

The Motoring Organisations' Land Access & Recreation Association

Motor Sport Events in the Countryside

Good Practice Guidance for Event Organisers & Land Managers





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Foreword

Motor Sport events of various types take place somewhere in the countryside almost every weekend of the year and are hugely enjoyed by both participants and spectators. They are the lifeblood of most car and motorcycle clubs, and without the successful promotion of such events by local volunteers the clubs, and ultimately the sport itself, would wither and die.

The first version of this LARA report was published in January 2016. This revised and updated version now covers only the laws and regulations dealing with the temporary use of land for motor sport events under what is known as the '14/28 Day Rule'. Sections of the first version dealing with the regulation of motor events on public rights of way, and the provision of permanent motor sport venues requiring planning permission, are now covered by separate LARA papers.

LARA has produced this guidance: to assist event promoters to organise motor sport events in the countryside legally and safely; to assist the owners, occupiers and managers, without whose generous permission to use their land the clubs and the sport would have far fewer places to go; and to ensure a good working relationship with local government.

The guidance covers the town and country planning rules, noise and other environmental considerations, and camping and caravanning at event sites. The guidance advises organising clubs on the possible pitfalls of their activities and how to guard against inadvertent breaches of the rules. It goes into some detail to explain the various regulations relating to the promotion of motor sport events in the countryside.

LARA hopes that all who read this guidance will find it to be of help and assistance through the various steps needed to organise an event legally and safely. We invite and welcome suggestions for improvement from interested parties. LARA and its members are happy and willing to work with organisers and land managers, for the beneficial results of correctly promoted motor sporting events, and we trust this positive attitude will be reciprocated.

Andrew Knightly Brown
Honorary Chairman of LARA
November 2019

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For more information on the origins and role of LARA, and the current membership, please go to www.laragb.org

Caution: Some of the statutes and regulations governing the authorisation and staging of motor sport events in the countryside are framed such that breach of the rules can be a criminal offence. This *Guidance* is LARA's current best view based on experience of actual cases, research and investigation, but for many of the issues here there is no body of case law on which to rely. If organisers, competitors, or land managers are concerned about any aspect of an event then they should initially contact the relevant national event-authorising body, or their own legal specialist, for advice.

I. The '14/28 day rule'

Permitted development

- I.1. Most club-level motor sport events take place on land where the use of the site is by the permission of the owner, and on an occasional basis. A car or motor cycle club might use one piece of land twice in a year, another site, three times, and another site only once annually. This use of the land by motor sport is, in planning terms, a 'temporary change of use' and, except in certain circumstances (as explained below) there is no need for the organisers to apply for and get planning permission for each event.
- I.2. The town and country planning system could not cope with applications for the wide range and large number of temporary changes of use each year. Parliament has instead provided what is known as '*permitted development rights*', which *inter alia* specifies different types of temporary change of use, where these can take place, and how many days of change are allowed in a calendar year.
- I.3. Permitted development rights (PDR) deal with *temporary* changes of use, and the site must afterwards revert to its principal use (e.g. agriculture). Leaving up safety barriers (e.g. tyres on stakes; or pallets) would eat into the annual allowance of days and, ultimately, constitute a breach of planning regulations.
- I.4. Permitted development rights do not exempt the site and activity from the need for planning permission, rather PDRs provide deemed planning permission. The system allows for 28 days of motor sport in a year, of which only 14 days can be racing, or practising for racing (see below). The rules are set out in the *General Permitted Development Order*, which is a Statutory Instrument, updated periodically. Until 2015, the regulations for England and Wales were in *Statutory Instrument 1995 No. 418: The Town and Country Planning (General Permitted Development) Order 1995*. In 2015 England only got a revised Order: *2015 No. 596. Town and Country Planning, England. The Town and Country Planning (General Permitted Development) (England) Order 2015*. The wording is substantively the same as before, and the sections relevant to motor sport are emphasised, below:

Part 4. Temporary buildings and uses.

Permitted development

B. The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes referred to in paragraph B.2, and the provision on the land of any moveable structure for the purposes of the permitted use.

