
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).