

These notes refer to the Highways (Obstruction by Body Corporate) Act 2004 (c.29) which received Royal Assent on 15 November 2004

HIGHWAYS (OBSTRUCTION BY BODY CORPORATE) ACT 2004

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Highways (Obstruction by Body Corporate) Act which received Royal Assent on 15 November 2004. They have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. Section 137 of the Highways Act 1980 makes it an offence for a person, without lawful authority, to wilfully obstruct a highway. A 'person' includes a body corporate. If a person is convicted of such an offence and it appears to the magistrates that the obstruction is continuing and that it is within the power of that person to remove it, the magistrates may make an order under section 137ZA (1) of the 1980 Act requiring that person to remove the obstruction. If the person fails to comply with the order, he is guilty of an offence under section 137ZA(3) of the 1980 Act and liable to a fine. The maximum fine is level 5 on the standard scale, which is currently £5000.
4. Section 314 of the 1980 Act provides that a director, manager, secretary or other similar officer of a body corporate that has committed particular offences under the 1980 Act will also be guilty of those offences if it can be proved that the offence was committed with the consent or connivance of that officer or is attributable to the neglect of the officer.
5. The purpose of the Act is to apply section 314 to offences under sections 137 (wilfully obstructing a highway) and 137ZA (failing to comply with an order to remove an obstruction).

COMMENTARY

Section 1: Liability of officers etc. for obstruction by body corporate

6. *Subsection (1)* amends section 314 so that that section applies to offences under sections 137 and 137ZA.
7. The amendment of section 314 applies only in relation to offences committed after the commencement of the Act. In the absence of express provision there might be a question as to whether section 314 applies in respect of an offence under section 137ZA where the order to which the offence relates was made before commencement of the Act. *Subsection (2)* provides that section 314 will apply to such an offence.

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TERRITORIAL EXTENT AND APPLICATION

8. The Highways Act 1980, which the Act amends, extends to England and Wales only. Accordingly the Act extends to England and Wales only. The Act's effect in Wales is the same as in England. It contains no provisions which relate exclusively to Wales, or affect the National Assembly for Wales.

HANSARD REFERENCES

9. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<i>House of Commons</i>		
Introduction	7 January 2004	Vol. 416 Col. 262
Second Reading	6 February 2004	Vol. 417 Col. 1091
Committee	11 March 2004	Hansard Standing Committee F
Report and Third Reading	21 May 2004	Vol. 421 Cols.1205 - 1209
<i>House of Lords</i>		
Introduction	24 May 2004	Vol. 661 Col. 1052
Second Reading	16 July 2004	Vol. 663 Col. 1528- 1529
Committee	21 October 2004	Vol. 665 Col. 929
Third Reading	8 November 2004	Vol. 666 Col. 615
Royal Assent - 15 November 2004		House of Lords Hansard Vol. 666 Col. 1185
		House of Commons Hansard Vol. 426 Col. 1009