STATUTORY INSTRUMENTS

2006 No. 537

ENVIRONMENTAL PROTECTION, ENGLAND

The Highways Act 1980 (Gating Orders) (England) Regulations 2006

Made - - - -	*1st March 2006*
Laid before Parliament	*8th March 2006*
Coming into force - -	*1st April 2006*

The Secretary of State makes the following Regulations in exercise of the powers conferred upon him by sections 129C, 129E and 129F of the Highways Act 1980(**a**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Highways Act 1980 (Gating Orders) (England) Regulations 2006 and shall come into force on 1st April 2006.

(2) These Regulations apply to England.

Interpretation

2. In this Order—

"the Act" means the Highways Act 1980;

"communications provider" has the meaning given by section 405 of the Communications Act 2003(**b**);

"fire and rescue authority" means a fire and rescue authority under the Fire and Rescue Services Act 2004 (**c**);

"NHS trust or NHS foundation trust" means a National Health Service trust, Primary Care Trust or NHS foundation trust providing an emergency ambulance service;

"relevant highway" means the highway which is the subject of a gating order or a proposal for a gating order (as the case may be); and

"statutory undertaker" has the meaning given by section 98(6) of the Environmental Protection Act 1990(**d**).

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 shall—

(**a**) 1980 c. 66; sections 129A to 129G were inserted by section 2 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).
(**b**) 2003 c. 21.
(**c**) 2004 c. 21; as amended by section 32(1) of, and paragraph 10(1) and (2) of Schedule 2 to, the Civil Contingencies Act 2004 (c. 36).
(**d**) 1990 c. 43.

(a) cause to be published on its website and in a newspaper circulating in its area a notice—

(i) identifying specifically or by description the relevant highway;

(ii) setting out the general effect of a gating order being made;

(iii) identifying alternative routes 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, within such period as is specified in the notice, being not less than 28 days, as to whether or not a gating order should be made;

(b) cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw to the attention of members of the public using that highway the effect of a gating order being made.

4. Copies of the notice referred to in regulation 3(a) shall be given by the council to—

(a) all the occupiers of premises adjacent to or adjoining the relevant highway;

(b) every council through whose area the relevant highway passes;

(c) every chief officer of a police force through whose police area the relevant highway passes;

(d) every fire and rescue authority through whose area the relevant highway passes;

(e) every NHS trust or NHS foundation trust through whose area the relevant highway passes;

(f) any local access forum through whose area the relevant highway passes;

(g) any statutory undertaker who maintains services in the locality in which the relevant highway is situated;

(h) any provider of gas, electricity or water services in the locality in which the relevant highway is situated;

(i) any communications provider in the locality in which the relevant highway is situated;

(j) any persons who the council reasonably considers might have an interest in the proposed gating 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 as to the making of a gating order

5. A council shall consider any representations as to whether or not the proposed gating order should be made whether in response to a notice under regulation 3 or otherwise.

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 shall cause a public inquiry to be held if—

(a) the chief officer of a police force through whose police area the relevant highway passes;

(b) a fire and rescue authority through whose area the relevant highway passes;

(c) a NHS trust or NHS foundation trust through whose area the relevant highway passes; or

(d) a council through whose area the relevant highway passes,

objects to the proposed gating order.

Making of a gating order

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

(a) a period of 28 days, beginning on the day the notice referred to in regulation 3 is published, has elapsed; or

(b) any public inquiry held under regulation 6 has been concluded.

Form and content etc. of gating orders

8.—(1) A gating order must contain—

(a) a statement that the conditions set out in section 129A(3) of the Act have been met;

(b) the dates and times that the public right of way along the relevant highway will be restricted;

(c) details of any persons who are excluded from the effects of the restriction referred to in paragraph (b);

(d) details of alternative routes which would are available to pedestrians and vehicular traffic during the period the relevant highway is restricted;

(e) contact details of the person who is responsible for maintaining and operating any barrier whose installation is authorised by the order.

(2) A council shall cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw to the attention of members of the public using that highway to—

(a) the fact that a gating order has been made; and

(b) the effect of the order.

