



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART XI

GENERAL PROVISIONS AS TO LOCAL AUTHORITIES

Byelaws

^{F1}201 Byelaws for good rule and government.

- (1) A local authority may make byelaws for the good rule and government of the whole or any part of the [^{F2}their area], and for the prevention and suppression of nuisances therein.
- (2) The confirming authority in relation to byelaws made under this section shall be the Secretary of State.
- (3) Byelaws shall not be made under this section for any purpose as respects any area if provision for that purpose as respects that area is made by, or is or may be made under, any other enactment.

Textual Amendments

- F1** S. 201 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 15** (with ss. 42, 46)
- F2** Words in s. 201(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(61)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

- C1** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**
- C2** S. 201(1) extended by **Civic Government (Scotland) Act 1982 (c. 45), s. 112(3)**
- C3** S. 201(3) excluded by **Civic Government (Scotland) Act 1982 (c. 45), s. 112(3)**

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Changes to legislation: Local Government (Scotland) Act 1973, Cross Heading: Byelaws is up to date with all changes known to be in force on or before 15 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

202 Procedure, etc., for byelaws.

- (1) ^{F3} . . . The following provisions of this section shall apply to byelaws to be made by a local authority—
 - (a) under this Act,
 - (b) under any other enactment whenever passed, and whether local or otherwise, conferring on a local authority a power to make byelaws, or
 - (c) under any enactment which incorporates or applies any of the following enactments—
 - (i) section 57 of the ^{M1}Local Government (Scotland) Act 1889;
 - [^{F4}(ii) the ^{M2}Civic Government (Scotland) Act 1982;]
 - (iii) ^{F5}
 - (iv) sections 301 to 303 of the 1947 Act.

^{F6}(1A)

- (2) Unless the enactment under which the byelaws are made specifically provides otherwise, any such byelaws may apply only to a part of the area of a local authority, and different byelaws may apply to different parts of the area.
- (3) The byelaws shall be authenticated by being sealed with the common seal of the local authority and signed by the proper officer of the authority, and shall not have effect until they are confirmed by the confirming authority.
- (4) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation, of the place where a copy of the byelaws may be inspected and of the authority to whom objections may be notified shall be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.
- (5) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment.
- (6) The local authority by whom the byelaws are made shall on application furnish to any person a copy of the byelaws or of any part thereof on payment of such sum, not exceeding 10p for every hundred words contained in the copy, as the authority may determine.
- (7) Any person aggrieved by any byelaws may, within one month after notice has been published in accordance with the provisions of subsection (4) above, notify in writing his objection and the ground of his objection to the confirming authority.
- (8) Before confirming byelaws, the confirming authority shall take into consideration any objections received by them and may, if they consider it necessary or desirable, hold a local inquiry or cause a local inquiry to be held.
- (9) Unless the Secretary of State shall otherwise direct, every inquiry with respect to byelaws made under any provision of this Act or of the [^{F7M3}Civic Government (Scotland) Act 1982] shall be held by the sheriff.
- (10) The confirming authority may confirm with or without modification or refuse to confirm any byelaws submitted under this section for confirmation and may fix the date on which the byelaws are to come into operation, and if no date is so fixed the

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byelaws shall come into operation at the expiration of one month from the date of their confirmation.

(11) The local authority shall, as soon as practicable after receiving intimation of the confirmation of the byelaws by the confirming authority, cause a notice of such confirmation, of the date on which the byelaws are to come into operation, and of the place where a copy of the byelaws as confirmed may be inspected, to be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall on application be furnished to any person on payment of such sum not exceeding 20p for every copy as the authority may determine.

^{F8}(13)

(14) The provisions of this section shall apply, subject to any necessary modifications, in the case of byelaws made by any authority other than a local authority under any enactment passed before the coming into force of this Act and incorporating or applying any of the enactments set out in subsection (1)(c) above.

(15) In this section “the confirming authority” means the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed, or if no authority or person is so specified, means the Secretary of State:

Provided that, notwithstanding that a local Act specifies otherwise, the confirming authority in relation to byelaws made under any local Act shall be the Secretary of State.

