Traffic Offences - Obstruction

Lesson 081
Contents

Introduction and Objectives ......................... 3
Unnecessary Obstruction ............................... 4
Wilful Obstruction ...................................... 6
  Wilfully ..................................................... 6
  Highway ................................................... 7
  Lawful Authority ...................................... 8
  Reasonable Excuse ................................... 8
Removal of Vehicles ................................... 9
Options ...................................................... 9
Questions .................................................. 10
Introduction and Objectives

One of the duties of the police is to help people travel freely and safely in public places. To reduce congestion, danger and inconvenience for road users, it is important that the police enforce the law regarding vehicles.

After you have studied and understood this written lesson, you should be able to:-

1. State the ingredients necessary to prove the offences of:-
   (a) unnecessary obstruction;
   (b) wilful obstruction;

2. State the circumstances where police have power to remove vehicles.

When you have achieved the objectives listed above, and after your trainer has provided suitable learning experiences, you should be able to:-

1. In practical situations, demonstrate how to deal with vehicles causing obstruction.

2. Demonstrate your action, if you believe it is necessary to remove an abandoned or obstructive vehicle.

This lesson deals with two offences involving obstruction of highways and roads.

1. Unnecessary obstruction.

2. Wilful obstruction.

We will look at each offence in turn.


**Unnecessary Obstruction**

No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road so as to cause any unnecessary obstruction of the road.

**Contrary to Reg. 103 Road Vehicles (Construction and Use) Regulations 1986.**

Sometimes you may see a vehicle parked on a road which is causing an obstruction but where the road is not subject to parking restrictions.

In these circumstances you may consider the offence of unnecessary obstruction is being committed. The emphasis is on *unnecessary*; consider this situation:-

![Diagram of a driver speaking to a police officer. The driver says, "I CAN'T MOVE IT OFFICER. A BREAKDOWN TRUCK IS ON IT'S WAY." The police officer stands nearby.]

The obstruction is at the moment unavoidable, it is necessary because the driver is waiting for a breakdown truck and has no other way of moving the obstruction.
Now consider this driver’s situation:-

Why didn’t the driver call a breakdown truck? Why doesn’t the driver repair the car now? Why is it necessary to wait until the evening before dealing with the vehicle?

Given the circumstances and the extent of the obstruction, is it reasonable?

If it is not reasonable, the driver commits an offence of unnecessary obstruction. You must prove that obstruction was caused or was likely to be caused.

Obstruction can best be proved by observation, noting how other vehicles were negotiating the parked vehicle, the width of the road and offending vehicle, traffic conditions, etc. If possible, use a sketch plan.

If no actual obstruction was caused, clear evidence to show that the vehicle was likely to cause obstruction must be present.

For example, where a vehicle is left parked blocking a narrow road it is likely that someone will need to pass through the road eventually.
Wilful Obstruction

Any person who wilfully obstructs the free passage of the highway in any way without lawful authority or excuse commits an offence.

Contrary to Sec. 137 (1), Highways Act 1980.

We have considered two offences involving motor vehicles. What about the street trader who sets up a stall on the footway to sell wares causing a crowd to form and block or obstruct the footway or highway?

In situations like these, Sec. 137 (1) The Highways Act comes to our aid.

Under this act the obstruction, which must be proved, can be caused by anything including a motor vehicle, object or person.

Four points must be considered:-

1. wilfully obstructs
2. highway
3. lawful authority
4. reasonable excuse.

Look at each point in turn.

Wilfully

‘Wilfully’ does not mean that the person must be shown to have intended to cause obstruction. It means that they did the act which caused the obstruction deliberately, not accidentally, whether or not they realised that obstruction would result.
Highway

A highway may include:-

(a) a footway - a pavement on a highway with right of way on foot only;

(b) a carriageway - a way on which the public have a right of way for passage of vehicles;

(c) a footpath - a path over which the public have a right of way on foot only.
(d) a bridleway - a highway over which the public has a right of way;

- on foot
- on horseback
- leading or driving animals
- riding a pedal cycle.

**Lawful Authority**

‘Lawful Authority’. Street traders often cause obstruction, but many of them have a licence authorising them to occupy a certain position on a highway. Similarly, with builders’ skips, authority may be granted to occupy the highway for a limited period.

**Reasonable Excuse**

‘Reasonable Excuse’. This will apply where the obstruction is temporary and necessary, eg., where heavy crates are put on the footway before being carried into business premises, because there is no other way to do it.
Removal of Vehicles

The Removal and Disposal of Vehicles Regs. 1986 empower a Constable to remove or re-position (reposition by authorised drivers only) not only broken down vehicles but vehicles which are:-

(a) causing obstruction, or likely to cause danger; or
(b) are in breach of ‘no waiting’ regulations or similar legal provisions.

NB. If an offence has been committed, then an FPN or process book must be completed before a removal can take place.

If you feel that removal is necessary for any reason and the driver cannot be found, inform your Station.

They will want to know:-

(i) Place;
(ii) Vehicle make, type, registration mark;
(iii) Reason;
(iv) Whether vehicle is subject of a process report or fixed penalty ticket;
(v) Your particulars and if you are at the scene.

Options

When dealing people who commit the offences covered in this lesson, there are five options available to you:-

1. Advise - when a person is about to commit an offence.
2. Formally warn or take no further action- when minor offences are committed.
3. Issue a Fixed Penalty Notice.
4. Report for possible Summons - if it is not an offence covered by the FPN system.
5. Arrest - under Sec. 24, Police and Criminal Evidence Act 1984, if one of the general arrest conditions IDCOPLAN is satisfied; and if there is a need to prevent the obstruction continuing.
Before you park this lesson in your binder, see if these questions cause you any obstruction.

1. What is the difference between necessary and unnecessary obstruction?

2. What four points must you consider in the offence ‘Wilful Obstruction’?

3. What does ‘wilful’ mean?

4. What does highway include?

5. Explain lawful authority and reasonable excuse for the offence of wilful obstruction?

6. What information must you give your station when requesting a vehicle to be removed?

7. What options are open to you when dealing with offences involving obstruction?