

63 Consumption of alcohol in breach of prohibition in order

- (1) This section applies where a constable or an authorised person reasonably believes that a person (P) –
- (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
 - (b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

- (2) The constable or authorised person may require P –
- (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
 - (b) to surrender anything in P’s possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.
- (3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.
- (4) A requirement imposed by an authorised person under subsection (2) is not valid if the person –
- (a) is asked by P to show evidence of his or her authorisation, and
 - (b) fails to do so.
- (5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.
- (6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Restrictions on public rights of way

64 Orders restricting public right of way over highway

- (1) A local authority may not make a public spaces protection order that restricts the public right of way over a highway without considering –
- (a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
 - (b) the likely effect of making the order on other persons in the locality;
 - (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.
- (2) Before making such an order a local authority must –
- (a) notify potentially affected persons of the proposed order,
 - (b) inform those persons how they can see a copy of the proposed order,
 - (c) notify those persons of the period within which they may make representations about the proposed order, and
 - (d) consider any representations made.

In this subsection “potentially affected persons” means occupiers of premises adjacent to or adjoining the highway, and any other persons in the locality who are likely to be affected by the proposed order.

- (3) Before a local authority makes a public spaces protection order restricting the public right of way over a highway that is also within the area of another local authority, it must consult that other authority if it thinks it appropriate to do so.
- (4) A public spaces protection order may not restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.
- (5) A public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.
- (6) In relation to a highway that is the only or principal means of access to premises used for business or recreational purposes, a public spaces protection order may not restrict the public right of way over the highway during periods when the premises are normally used for those purposes.
- (7) A public spaces protection order that restricts the public right of way over a highway may authorise the installation, operation and maintenance of a barrier or barriers for enforcing the restriction.
- (8) A local authority may install, operate and maintain barriers authorised under subsection (7).
- (9) A highway over which the public right of way is restricted by a public spaces protection order does not cease to be regarded as a highway by reason of the restriction (or by reason of any barrier authorised under subsection (7)).
- (10) In this section –
 - “dwelling” means a building or part of a building occupied, or intended to be occupied, as a separate dwelling;
 - “highway” has the meaning given by section 328 of the Highways Act 1980.

65 Categories of highway over which public right of way may not be restricted

- (1) A public spaces protection order may not restrict the public right of way over a highway that is –
 - (a) a special road;
 - (b) a trunk road;
 - (c) a classified or principal road;
 - (d) a strategic road;
 - (e) a highway in England of a description prescribed by regulations made by the Secretary of State;
 - (f) a highway in Wales of a description prescribed by regulations made by the Welsh Ministers.
- (2) In this section –
 - “classified road”, “special road” and “trunk road” have the meaning given by section 329(1) of the Highways Act 1980;
 - “highway” has the meaning given by section 328 of that Act;
 - “principal road” has the meaning given by section 12 of that Act (and see section 13 of that Act);