Textual Amendments

- F3 Words in s. 202(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**
- F4 S. 202(1)(c)(ii) substituted by Civic Government (Scotland) Act 1982 (c. 45), s. 110(1)(2)(a)
- F5 S. 202(1)(c)(iii) repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), ss. 126, 128, **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, **art. 2(a)**, Sch. 1
- F6 S. 202(1A) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**
- F7 Words substituted by Civic Government (Scotland) Act 1982 (c. 45), s. 110(1)(2)(b)
- F8 S. 202(13) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(62), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

Modifications etc. (not altering text)

- C4 S. 202 modified by S.I. 1984/918, **reg. 2**
- C5 Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 9(3)** (with s. 32); S.S.I. 2000/312, **art. 2**
Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4)**; S.S.I. 2005/17, **art. 2**
- C6 S. 202 applied (with modifications) (9.5.1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, **Sch. Pt. VII**, s. 58(2)

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Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

S. 202 applied (with modifications) (1.4.1996) by 1995 c. 25, **s. 29** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C7 S. 202(4)(5)(6)(7)(8)(10)(12) applied (with modifications) (18.11.1990) by S.I. 1991/43, **art. 8(1)(2)**.

S. 202(4)-(8)(10)(12) applied (with modifications) (25.2.1991) by S.I. 1991/1082, **art. 9(1)(2)**.

S. 202(4)-(8)(10)(12) applied (with modifications) (5.11.1991) by S.I. 1991/2513, **art. 15(1)(2)**.

S. 202(4)-(8)(10)(12) applied (with modifications) (9.7.1992) by S.I. 1992/1975, **art. 8**.

S. 202(4)-(8)(10)-(12) applied (with modifications) (16.7.1992) by Peterhead Harbours Order Confirmation Act 1992 (c. xii), **s. 42(3)**.

S. 202(4)-(8)(10)(12) applied (with modifications) (8.2.1993) by S.I. 1993/321, **art. 10(1)**

S. 202(4)-(8)(10)(12) applied (with modifications) (23.12.1999) by S.S.I. 1999/199, **art. 19(1)(2)**

S. 202(4)-(8)(10)(12) applied (with modifications) (23.12.1999) by S.S.I. 1999/202, **art. 19(1)(2)**

C8 S. 202(4)-(8)(10)(12) applied (15.6.2005) by The Caledonian MacBrayne Limited (Kennacraig) Harbour Empowerment Order 2005 (S.I. 2005/353), **art. 22(1)**

Marginal Citations

M1 1889 c. 50.

M2 1982 c. 45.

M3 1982 c. 45.

[^{F9}202A Review of byelaws.

A local authority shall, not later than 10 years from whichever is the later of the following times—

- (a) the coming into force of a byelaw which they have the power to revoke or amend;
- (b) the coming into force of this section;

review that byelaw and do so thereafter at intervals of not more than 10 years.]

Textual Amendments

F9 Ss. 202A—202C inserted (1.7.1984) by Civic Government (Scotland) Act 1982 (c. 45), **ss. 110(3), 137(2)**

Modifications etc. (not altering text)

C9 Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 9(3)** (with s. 32); S.S.I. 2000/312 art. 2

Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4)**; S.S.I. 2005/17, **art. 2**

C10 Ss. 202A, 202B, 202C modified by S.I. 1984/918, **reg. 2**

C11 Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

202B Register of byelaws.

(1) A local authority shall, in accordance with this section, keep a register of all byelaws which they have power to revoke or amend.

(2) The register kept under subsection (1)

above shall contain—

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- (a) a description of the byelaws, including a description of any offences created and penalties imposed by the byelaws;
 - (b) the date or dates when the byelaws and any amendments to them were confirmed;
 - (c) the date or dates when the byelaws and any amendments to them came or come into operation; and
 - (d) the date when the byelaws and any amendments to them were last reviewed under section 202A of this Act.
- (3) The register kept under subsection (1)
- above shall at such reasonable times and places as the local authority may determine be open to public inspection and any member of the public may make a copy of or extract from anything in it.
- (4) No payment shall be charged or taken by the local authority for any inspection or the making of any copy or extract under subsection (3) above.
- (5) The local authority may, on payment of such reasonable fee as they may determine, issue a certified true copy of an entry in the register; and any document purporting to be certified by the proper officer of the local authority as a true copy of an entry shall be sufficient evidence of the terms of the original entry.

Modifications etc. (not altering text)

C12 Ss. 202A, 202B, 202C modified by S.I. 1984/918, **reg. 2**

C13 Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 9(3)** (with s. 32); S.S.I. 2000/312, **art. 2**

Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4)**; S.S.I. 2005/17, **art. 2**

C14 Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

202C Revocation of byelaws by resolution.

