

Draft Order laid before Parliament under section 235(6) of the Localism Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

LOCAL GOVERNMENT, ENGLAND

The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012

Made - - - -

Coming into force in accordance with article 1(1)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 8(2) and 235(2) of the Localism Act 2011(1).

A draft of this Order has been approved by a resolution of each House of Parliament in accordance with section 235(6) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 and comes into force on the day after the day on which it is made.

(2) In this Order—

“annual meeting” means a meeting of a parish council held in pursuance of paragraph 7(1) of Schedule 12 to the Local Government Act 1972;

“relevant annual meeting” means an annual meeting that takes place in a year of ordinary elections of parish councillors(2).

Prescribed conditions

2. The conditions prescribed for the purposes of section 8(2) of the Localism Act 2011 are those specified in the Schedule to this Order.

Transitional provision

3.—(1) This article applies to a parish council in the circumstances described in paragraph (2).

(2) The circumstances are that—

(1) 2011 c.20.

(2) For year of ordinary elections, see section 16 of the Local Government Act 1972.

- (a) the parish council has passed a resolution under paragraph 1 of the Schedule; and
 - (b) at the next relevant annual meeting to be held after the meeting at which that resolution is passed, the parish council does not pass another resolution under that paragraph.
- (3) The council shall continue to be an eligible parish council for the purpose of completing any activity—
- (a) undertaken in the exercise of the general power, but
 - (b) not completed before the day of the meeting referred to in paragraph (2)(b).

Signed by authority of the Secretary of State for Communities and Local Government

Date

Name
Parliamentary Under Secretary of State
Department for Communities and Local
Government

SCHEDULE

Article 2

Conditions of eligibility

1. The council has resolved at a meeting of the council and each subsequent relevant annual meeting that it meets the conditions in paragraph 2 below.

2.—(1) At the time a resolution under paragraph 1 is passed —

- (a) the number of members of the council that have been declared to be elected⁽³⁾, whether at ordinary elections or at a by-election, is equal to or greater than two-thirds of the total number of members of the council;
- (b) the clerk to the parish council holds—
 - (i) the Certificate in Local Council Administration;
 - (ii) the Certificate of Higher Education in Local Policy;
 - (iii) the Certificate of Higher Education in Local Council Administration; or
 - (iv) the first level of the foundation degree in Community Engagement and Governance awarded by the University of Gloucestershire or its successor qualifications; and
- (c) the clerk to the parish council has completed the relevant training, unless such training was required for the purpose of obtaining a qualification of a description mentioned in paragraph (b).

(2) For the purposes of this paragraph “relevant training” means training—

- (a) in the exercise of the general power;
- (b) provided in accordance with the national training strategy for parish councils adopted by the National Association of Local Councils, as revised from time to time.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the conditions to be met by a parish council in order for it to be an eligible parish council for the purposes of section 8(2) of the Localism Act 2011 (“2011 Act”). An eligible parish council is a local authority for the purposes of Chapter 1 of Part 1 of the 2011 Act and so has a general power of competence in accordance with section 1 of that Act.

The conditions are prescribed in the Schedule to the Order and relate to—

- the council resolving that it meets the other conditions of eligibility;
- the proportion of councillors that are members of the council as a result of having been declared elected following an election, as opposed to being co-opted or appointed;
- the qualifications of the clerk to the parish council.

(3) In relation to declaring a person to be elected, see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305), in particular, rules 14 and 50 of the Rules for Conduct of an Election of a Parish or community where the Poll is not taken together with Poll at another Election, and rules 14 and 50 of the Rules for Conduct of and Election of Councillors for a Parish or Community where the Poll is taken together with Poll at a relevant Election or Referendum.

The conditions in paragraph 2 of the Schedule must be met at the time the resolution in paragraph 1 of the Schedule is passed. If the conditions cease to be met after this time, the council will continue to be eligible until the next relevant annual meeting.

The national training strategy is published by NTS, a partnership of stakeholders led by the National Association of Parish Councils, and may be obtained from the association website at www.nalc.gov.uk.

Article 3 sets out the transitional arrangements which apply where a council ceases to be an eligible parish council (that is, where it does not pass a resolution at the next relevant annual meeting).

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.