

LOCAL GOVERNMENT BYELAWS (WALES) ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 7 – Byelaws requiring confirmation

16. [Section 7](#) replaces and modifies provisions in section 236 of the 1972 Act. It relates to those byelaws made by a legislating authority pursuant to any enactment which confers on the legislating authority powers to make byelaws where specific provision as to the procedure is not otherwise made. The section 236 procedure detailed in the 1972 Act is the common procedure for the making of byelaws which require confirmation.
17. This section also clarifies that a byelaw made by a legislating authority to amend or revoke an existing byelaw made under an enactment not listed in Part 1 of Schedule 1 to the Act is subject to the provision of section 7 of the Act and, as a consequence, requires confirmation by the Welsh Ministers.
18. There are three stages to the procedure:
 - Initial written statement and consultation with interested persons;
 - Publication of the decision and the proposed byelaw(s), as appropriate; and
 - Making, confirming and the coming into effect of the byelaw(s).
19. Before making byelaws, a legislating authority must produce and publish an initial written statement which describes the issue which the legislating authority considers may be addressed by making byelaws. The legislating authority must consult persons (including a community council where applicable) likely to be interested in, or affected by, the issue and, following consultation, to decide whether making byelaws is the most appropriate way forward. It is intended that guidance will emphasise that a legislating authority should keep an open mind as to whether a byelaw is the most appropriate way forward, prior to consultation.
20. The legislating authority must then publish a second written statement which contains the initial written statement, a summary of consultation responses, details of the decision reached following the conclusion of the consultation exercise and the rationale for that decision.
21. At least 6 weeks before the byelaw is submitted for confirmation, the legislating authority must publish notice of its intention to do so in one or more local newspapers circulating in the area to which the byelaws apply. The legislating authority must also publish this notice by placing it on the legislating authority's website, if a website is available.
22. The legislating authority must also for at least 6 weeks prior to submitting the byelaw for confirmation publish the proposed byelaws on the legislating authorities website,

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

place a copy on deposit at a place in the legislating authorities area and ensure that a copy is open to public inspection at all reasonable hours without payment.

23. The legislating authority, where applicable, must also ensure that a copy of the byelaw is sent to all community councils whose areas the legislating authority thinks are likely to be affected by the byelaw.
24. The legislating authority must provide a copy of the byelaw to any person who applies subject to payment of a reasonable fee.
25. The confirming authority may refuse to confirm any byelaw submitted for confirmation. Byelaws do not have effect unless and until they are confirmed by the confirming authority.
26. Where no confirming authority is specified in the enactment under which the byelaws are made the confirmation function of the Welsh Ministers is exercisable concurrently with the Secretary of State. The retention of the concurrent confirmation function will enable the Secretary of State to consider any byelaws made under enabling legislation yet to be identified where it is agreed that it is appropriate for the relevant Secretary of State to confirm such byelaws.