- (1) Byelaws may be revoked in accordance with this section by resolution of the local authority having power (apart from this section) to revoke them.
- (2) At least one month before the revocation under this section of any byelaws, notice of the proposed resolution revoking them shall be given in a newspaper circulating in the area to which the byelaws apply.
- (3) The local authority shall not decide the question whether or not to revoke byelaws under this section without taking into account any objections made to them in response to the notice given by them under subsection (2) above.
- (4) Byelaws revoked under this section shall cease to have effect on the date of their revocation or on such later date as may be specified in the resolution revoking them.
- (5) It shall not be competent under this section to revoke, separately from the set of byelaws or byelaw containing it any byelaw or, as the case may be, any part of a byelaw which was inserted into the set of byelaws or, as the case may be, the byelaw by, or otherwise wholly or substantially derives from, a modification made by the confirming authority on the making or any amendment of the set of byelaws or, as the case may be, the byelaw.

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- (6) It shall not be competent under this section to revoke any byelaw or any part of any byelaw if the effect of the revocation would be to widen the scope of any other byelaw or, as the case may be, the remaining part of the byelaw.

Modifications etc. (not altering text)

- C15** Ss. 202A, 202B, 202C modified by S.I. 1984/918, **reg. 2**
- C16** Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2, para. 9(3)** (with s. 32); S.S.I. 2000/312, **art. 2**
 Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4); S.S.I. 2005/17, art. 2**
- C17** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**
 S. 202C applied (with modifications) (1.4.1996) by 1995 c. 25, **s. 29** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

203 Offences against byelaws.

Byelaws made by a local authority, and for which specific provision is not otherwise made, may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding such sum as may be fixed by the enactment conferring the power to make the byelaws, or, if no sum is so fixed, the sum of [^{F10}level 2 on the standard scale], and in the case of a continuing offence a further fine not exceeding such sum as may be fixed as aforesaid, or, if no sum is so fixed, the sum of £5 for each day during which the offence continues after conviction thereof.

Textual Amendments

- F10** “level 2 on the standard scale” substituted for “£20”, except in relation to s. 203 as applied to byelaws made under any provision contained in a local or private Act other than by a local authority, by Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 289C(2)(3)** (as inserted by Criminal Law Act 1977 (c. 45), **Sch. 11 para. 5**) and by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**) and by 1995 c. 40, ss. 3(1), 7(2), Sch. 1 paras. 3(2), **12(2)** it is provided that s. 203 shall have effect as if for any reference to £20 there shall be substituted a reference to £50 except as applied to byelaws made under any provision contained in a local or private Act other than by a local authority

Modifications etc. (not altering text)

- C18** S. 203 excluded by Civil Aviation Act 1982 (c. 16), **s. 32(4)**
- C19** S. 203 excluded by Airports Act 1986 (c. 31, SIF 9), **s. 63(8)**
- C20** Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 9(3)** (with s. 32); S.S.I. 2000/312 art. 2
 Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4); S.S.I. 2005/17, art. 2**
- C21** S. 203 applied (with modifications) (18. 11. 1990) by S.I. 1991/43, **art. 8(1)**.
 S. 203 applied (with modifications) (25. 02. 1991) by S.I. 1991/1082, **art. 9(1)**.
 S. 203 applied (with modifications) (05. 11. 1991) by S.I. 1991/2513, **art. 15(1)**.
 S. 203 applied (with modifications) (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, **Sch. Pt. VII, s. 58(2)**
 S. 203 applied (with modifications) (9.7.1992) by S.I. 1992/1975, **art.8**.
 S. 203 applied (with modifications) (8.2.1993) by S.I. 1993/321, **art. 10(1)**
 Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

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S. 203 applied (with modifications) (23.12.1999) by S.S.I. 1999/202, art. 19(1)
S. 203 applied (15.6.2005) by The Caledonian MacBrayne Limited (Kennacraig) Harbour Empowerment Order 2005 (S.I. 2005/353), **art. 22(1)**

204 Evidence of byelaws.

The production of a copy of a byelaw purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed by the proper officer of the authority stating—

- (a) that the byelaw was made by the authority;
- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the authority named in the certificate or, as the case may require, was sent to the Secretary of State and has not been disallowed;
- (d) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall be sufficient evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

Modifications etc. (not altering text)

- C22** S. 204 modified by S.I. 1984/918, **reg. 2**
S. 204 applied (with modifications) (16.7.1992) by Peterhead Harbours Order Confirmation Act 1992 (c. xii), **s. 42(3)**.
- C23** Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2 para. 9(3)** (with s. 32); S.S.I. 2000/312 art. 2
Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4); S.S.I. 2005/17, art. 2**
- C24** S. 204 applied (with modifications) (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, **Sch. Pt. VII**, s. 58(2)
Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**
S. 204 applied (with modifications) (1.4.1996) by 1995 c. 25, **s. 29** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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