

## **Barbed wire and razor tape**

Although there might be some very special circumstances where the use of barbed wire and or razor tape may be required I would not generally recommend the use of these materials for domestic boundaries. Its appearance is ugly and hostile and if on a fence that borders lands to which the public have access it should only be used at heights above 2.4 metres, which should require planning permission! You'll also have to put warning signs on the fence or wall warning of the specific danger. You'll also be surprised at how quickly this stuff can be removed anyway by intruders coming prepared with heavy duty wire cutters and blankets. (See Highways Act 1980 Section 164 in **The UK Law concerning fences, walls and gates** )

### **Highways Act 1980**

#### **Section 164 (Injurious toppings)**

The local highway authority has a duty to ensure the safe use of the public highway and this section deals with the problems of injurious toppings on fences and walls that are so low that they could easily injure a person simply walking along the public footway.

*Section 164, clause (1) of the Highways Act 1980* states the following:

#### ***Power to require removal of barbed wire***

*Where on land adjoining a highway there is a fence made with barbed wire, or having barbed wire in or on it, and the wire is a nuisance to the highway, a competent authority may by notice served on the occupier of the land require him to abate the nuisance within such time, not being less than one month nor more than 6 months from the date of service of the notice, as may be specified in it.*

The term 'barbed wire' has been interpreted to mean anything with spikes or jagged projections and this would include any made aggressive topping or addition to a wall or fence including carpet gripper, broken glass, nails and preparatory products such as plastic and metal spikes.

The term 'nuisance' has been interpreted to mean something that is likely to cause injury to people and animals using the highway and most highway authorities consider things that can cause injury lower than 2.4m to be a nuisance.

If you fall foul of this law you will be issued with a notice requiring you to remove the danger within a specific time period.

## Occupiers' Liability Act 1957

The 1957 Act deals with lawful visitors to your home and places a duty of care on you to ensure the safety of those visitors whilst on your premises. You cannot be charged with any offences under this Act, but it can be used to sue you through the civil courts.

*Occupiers' Liability Act Section 2, clauses (1) – (3)* states the following:

### **Extent of occupier's ordinary duty**

*(1) An occupier of premises owes the same duty, the "common duty of care", to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.*

*(2) The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.*

*(3) The circumstances relevant for the present purpose include the degree of care, and of want of care, which would ordinarily be looked for in such a visitor, so that (for example) in proper cases—*

*(a) an occupier must be prepared for children to be less careful than adults; and*

*(b) an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so.*

### **Other Objections**

Local councils sometimes object to householders placing barbed wire on their properties and may insist that it is removed. Even if the householder has complied with the legal restrictions, the council may be concerned about their own legal position if someone is injured. Neighbours may object to obvious deterrent methods such as barbed wire because they look unattractive or because they may give the impression that a neighbourhood is more dangerous than it is.

If householders do use barbed wire they should check that their household insurance will cover them for any injuries caused by it.

### **Alternative Methods**

A solid brick wall with trellis fencing attached to the top should be enough to keep most intruders out. The trellis should not be strong enough to support the weight of a human intruder and is far more attractive than barbed wire. Even more attractive are prickly bushes such as rose and hawthorne. Either of these methods will make a householder much less likely to fall foul of the law – or the neighbours.