Publicity relating to the variation and revocation of gating orders

9. Before varying or revoking a gating order under section 129F of the Act, the council shall—

(a) cause to be published on its website and in a newspaper circulating in its area a notice—

(i) identifying specifically or by description the relevant 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) where a variation of the gating order is proposed, setting out a draft of the order as it would be if the variation proposed was made; and

(iv) inviting representations as to whether or not the variation or revocation (as the case may be) should take effect;

(b) cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw the attention to members of the public using that highway to 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) shall be given to—

(a) all the occupiers of premises adjacent to or adjoining the relevant highway;

(b) every council through whose area the relevant highway passes;

(c) every chief officer of a police force through whose police area the relevant highway passes;

(d) every fire and rescue authority through whose area the relevant highway passes;

(e) every NHS trust or NHS foundation trust through whose area the relevant highway passes;

(f) any local access forum through whose area the relevant highway passes;

(g) any statutory undertaker who maintains services in the locality in which the relevant highway is located;

(h) any provider of gas, electricity or water services in the locality in which the relevant highway is situated;

(i) any communications provider in the locality in which the relevant highway is situated;

(j) any persons who the council reasonably considers might have an interest in the proposed gating 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 variation or revocation of a gating order

11. A council shall consider any representations as to whether or not a gating order should be varied or revoked (as the case may be) whether in response to a notice under regulation 9 or otherwise.

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

12.—(1) Subject to paragraph (2) the council may cause a public inquiry to be held in relation to a proposed variation or revocation (as the case may be) of a gating order.

(2) A council shall hold a public inquiry if—

(a) the chief officer of a police force through whose police area the relevant highway passes;

(b) a fire and rescue authority through whose area the relevant highway passes;

(c) a NHS trust or NHS foundation trust through whose area the relevant highway passes; or

(d) a council through whose area the relevant highway passes,

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 may not vary or revoke (as the case may be) a gating order before—

(a) a period of 28 days, beginning on the day the notice referred to in regulation 9 is published, has elapsed; or

(b) any public inquiry held under regulation 12 has been concluded.

Procedure relating to public inquiries held under regulation 6 or 12

14.—(1) A public inquiry held under regulations 6 or 12 shall be conducted by an inspector appointed by the council.

(2) An inquiry shall begin not less than 42 days after the first publication of the notice given under regulation 3 or 9.

(3) A council shall—

(a) publish at least once in a local newspaper circulating in the area in which the relevant 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 in 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(3) are as follows—

(a) the title of the gating order or proposed order;

(b) the name of the council;

(c) the identity specifically or by description of the relevant highway;

(d) 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;

(e) a brief statement of the general nature and effect of the making, variation or revocation (as the case may be) of the gating order;

(f) the date, time and place of the inquiry and the name of the inspector;

(g) 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;

(h) the address to which any written representations for consideration by the inspector may be sent by any person wishing to make such representations; and

(i) 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 shall be determined by the inspector.

(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 he proposes to appear at the inquiry, send written representations for the consideration of the inspector to the address given in the notice given under regulation 14(3)(a).

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

Register of gating orders

17.—(1) A copy of a gating order must be displayed for at least 12 months from the date of the order in a council office.

(2) The council must publish a gating order on its website.

(3) A council must keep a register of gating orders which is open to inspection during normal business hours and which must contain—

(a) copies of all notices of proposals for the making, variation or revocation (as the case may be) of gating orders; and

(b) copies of all gating orders made by the council.

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

Home Office
1st March 2006

Hazel Blears
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, set out the procedures relating to gating orders made under sections 129A to 129G of the Highways Act 1980 and come into force on 1st April 2006.

Regulations 3 and 4 relate to the publicising of proposals to make a gating order. Regulation 5 obliges councils to consider representations as to the making of a gating order.

Regulation 6 enables councils to hold a public inquiry in relation to a proposed gating order and requires them to do so where the emergency services or a council object to the making of the gating order.

Regulation 7 prevents councils from making a gating order until at least 28 days have been allowed for representations to be made and any public inquiry has been concluded.

Regulation 8 sets out the content etc. of gating orders and requires them to be publicised.

Regulations 9 to 13 set out the procedure to be followed when it is proposed to vary or revoke a gating order.

Regulations 14 to 16 make provision relating to conduct of public inquiries.

Regulation 17 provides that councils must keep a register of all gating orders.

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