Development not permitted

B.1 Development is not permitted by Class B if—

- (a) the land in question is a building or is within the curtilage of a building,*
 - (b) the use of the land is for a caravan site,*
 - (c) the land is, or is within, a site of special scientific interest and the use of the land is for*
 - (i) a purpose referred to in paragraph B.2(b) or other motor sports;*
 - (ii) clay pigeon shooting; or*
 - (iii) any war game,*
- or*

(d) *the use of the land is for the display of an advertisement.*

Interpretation of Class B

B.2 *The purposes mentioned in Class B above are—*

(a) *the holding of a market;*

(b) *motor car and motorcycle racing including trials of speed, and practising for these activities.*

What is ‘racing’ or a ‘trial of speed’?

- 1.5. These are defined in *The Motorsport UK Yearbook 2019* in ‘(B) Nomenclature and Definitions’.
- 1.6. *Race. A Competition where two or more cars are started simultaneously from the same starting line and over the same course, and in which the winner is the Competitor who first completes a specified distance, including any handicap credit, or who completes the greatest distance in a specified time.*
- 1.7. *Speed Event. An event in which cars run individually, even though two or more individual runs may be taking place concurrently, over a course exceeding 200m in length and in which the relative performance of the Competitors is assessed by timing them over a given distance. The winner, or the most meritorious performer, is the Competitor who covers the distance in the least time. The term will include hill climbs, sprints, slaloms, drag races, autocross and other similar events.*

What is ‘practising’?

- 1.8. Permitted development rights facilitate no more than 14 days of racing or practising for racing. There is some debate about what is meant by ‘practising for racing’. Is a commercial moto-cross practice track ‘practising for racing’? There is no clear guidance or case law on this, but taking the *Permitted Development Order* provisions in context, ‘practising for racing’ seems to indicate ‘free practice’ and ‘qualifying’ sessions within the duration of a race meeting.

No permitted development rights on SSSIs

- 1.9. In 1995 permitted development rights were changed for motor sport. From then on there is no 14/28 Day Rule available for land designated as a *site of special scientific interest (SSSI)*, or other major European conservation sites, such as *special protection areas (SPA)* and *special areas for conservation (SAC)*. – it is sometimes possible to stage events on such sites, but planning permission must be applied for, and granted, first. For low-impact events with a long history on a site that became a SSSI, it is possible that the planning authority and *Natural Resources Wales*, or *Natural England*, would deem a planning application unnecessary, with strict conditions of use applied instead.

Tracks cannot be engineered and retained under permitted development

- 1.10. The 14/28 day rule does not allow ‘building a track’ from the soil on the site, or bringing in soil or sand to the site, and then leaving it intact afterwards. ‘Moveable structures’, such as wooden jumps, would be within permitted development, but should be removed from the land after the event.

What is 'land' for the purposes of permitted development?

- 1.11. There seems to be no clear answer to this. For a long time the approach in planning law was to consider the 'planning unit', and to regard all regulations as applying to the whole of the planning unit rather than any part or subdivision of it. A farm might well be a single planning unit, so under that approach, 'land' for the purpose of planning rules could be regarded as applying to the whole farm holding. More recently, the courts have tended to the view that smaller sub-divisions of farms and other holding can be regarded independently as 'land' for planning purposes. This does open the possibility of 28 days in one field, 28 days in another, 28 in another, but this might well be viewed by the planning authority as defeating the intention of Parliament in capping potentially noisy activities in a neighbourhood or locality.

Removal of permitted development rights

- 1.12. Permitted development is not absolute, and planning authorities are able to remove permitted development rights from a site by use of an '*Article 4 Direction*', if they think that the permitted activity is harmful or inappropriate to the wider environment, or the site itself. *Article 4 Directions* are essentially an executive power of the planning authority, and while *Article 4 Directions* must be used only when genuinely necessary, the only effective avenue of appeal is to make an application for planning permission for the activity that has been prohibited by the direction. Where an *Article 4 Direction* is threatened, the event organisers should immediately seek discussions with the planning authority to find a compromise solution, if possible.

2. Breach of planning rules & lawful development

- 2.1. Club level off-road motor sport generally takes place within permitted development rights (the '14/28 day rule'), removing the need to apply for planning permission for events as long as these operate within the planning rules. The 14/28 day rule specifies the maximum number of days that a site can be used in a calendar year (14 for racing or practising for racing; 28 for non-racing events, to a combined maximum of 28 days) and that this use is a 'temporary change of use' only. Engineering works and structures on site cannot be left there between events, and will anyway themselves eat into the 14/28 day allowance.

