nature and effect of the making, variation or revocation (as the case may be) of the gating order;
 - (g) the date, time and place of the inquiry and the name of the person appointed to conduct the inquiry;
 - (h) a statement that documents giving detailed particulars of the proposals for the making, variation or revocation (as the case may be) of the gating order are available for inspection and of the addresses at which those documents can be inspected and of the times when inspection can take place at each address;
 - (i) the address to which any written representations for consideration by the person appointed to conduct the inquiry may be sent by any person wishing to make such representations; and
 - (j) the time by which any written representations made under paragraph (i) or otherwise must be received.

16.—(1) Subject to paragraphs (2) to (4), the procedure at a public inquiry will be determined by the person appointed to conduct the inquiry.

(2) Any person interested in the subject matter of the public inquiry may appear at the inquiry in person or by counsel, a solicitor or other representative.

(3) Any person so interested may, whether or not that person proposes to appear at the inquiry, send written representations for the consideration of the person appointed to conduct the inquiry, to the address given in the notice given under regulation 15(ff).

(4) The person appointed to conduct the inquiry may refuse to hear any person, or to consider any objection or representation, if she or he considers that the views of that person or the objection or representation are irrelevant or have already been adequately stated at the inquiry.

Registers of gating orders

17.—(1) A council must maintain a register of gating orders for its area.

(2) A register must contain an index of, and up to date copies of, gating orders in force.

(3) A hard copy version of a register must be available and open to inspection at the council's principal office during normal business hours.

(4) An electronic version of a register must be made available on a council's website.

(5) A council must supply a copy of a gating order to any person who requests a copy and pays a reasonable charge.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

6 February 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedures to be followed by councils in Wales when making, varying or revoking gating orders under sections 129A to 129G of the Highways Act 1980 (c. 66) (“the 1980 Act”).

Section 2 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) inserts sections 129A to 129G into the 1980 Act. These new sections empower councils to make, vary or revoke orders restricting the public right of way over the highways to which they relate (gating orders). Gating orders may not be made in respect of special roads, trunk roads, classified or principal roads, or other highways of a description (if any) prescribed by regulations made by the National Assembly for Wales (the National Assembly).

Gating orders may be made by councils where they are satisfied that premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour; that the existence of the highway is facilitating the commission of criminal offences or anti-social behaviour; and that it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

Gating orders may be varied by councils where they are satisfied that in all the circumstances it is expedient to do so for the purpose of reducing crime or anti-social behaviour.

Gating orders may be revoked by councils where they are satisfied that the restriction imposed by the order is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.

Certain of the procedures to be complied with by councils in relation to gating orders are set out in the new provisions of the 1980 Act. The National Assembly is required by sections 129C and 129F of the 1980 Act to make provision by regulations as to the further procedure to be complied with by councils in relation to gating orders, and is empowered by sections 129A, 129C, 129E and 129F of the 1980 Act to make further related provision by regulations.

In particular, these Regulations make provision with respect to—

- (a) publicity relating to a proposal to make, vary or revoke a gating order (regulations 3, 4, 9 and 10);
- (b) representations as to the making, varying or revocation of a gating order (regulations 5 and 11);
- (c) public inquiries (regulations 6, 12, 14, 15 and 16);
- (d) content of gating orders (regulation 8); and
- (e) registers of gating orders (regulation 17).