

# LOCAL GOVERNMENT BYELAWS (WALES) ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 12 – Power to offer fixed penalties for offences against certain byelaws*

39. **Section 12** enables a legislating authority to use fixed penalties as an alternative means of enforcing byelaws made under the enactments listed within Part 2 of Schedule 1 to the Act.
40. Where a byelaw is specified within Part 2 of Schedule 1 to the Act, subsection (2) provides for an authorised officer of a legislating authority to issue a fixed penalty notice offering a person the opportunity of discharging liability for conviction for a byelaw offence by the payment of the amount specified in the fixed penalty notice. Subsection (3) makes the same provision for an authorised officer of a community council to issue fixed penalty notices in relation to offences against byelaws committed in its area, even if the byelaw was made by a legislating authority other than the community council.
41. Subsection (4) provides that a fixed penalty is payable to the legislating authority whose officer issued the notice.
42. Subsection (5) provides that, following receipt of a fixed penalty notice, the recipient has fourteen days in which to pay the specified fine, and thus avoid attending the Magistrates' Court in respect of the offence.
43. Subsection (6) provides that the fixed penalty notice must give sufficient information to the recipient so that the nature of the offence is clear.
44. Subsection (7) provides that a fixed penalty notice must also detail the period during which proceedings will not be taken for the offence, the amount of the fixed penalty and the person to whom and the address at which the fixed penalty may be paid.
45. Subsection (8) provides for the method of payment of the fixed penalty by way of pre-paying and posting a letter.
46. Subsection (9) details that where a letter is sent discharging payment the payment will be deemed to have been made at the time at which the letter would be delivered in the ordinary course of post.
47. Subsection (10) provides the Welsh Ministers with a regulation making power to specify the form of the fixed penalty notice issued pursuant to this section. These powers are subject to the National Assembly for Wales negative resolution procedure.
48. Subsection (11) provides that in the event of proceedings a certificate signed on behalf of the chief finance officer of an authority which states the payment of a fixed penalty having been received, or not, as the case may be will be deemed evidence of the facts stated.

*These notes refer to the Local Government Byelaws (Wales) Act  
2012 (c.2) which received Royal Assent on 29 November 2012*

49. Subsection (12) makes provision about which persons are authorised to issue fixed penalty notices. “Authorised officers” will be restricted to those authorised in writing by the legislating authority to carry out the function. This may be a direct employee of the legislating authority, or a person, or an employee of a person, with whom the legislating authority has a contract for the enforcement of byelaws.
50. Welsh Ministers are empowered to specify, by regulations, the form of such a notice and the conditions to be satisfied by a person before a community council may authorise them for the purpose of giving notices. This power is subject to the National Assembly for Wales negative resolution procedure.