Enforcement against breach of planning rules

- 2.2. Where a breach of the planning rules happens it is open to the planning authority for the area to use its enforcement powers to require that any unauthorised use or development ceases, and the land is returned to its original condition. Where such an 'enforcement notice' is issued (usually to the landowner, but sometimes to the landowner and the club / organiser) there is a form of 'appeal process' by applying for planning permission for the activity that is being enforced against.
- 2.3. Where the planning authority believes that a motor sport site is being operated in breach of planning rules, the matter will generally be taken on by the council's enforcement officer, to investigate whether a breach of planning rules has taken place. If the officer believes that a breach has occurred then he or she may issue – or at least threaten the issue of – an enforcement notice. Caution: once an enforcement notice is issued the club (and/or landowner as named in the notice) must either comply with the terms of the notice within the specified timescale, or make an application for planning permission by way of appeal. Even if an appeal

is intended, the recipient of an enforcement notice must supply the information required by the authority. Not to comply can result in serious financial penalties.

- 2.4. The council's enforcement officer is restricted in that an enforcement notice can only be issued within a statutory period from when the alleged breach of planning rules took place. For a simple 'change of use' (e.g. using pasture land for motor sport) the statutory period is ten years. For 'development' (e.g. building jumps on a track, or erecting and leaving in place bridges and gantries) the statutory period is four years from the date of the alleged breach.

Applying for a certificate of lawful use

- 2.5. If a breach of planning rules took place and continued for more than the statutory period (ten years or four years) then enforcement action cannot now be commenced, and the landowner or the club can apply to the planning authority for a *certificate of lawful use or development* which, if granted, confirms that the land use or development in question is now lawful even though planning permission was not originally obtained.
- 2.6. An application for a certificate of lawful use is similar to an application for planning permission. The planning authority will require an application form, site plans, location maps, a statutory administrative fee and – most importantly – evidence that the activity in question took place and when it took place.
- 2.7. Supplying sufficient evidence to the planning authority is the key to obtaining a certificate of lawful use. Simple 'assertions' such as letters from participants in events will carry some weight, but planning authorities will also want to see some 'contemporaneous evidence' of, for example, the number of events in a given year, or proof that track works were carried out in a given year.

The effect of a certificate of lawful use

- 2.8. If a certificate of lawful use is granted on the basis of 18 days of racing a year (i.e. exceeding the lawful 14 days), does that mean that, in the future, the site can be used for racing for 365 days a year? Similarly, if a certificate of lawful use is issued for a natural landform track with some relatively minor engineering works, does this give a right to re-engineer the track to a much greater degree? There is some doubt about the outcome on the days of racing, but where applications for certificates of lawful use have gone to the Secretary of State on appeal, inspectors deciding the issue have granted the certificate for the maximum number of days proven use in any of the qualifying years. As regards track design and form, the best view is that a certificate of lawful use only validates the track as it was at the date of application – any future changes again require planning permission.

3. Sustainability & motorsport in the planning context

- 3.1. The issues of environmental sustainability and motorsports may at first appear at variance with each other. However, it would be a naïve argument simply to state: 'motorsport burns fuel, creates pollution and is environmentally damaging', without at least a comparison to everyday activities.
- 3.2. Sustainable development was defined in the 1987 *Brundtland Report* as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Throughout the 1990s and continuing into the new millennium, sustainability is

becoming progressively more important in planning, and government planning policy guidance is increasingly written with sustainability objectives.

