WELSH STATUTORY INSTRUMENTS

2004 No. 317 (W.34)

RIGHTS OF WAY, WALES

The Removal of Obstructions from Highways (Wales) Regulations 2004

Made - - - - 10th February 2004

Coming into force - - 1st April 2004

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 130A(8), 130B(6) and 130C(2) of the Highways Act 1980(**1**), and of all other powers enabling it in that behalf, hereby makes the following Regulations(**2**):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Removal of Obstructions from Highways (Wales) Regulations 2004 and come into force on 1st April 2004.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations —

"the Act" ("*y Ddeddf*") means the Highways Act 1980 and reference to a "section" is a reference to that section in the Act;

"notice" ("*hysbysiad*") means a notice in a form prescribed by these Regulations (or a form substantially to the same effect) and reference to a numbered form is a reference to a form bearing that number in the Schedule to these Regulations.

Prescribed notices

3. The notice prescribed for the purposes of section—

(a) 130A(1) is Form 1;

(b) 130A(6)(a) is Form 2;

(c) 130A(6)(b) is Form 3;

(**1**) 1980 c. 66. These sections were inserted into the Act by section 63 of the Countryside and Rights of Way Act 2000 (c. 37).

(**2**) The functions of the Secretary of State under these sections are exercisable by the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and section 99(1) of the Countryside and Rights of Way Act 2000.

(d) 130C(1) is Form 4; and

(e) 130B(6) is Form 5.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**3**)

D. Elis-Thomas
10th February 2004 The Presiding Officer of the National Assembly

(**3**) 1998 c. 38.

SCHEDULE

FORM 1

Please read the notes overleaf before you complete this form

NOTICE OF REQUEST TO LOCAL HIGHWAY AUTHORITY TO SECURE THE REMOVAL OF AN ALLEGED OBSTRUCTION

HIGHWAYS ACT 1980 SECTION 130A(1)

To [name of Authority]

of [address]

I [name]

of [address]

[e.mail address (optional)]

[telephone (optional)]

hereby request that you secure the removal of the obstruction described below.

Status of the highway [write "Footpath", "Bridleway", "Restricted Byway", "Byway Open to All Traffic", or "Not sure"]

Location of the highway and of the obstruction:

Description of the obstruction:

The date I encountered the obstruction was [*enter date*]:

It appears to me that the following may be responsible for the obstruction (*if unknown, write "unknown"*):

Name 1:

Address 1:

Name 2:

Address 2:

Signed Date

NOTES TO FORM 1

What is the purpose of this form?
This form gives notice of your request to a local highway authority ("the Authority") to take action to exercise its duty to prevent obstructions of public rights of way. Only certain types of obstructions fall within the scope of section 130A - these are described below. However, if you are unsure as to whether an obstruction falls within the scope of section 130A, you may submit this form and the Authority will inform you if it is within their powers to deal with it.

When you have completed the form, you must serve it on the Authority in whose area the obstruction lies. Serving notice means delivering this form to the Chief Executive of the Authority. You can deliver it in person, leave it at the Authority's office or post it with or without the registered or recorded delivery service. If you post it without registering or recording the fact of posting, it will be deemed not to have been served if the Authority can show that the person to whom it was addressed did not receive it.

You should keep a copy of all forms you submit to the Authority.

As different procedures may apply to different obstructions, use one form for each obstruction.

What constitutes an obstruction?
An obstruction falls within the scope of section 130A if it is on a footpath, bridleway or restricted byway or a highway shown in a definitive map and statement as a restricted byway or a byway open to all traffic, if it is without lawful authority and it consists of any machine, pump, post or other object of such a nature as to be capable of causing a nuisance or a hedge, tree or shrub or vegetation of any other description that overhangs a right of way so as to endanger or obstruct the passage of vehicles, pedestrians and horse-riders.

If the obstruction is within the scope of section 130A, the Authority on whom you serve notice must, within one month from the date of service, serve on every person whose name and address is included on this form and, so far as reasonably practicable, on every other person who it appears to them may be for the time being responsible for the obstruction, notice informing them that this notice has been served in relation to the obstruction and stating what, if any, action the Authority proposes to take. Your personal details are confidential and the Authority will not reveal your identity to any other parties involved in the process.

If the obstruction is not within the scope of section 130A, the Authority will inform you.

Completing the form
Location of the highway and of the obstruction: Your description of the location of the highway and of the obstruction should be detailed enough for the Authority to be able to locate them.

Description of the obstruction: Examples might include agricultural machinery; rubbish deposited on the highway; branches hanging over the highway so as to obstruct your passage. You may attach a photograph if you wish. If the obstruction is a danger to users, the Authority will need to consider whether it has the power to remove it without the service of notices under section 130A.

Who is responsible for the obstruction : If you know, or think you know, the individuals and/or companies who may be responsible for either creating, or for failing to prevent the formation of, the obstruction, write their names and addresses.