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## **Possible offences of Obstruction of the Highway**

(of interest to Event Promoters and Competitors)

### **Introduction**

Section 137 (1) of the Highways Act 1980 provides that *“if a person without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine”*.

An Event Secretary of a Type A (Open) event was summoned with the above offence because of obstruction of the highway alleged to have occurred at the Start point of the event in question. The prosecution was unsuccessful but this Guidance Note is issued by the Board of Directors in an endeavour to avoid similar prosecutions in the future.

Every case of obstruction must depend upon its own particular facts but the general law, established for over a century is that the highway is for *“passing and re-passing”*, and anything done in the highway *“other than to do with the passage is unreasonable obstruction”*.

It will therefore readily be seen that the activities of competitors and their friends at the Start or Finish points can easily amount to an obstruction. Any behaviour which causes other traffic to deviate substantially from its line (particularly if that involves crossing a “double White line”) or causes it to halt, is liable to be an obstruction and those causing it are liable to prosecution under Section 137 (1) of the Highways Act 1980.

For this reason, the siting of Start and Finish points of time trials must be carefully chosen by the relevant District Council but, even when properly chosen, would-be competitors and their friends, even the casual spectator, must so conduct themselves as to ensure that no obstruction of the highway takes place.

If obstruction occurs then the fact that the event is authorised by law (providing the proper notices have been properly given) will not serve to make lawful that which is otherwise unlawful. It should be noted particularly that even where the statutory notice of the event has been given more than 28 days beforehand, if any change in the arrangements for the event is made in the meantime, then such change must be notified to the Police and actual authorisation of the event as so changed is obtained.

A prosecution may be successful even where no obstruction is caused if the activity complained of can potentially cause an obstruction but in such cases it may be possible to argue that the activity complained of is in fact a reasonable user of the highway.

An Event Promoter runs the risk of himself being convicted of an offence of obstruction if the arrangements which he makes (or fails to make) for the proper organisation of the Start and Finish areas of the event are unsatisfactory.

A sufficient number Marshals and Stewards should be appointed (as per the approved course risk assessment) to ensure that the carriageway in the vicinity of the Start and Finish points is kept clear and other road users are not obstructed. The more important the event, the more comprehensive will be the arrangements which will need to be made and at events such as National Championships almost certainly some form of crowd control barrier will need to be erected to keep spectators off the carriageway. Moreover, the event should always be timed to ensure that as little other traffic as possible is using the road.

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