- 3.3. Sustainable development in the planning sense can adopt various forms, from reducing the need to travel by private car by locating development along public transport corridors (locating a supermarket close to a railway or bus station), to mixing different uses of developments so that various services are provided locally. For example, providing leisure centres, shopping centres and factories within walking distance of a housing estate.
- 3.4. Sustainability is a material consideration and it can be, and is, used to justify the refusal of a planning application. Therefore this important issue cannot be ignored by motorsport organisations that become involved in the planning system, for example, when they wish to seek planning permission for a moto-cross track.
- 3.5. In relation to motorsport it would appear easy for a council planning officer to argue that motorsports burn fuel, produce pollution, and that any motorsport race track provision granted planning permission encourages this: therefore motorsport is consequently unsustainable, and this is, or may be, a reason to refuse planning permission. However in truth, the reality is not as clear-cut.
- 3.6. There has been a move from the use of two-stroke motorcycle engines to cleaner, lower emission four-stroke engines. In recent years, motorsport has been using unleaded petrol. The reality is that the pollution caused by a motorsport activity itself is far less impacting than the pollution caused by many other social and recreational activities. A further shift to electric power will remove many of the current objections.
- 3.7. LARA argues that there is no difference environmentally between fuel being burnt in a car taking someone to the opera and fuel being used in a moto-cross bike: both are discretionary recreational activities. Likewise there is little difference between burning fuel in a car in order for a family to drive to a walking holiday and burning fuel in a rally car. Every week football matches attract thousands of cars carrying spectators to the stadiums, and hundreds of people drive to National Parks to enjoy their amenity.
- 3.8. Within the planning process, sustainable development is about minimising the environmental impact of development, *not* banishing development. Motorsport tracks can sometimes minimise their impact by selecting brownfield land (land that has already been developed before) if such is available, locating in areas that can be easily reached by a choice of transport modes and ensuring that cleaner, more fuel efficient technology is used as it is developed. It must be appreciated, however, that most motor sport depends upon temporary change of use of suitable land – the sort of land usually found only in the countryside.
- 3.9. A motorsport use should not be singled out as being a pollution generator, whilst housing estates are built with garages and a road network accommodating cars, retail centres are opened with car parks and city management continue to provide car parking spaces in town centres. The pollution generated by a leisure complex with a 2000 space car park, or even a small housing estate, is environmentally more damaging through the car journeys generated by the development, than the fuel used in, or getting to, a motorcycle trial.
- 3.10. Whilst we need and must adopt a greater care of our environment for future generations, we still need to cater for our own aspirations and our own quality of life. If this can be achieved with maximum sensitivity and minimum environmental impact then we can meet our own aspirations without necessarily compromising future generations to meet theirs.

3.11. Further reading:

(These papers listed are now out of date in some ways, but they still give good background on the concept of sustainability).

Cullingworth, J. & Nadin, V. (1997) *Town and Country Planning in the UK*, Routledge, London.

Department of the Environment (1990), *This Common Inheritance*, HMSO, London

Department of the Environment (1997), *PPG 1: General Policies and Principles*, HMSO, London

DETR (2000) *PPG 12 Development Plans and Regional Planning Guidance*, HMSO, London

Urban Task Force (1999), *Towards an Urban Renaissance*, E&FN Spon, London.

4. Noise nuisance from motor events

Overview

- 4.1. Most motor sport events are considerably less noisy than even twenty years ago, but some still spark complaints to the local authority, particularly with racing sites that are used frequently. Noise complaints are dealt with by local authorities under a statutory framework, and if a council issues a noise abatement notice, the organising club (or in some circumstances the landowner) will have difficulty in defending against this.
- 4.2. LARA's experience over more than thirty years is that there are four key issues here for organisers:
 - Enforce your own noise rules properly. Just one or two excessively noisy motors can make the whole event seem much worse.
 - Public address loudspeakers seem to be a particular cause of complaint.
 - Be a good neighbour. Think about times of operation, gaps between races, and 'public relations'. Reassure local people in advance.
 - Tackle complaints promptly and positively.

Statutory Nuisance

- 4.3. Once a local authority (a single-tier or district-level council) receives a complaint about a 'statutory nuisance' it is obliged to investigate and take appropriate action if a nuisance is found to exist.
- 4.4. This duty arises from the Environmental Protection Act 1990, which provides:

79 Statutory nuisances and inspections therefor.

(1) Subject to subsections (1A) to (6A) below, the following matters constitute "statutory nuisances" for the purposes of this Part, that is to say—

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

and it shall be the duty of every local authority ... where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.
- 4.5. What is a 'nuisance' for this provision? There is a great deal of judicial consideration of this, but it can be summarised as noise that is sufficiently loud, intrusive, repetitive, and frequent, as to unreasonably diminish people's enjoyment of their property.

