

WHEELIE BINS AND SIMILAR OBSTRUCTIONS PLACED IN CYCLE LANES

Spokes, 6 December 2014

Informal advice from our legal expert...

[in summary, section 129(2) below is the useful one. Section 129(6) is not relevant as it relates to a cycle track, not a cycle lane].

According to section 126(2)(b) of the Roads (Scotland) Act 1984 a "cycle track" is not an on-road cycle lane of the type which is delineated by a broken white line along the edge of the carriageway. Such a lane is as much part of the road as a lane for turning left or right or going straight ahead.

If that is correct then section 129(2) will apply to wheelie bins placed on a cycle lane without reasonable excuse. If the local authority advise people to "Place your bin by the kerbside before 6am" (as does City of Edinburgh) it could be difficult to produce a reasonable excuse for placing a bin on the cycle lane rather than at the edge of the footway.

As there can be no doubt that a bin placed on the road (especially if unlit at night) does both obstruct and endanger cyclists (eg by collision with the bin or swerving out into the path of motor traffic - 129(2)) the police could take enforcement action.

The local authority should advise shopkeepers of the legal position, and could also threaten not to empty any bins which are placed on the carriageway.

Here is the legislation referred to...

<http://www.legislation.gov.uk/ukpga/1984/54/section/129>

Full text reprinted here...

Roads (Scotland) Act 1984

You are here: 1984 c. 54 Part XI Section 129

129 Miscellaneous summary offences.

(1) A person who in or beside any road leaves open and unfenced, or insufficiently covered or insufficiently fenced, an opening into a vault or cellar commits an offence:

Provided that the foregoing provisions of this subsection do not apply in relation to the duty under section 56(5) of this Act first to provide a door or cover.

(2) A person who, without lawful authority or reasonable excuse, places or deposits anything in a road so as to obstruct the passage of, or to endanger, road users commits an offence:

Provided that no person shall, in respect of the same acting be convicted both under the foregoing provisions of this subsection and under section 59(2), 90, 95, 100(a) or 101 of this Act, or subsection (9) of this section, of an offence.

(3) A person who, in a road, as the case may be drives, leads or propels a vehicle or animal commits an offence if any load which is thereby being carried projects beyond the vehicle or animal so as in any way to obstruct or endanger other road users.

(4) Without prejudice to subsection (2) above, a person who, in a road, pitches a tent or encamps commits an offence.

(5) Subject to section 64 of this Act, a person who, in a footway, footpath or cycle track, as the case may be drives, rides, leads or propels a vehicle or horse, or any swine or cattle, commits an offence:

Provided that the foregoing provisions of this subsection do not apply—

- (a) where and in so far as the vehicle or animal is being taken across the footway, footpath or cycle track;
- (b) in relation to a pedal cycle which is either not being ridden or is being ridden on a cycle track;
- (c) except on a cycle track where there is no public right of passage on foot, in relation to—
 - (i) a perambulator, push-chair or other form of baby carriage; or
 - (ii) an invalid carriage whose motive power is provided solely by its rider or some other person, or by an electric motor, or by a combination of these sources; or
- (d) where there is a specific right so to drive, ride, lead or propel.

(6) A person who parks a motor vehicle (“motor vehicle” having the same meaning as in the M1 Road Traffic Act 1972) wholly or partly on a cycle track commits an offence.

(7) A person who in a road rides or drives furiously, recklessly or carelessly a horse or other animal (whether or not that horse or animal is attached to a cart or carriage) commits an offence.

(8) Without prejudice to subsection (2) above, a person who, over or along a footway, places a shade, awning or other projection less than either or both—

- (a) 2.25 metres above the level of the footway;
- (b) 50 centimetres inwards from a carriageway,

commits an offence.

(9) A person who displays goods for sale by placing them in, or hanging them over, a footway or footpath commits an offence:

Provided that the foregoing provisions of this subsection do not apply to—

- (a) the offer or exposure for sale of newspapers;
- (b) the display of goods for sale by a street trader trading under and in accordance with a street trader’s licence;
- (c) the display of goods for sale in connection with the carrying on of a private market under and in accordance with a market operator’s licence; or
- (d) any activity in respect of which a certificate under the M2 Pedlars Act 1871 has been granted,

and in the foregoing paragraphs of this proviso “street trader’s licence”, “private market” and “market operator’s licence” shall be construed in accordance with section 97(6) of this Act.

(10) Where materials, tools, machinery or other equipment—

- (a) have been deposited in any place for use by the roads authority in constructing or maintaining a road; or
- (b) are in a quarry which has been opened by the authority for the purpose of their obtaining such materials for that use,

a person who without reasonable excuse takes away, or displaces, the materials, tools, machinery or equipment commits an offence.