- 4.6. In LARA's experience some council environmental health officers (EHO) regard even one noisy event as sufficient to constitute a statutory nuisance which they can take action against to stop recurrence, but this is the wrong approach. All the characteristics of the event(s) should be considered together.
- 4.7. Frequency of the nuisance was an issue in the case of Watsons & Wilson v. Croft Promo-Sport Ltd ([2008] EWHC 759 (QB), where Simon J upheld the concept of 'reasonable nuisance'. Nobody is entitled to total peace and quiet in their lives, and will have to put up with some degree of nuisance – that is the nature of life – but it is a question of fact and degree as to when a nuisance becomes excessive, and therefore actionable.
- 4.8. This case concerned the race circuit at Croft, near Darlington, which had planning permission for a set number of days of racing and 'track days', with agreed individual vehicle noise levels on set days. Simon J also confirmed that a planning permission cannot legitimise an actionable nuisance arising when a 'reasonable nuisance' is exceeded. Where there is a planning permission in force with specified noise limits, if the site adheres to this condition then it is generally safe from noise nuisance complaints.
- 4.9. The case of Coventry and others (Respondents) v. Lawrence and another (Appellants) [2015] UKSC 50 confirmed that a householder who moves to live near an existing motor-sport site is not barred from taking action against noise nuisance.
- 4.10. These two cases confirmed that actions for damages, and/or restraining injunctions, are open to parties suffering from noise nuisance.

Abatement notices

- 4.11. Where an EHO considers that there has been a noise nuisance, and that this should be prevented from happening again, the council can issue an abatement notice.
- 4.12. The Environmental Protection Act 1990, provides:

80 Summary proceedings for statutory nuisances.

(1) Subject to subsection (2A) where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements—

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;

(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.
- 4.13. It is unusual for a local authority to issue an abatement notice for motor sport noise without first making contact with the organisers and/or the landowner to discuss the issue and seek an agreed solution. This might be fewer events in a period, different dates during the year, fewer machines running at any time, or engineering works to mute the sound.
- 4.14. A person served with an abatement notice can appeal to the magistrates' court. This is not an easy process, and a motor club or site operator is likely to need a qualified noise expert in order to challenge the council's data. It is not an impossible task, and appeals do sometimes succeed, but implementing measures to prevent an abatement notice being served are more likely to save at least some use of the site.

Screening and noise barriers

- 4.15. LARA's experience is that building embankments and planting trees to cut-down the noise escaping from a site works well in some cases, but not much in others. Again, this needs professional expertise. Simple measures can also work, for example relocating the start gate for a moto-cross track so as to point the exhausts in a different direction. Similarly use land-forms to shield the first turn after the start, as gear-changing and acceleration is more intrusive than steady-speed noise. Public address systems can attract more complaints than the engine noise itself.
- 4.16. Earth banks will generally require planning permission, but temporary screens built from straw bales can be made and later removed under the '14/28 day rule'.
- 4.17. Simply, screening measures are not generally as effective as minimising the noise made by each vehicle, and having fewer vehicles in each race.

5. Statutory authorisation of motor events in public places

The statutory framework

- 5.1. The *Road Traffic Act 1988* (as amended) has a number of offences that can take place either on a 'road', or in an 'other public place'. These offences include:
 - s.1 Causing death by dangerous driving.
 - s.2 Dangerous driving.
 - s.2B Causing death by careless, or inconsiderate, driving
 - s.3 Careless, and inconsiderate, driving.
- 5.2. 'Road' is reasonably straightforward: a public highway, or a road which is not a highway but to which the public has access. 'Other public place' is not clearly defined, but includes places like public, or supermarket, car parks, public parks, access land and sports stadiums. The implications of these road traffic offences for motor sport were immediately clear when the *Road Traffic Bill 1990* was published: that competitors in events such as rallies and trials might be held guilty of an offence for driving in a way that is normal for competition, but below acceptable standards for everyday driving.
- 5.3. The principal motor sport organisations discussed the matter with the Minister, and in the *Road Traffic Act 1991* a fresh provision was introduced, disapplying these offences as regards authorised motor sport events in public places other than roads:

5. Disapplication of sections 1 to 3 of the Road Traffic Act 1988 for authorised motoring events.

After section 13 of the Road Traffic Act 1988 there shall be inserted—

“13A Disapplication of sections 1 to 3 for authorised motoring events.

(1) A person shall not be guilty of an offence under sections 1, 2 or 3 of this Act by virtue of driving a vehicle in a public place other than a road if he shows that he was driving in accordance with an authorisation for a motoring event given under regulations made by the Secretary of State.

(2) Regulations under this section may in particular—

 - (a) prescribe the persons by whom, and limit the circumstances in which and the places in respect of which, authorisations may be given under the regulations;*
 - (b) specify conditions which must be included among those incorporated in authorisations;*

- (c) *provide for authorisations to cease to have effect in prescribed circumstances;*
- (d) *provide for the procedure to be followed, the particulars to be given, and the amount (or the persons who are to determine the amount) of any fees to be paid, in connection with applications for authorisations;*
- (e) *make different provisions for different cases.”*

The regulations

- 5.4. The Secretary of State then made regulations setting out how certain ‘Authorising Bodies’ could issue authorisations to organisers, relating to certain events, and imposing appropriate conditions. The first regulations were *The Motor Vehicles (Off Road Events) Regulations 1992. 1992 No. 1370*, and these were quickly amended by *The Motor Vehicles (Off Road Events) (Amendment) Regulations 1992. 1992 No. 1523*. Both of these regulations have since been revoked by *The Motor Vehicles (Off Road Events) Regulations 1995. 1995 No. 1371* (England, Wales & Scotland).
- 5.5. These regulations set out the names of Authorising Bodies for the purposes of the regulations. This list is open to amendment by later regulations, which should be checked for any changes:
- Amateur Motor Cycle Association Limited;*
 - Association of Rover Clubs Limited (now the Association of Land Rover Clubs Limited);*
 - the Auto-Cycle Union (now the Auto-Cycle Union Limited);*
 - the British Schoolboy Motorcycle Association;*
 - the International Organisation of Professional Drivers Limited;*
 - the National Autograss Sport Association Limited;*
 - NORA 92 Limited;*
 - National Traction Engine Trust;*
 - the Royal Automobile Club (now the Royal Automobile Club Motor Sports Association Limited);*
 - Scottish Auto Cycle Union Limited; and*
 - Youth Motorcycle Sport Association (YMSA) Limited.*
- 5.6. The powers given to the Authorising Bodies are set out in s.4 of the regulations:
- (1) *An authorising body may give an authorisation for a motoring event for the purposes of section 13A of the Road Traffic Act 1988 upon such conditions as it thinks fit.*
 - (2) *An authorisation for a motoring event given by an authorising body may be revoked by that body or by a person authorised by that body at any time before the event is held or while it is being held.*
- 5.7. Authorising Bodies may charge a fee for issuing an authorisation:
- (1) *A person applying to an authorising body for an authorisation for a motoring event shall pay to that body a fee of such amount as may be determined by that body.*
 - (2) *An authorising body may determine different fees for different classes of events and for events of the same class held in different circumstances.*
- 5.8. *The Motor Vehicles (Off Road Events) (Amendment) (England) Regulations 2010. 2010 No. 1003* amended the 1995 Regulations in England only by updating the names of three Authorising Bodies (in brackets in the list above), and by changing the fee-charging arrangements:

5. In regulation 5 after paragraph (2) insert—

“(3) Any fee determined by an authorising body must not exceed a reasonable amount.

(4) An authorising body must publish, in such manner as it considers appropriate for informing persons likely to be affected, the levels of any fees which it has determined in accordance with paragraph (1) as they apply from time to time.

(5) An authorising body may not increase any fee unless details of the increase are published in accordance with paragraph (4) not less than three months before the date on which the increase takes effect.”

- 5.9. *The Motor Vehicles (Off Road Events) (Amendment) (Wales) Regulations 2013. 2013 No. 2494 (W. 243) introduced the same amendments to the 1995 Regulations as had been introduced in England by the 2010 Regulations.*

The effect of the regulations

- 5.10. The regulations do not make it mandatory for any motor sport event organiser to obtain authorisation for an event. If an organiser is satisfied that the event takes place on a site that is not a ‘public place’, then the drivers in the event cannot be held to commit any Road Traffic Act offences during the event.
- 5.11. If an event is to be in a public place, nothing in the regulations makes it a condition precedent that an authorisation must be obtained, but drivers would remain vulnerable to prosecution for the specified Road Traffic Act offences.
- 5.12. Those LARA Member Organisations which are also listed Authorising Bodies issue authorisations for events subject to reasonable and tested conditions relating to safety and event discipline. The various Authorising Bodies are not limited by the regulations only to authorise events staged by their own clubs and promoters, but no Authorising Body is obliged to issue an authorisation for any event which it believes will not comply with adequate safety standards.
- 5.13. Those LARA Member Organisations which are also listed Authorising Bodies link the authorisation of their own clubs’ events to their own administrative ‘event permits’, which permits themselves ensure high levels of third party liability insurance cover. The issue of an event authorisation alone, of itself, does not provide any guarantee that the event will be well run, or properly insured: these are requirements and standards that the LARA Member organisations impose upon their own clubs and promoters as a condition of an authorisation being granted.

6. Caravans and camping at motor sport events

- 6.1. Motor sport event organisers sometimes provide space for entrants and event personnel to stay on site in their own caravans, motor-caravans, or tents. Deemed planning permission for the event (the '14/28-Day Rule') does not itself provide all the necessary authorisations for caravans or tents, and event organisers must hold the statutory 'Exemption Certificates.'

The legislative framework

- 6.2. Exemption certificates are issued under two separate pieces of legislation:

For tents (including trailer tents):

- 6.3. Under s.269 of the *Public Health Act 1936* the use of land as a campsite for more than 42 days consecutively or 60 days in total in any 12 consecutive months requires a site licence from the local authority. In addition, the use of land for tented camping for more than 28 days a year normally requires an express grant of planning permission.
- 6.4. However, members of recreational organisations which hold a *Camping Exemption Certificate* issued under s.269(6) of the 1936 Act can camp on land without a site licence and without the need to apply for planning permission. Failure to comply could lead to a fine.

For caravans (including motor-homes and camper-vans):

- 6.5. For land to be used as a caravan site it must be licensed, and planning permission is usually necessary. However, s.2 of the *Caravan Sites and Control of Development Act 1960*, and the First Schedule thereto provide exemptions from the need for a site licence or planning permission.
- 6.6. Part 5 Class A of the *Town and Country Planning (General Permitted Development) Order 1995* (in Wales), and Part 5 Class A of the *Town and Country Planning (General Permitted Development) Order 2015* (in England) permits the use of land as a touring caravan site where a caravan exemption certificate has been issued. Failure to comply might mean that the caravans put the future planning status of the site for motor sport in jeopardy. There could also be insurance cover implications.
- 6.7. **Guidance** published by Natural England (largely relevant to Wales and Scotland also) is entitled: *Camping and Touring Caravan Exemption Certificates: a Guide for Applicants*, and at the date of revision of these notes is available to view and download at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336772/combined-guidance_tcm6-9572.pdf
- 6.8. The principal motor sport governing bodies hold a *Caravan Exemption Certificate* centrally, and clubs organising events can be covered by this via the event permit (check in each case). It is the responsibility of the event organisers to have and apply the required Code of Conduct for the caravan area and its use, and the parent body that holds the *Caravan Exemption Certificate* must have a 'named officer' responsible for administration of the exemption system. The details are all in the *Guide for Applicants*.
- 6.9. Please be aware that an exemption certificate held by a club or organisation only covers that club's events, and that club's members. An exemption certificate does not cover persons attending the event who are not members of the organising club, and if any such persons stop-over in tents or caravans, the planning and licensing rules apply. This is from the summary guidance on the .Gov website:

'Your club is eligible for an exemption if the certificate will only be used by your club and its members.'

6.10. The exemption certificate process was formerly administered by the Department for Food and Rural Affairs, but since 2013 this role has been taken-over by Natural England for England only, and respectively The Welsh Government and the Scottish Government. The current addresses for sending applications for exemption certificates are:

- For organisations with contact addresses in England: Camping and Caravanning Exemptions Team, First Floor Zone C, Natural England, 9 Eastbrook, Shaftesbury Road, Cambridge, CB2 8DR.

E-Mail: caravan.camping@naturalengland.org.uk

- For organisations with contact addresses in Scotland: The Scottish Government, Directorate of Housing, Regeneration & Welfare, Housing Options & Policy Unit, Area 1H South, Victoria Quay, Edinburgh, EH6 6QQ

E-Mail: ged.millar@scotland.gsi.gov.uk

- For organisations with contact addresses in Wales: The Welsh Government – Decisions Branch, Planning Division, Welsh Assembly Government, Cathay's Park, Cardiff, CF10 3NQ

E-Mail: nicholas.iles@wales.gsi.gov.uk

7. Agri-environment schemes in England

Caution. All UK agri-environment schemes are likely to change after the UK leaves the European Union. Take appropriate advice from the various scheme managers

The 'Basic Payment Scheme' (introduced 2015)

7.1. The *Basic Payment Scheme* (BPS) replaced the *Single Payment Scheme* (SPS) on 1 January 2015. LARA's guidance on the *Single Payment Scheme* is now obsolete. The *Basic Payment Scheme* is intended to be simpler to understand and implement, and the *Scheme Handbook* certainly explains the farmers' position much better as regards providing for motor sports, or allowing clubs to use land on an occasional basis.

7.2. This below is from the Rural Payments Agency guidance (2019, available online), which explains the rules of the scheme, including:

[Page 20] *Activities allowed for 28 days*

These non-agricultural activities are allowed – but not for more than a total of 28 days in the calendar year (whether consecutive or not):

- *motor sports*

The 28 days should include all the days for which the land was unavailable, including preparing the land and/or clearing up afterwards. If an activity lasts less than 24 hours, it still counts as one of the 28 days.

If these activities go over the 28-day limit due to circumstances beyond the farmer's control, this might be considered force majeure.

Summary of the Basic Payment Scheme

- 7.3. These rules for the *Basic Payment Scheme* make it clear that temporary use of land for motor sport events (akin to the 14/28 Day Rule) do not block the farmer from claiming his payments. Permanent, fenced facilities probably do block the payments.

‘Countryside Stewardship’ does not completely bar motor sport events

- 7.4. Over the last decade motor sport organisers using farmland on an occasional basis have sometimes fallen foul of ‘agri-environment schemes’, where landowners are paid by the government to protect and enhance the environment on their holdings. We have had at various times ‘*Countryside Stewardship*’ and ‘*Environmentally Sensitive Areas*’ and, in 2005/6, the widespread introduction of the ‘*Single Payment Scheme*’. The guidance initially issued by DEFRA for the *Single Payment Scheme* was so negative towards motor sport on farmland that the Motoring Organisations’ Land Access and Recreation Association (LARA), on behalf of its members, sought judicial review of the guidance, leading to DEFRA changing its position much to our advantage.
- 7.5. In recent years LARA has had reports of long-established events losing their traditional sites because the owners were electing to join the ‘*Higher Level Stewardship*’ scheme, administered by Natural England, and in joining were being given to understand that there was a stark choice: motor sport or *Higher Level Stewardship* money, but not both.
- 7.6. LARA took this up with DEFRA and Natural England, and the latter has now written back, explaining clearly that existing motor (and other) events are not simply stopped by a landholding going into *Higher Level Stewardship*. It is a matter for discussion between the Natural England case officer and the landowner, and (says Natural England), “... I would expect any prior agreed activities to be able to continue.” Natural England has also offered to assist with sorting out any case where difficulties continue.
- 7.7. Agri-environment schemes look to be here to stay, in one form or another, and it is important that motor sport’s occasional and irreplaceable use of farmland is able to fit in with the needs and aspirations of conservation agencies.
- 7.8. In 2016 a new version of *Countryside Stewardship*, incorporating (and replacing) the aims and systems of *Higher Level Stewardship*, was introduced. The most common variant is ‘Mid Tier’, and there is also a ‘Higher Tier’ scheme.
- 7.9. Neither scheme’s handbook sets out any automatic exclusion of motor sport events, but attainment of the schemes’ purposes may make it difficult for a landowner to accommodate occasional motorsport as well.
- 7.10. The scheme handbooks are available at: <https://www.gov.uk/government/collections/countryside-stewardship-get-paid-for-environmental-land-management>