

PUBLIC HEALTH (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8

Provision of Toilets

Section 113 - Local toilets strategies: preparation and review

240. This section places a duty on each local authority in Wales to prepare and publish a local toilets strategy for its area.
241. An authority's strategy must include an assessment of the need for toilets, including changing facilities for babies and changing places for disabled people, in its area to be available for use by the public. The strategy will also set out how the authority plans to meet those needs. The strategy will also include any other information which the authority considers appropriate.
242. A local authority's first strategy must be published no later than 12 months following the commencement of this section. Following publication of the first strategy, an authority may review its strategy at any time, but it must review it no later than 12 months after each ordinary election of councillors to the authority.
243. When a local authority undertakes a review, it must publish a statement of the steps it has taken in accordance with its strategy for the period from the date the strategy was last published to the date of the review. If during a review of its strategy, a local authority considers a change is needed, it must make the changes and publish its revised strategy.
244. The Welsh Ministers must issue guidance to local authorities about the matters which they should take into consideration when preparing, reviewing, consulting on, or publishing a local toilets strategy. The guidance must cover a number of specific matters including assessing the need for toilets by users of highways and active travel routes, and collaboration between local authorities.

Section 114 - Local toilets strategies: interim progress statement

245. This section places a duty on a local authority that has published a local toilets strategy, or carried out a mandatory review of a strategy, to prepare and publish an interim progress statement.
246. Each interim progress statement will review progress made by an authority in implementing its strategy during a two year-period, defined by subsection (3) as the "statement period".
247. The statement period in a case where an authority's most recently published strategy has not been reviewed under section 113 will begin on the date of publication. In the case of the first interim progress statement to be produced, the two year statement period will run from the date of publication of the first strategy, unless the strategy is revised

before the end of the two year period, in which case the two year statement period will begin to run again from the date of the publication of the revised strategy. The date of any subsequent publication of a revised strategy – whether following a mandatory review or a review an authority chooses to carry out – would mark the beginning of another statement period.

248. The statement period in the case of a mandatory review of a strategy begins on the date the local authority last reviewed that strategy.
249. An interim progress statement must be published by an authority no later than six months after the last day of the relevant statement period.
250. The Welsh Ministers must issue guidance to local authorities about the matters which they should take into consideration when preparing an interim progress statement.

Section 115 - Local toilets strategies: consultation

251. This section sets out what a local authority must do with regard to consultation before publishing its local toilets strategy or its revised strategy.
252. The section does not specify categories of people with whom a local authority should consult. It will be for each local authority to decide who, in its opinion, is likely to be interested in the provision of local toilets. Similarly, neither the timescale for consultation nor the methods to be used are specified. It will be for a local authority to decide the timescale for an effective consultation and the appropriate consultation method to be used to engage with those interested in the provision of local toilets, having regard to any guidance issued under section 113 by the Welsh Ministers.

Section 116 - Local authority power to provide public toilets

253. This section provides that local authorities in Wales may provide public toilets in any part of their areas. It restates the powers previously conferred on local authorities under section 87 of the Public Health Act 1936 in relation to the provision of public toilets and the power to charge for the use of the toilets that they provide.
254. In this section, and unlike the preceding sections, the term “local authority” includes a community council. When deciding whether to provide toilets, where toilets are to be provided, or deciding the type of toilets to be provided, a local authority must have regard to the local toilets strategy that is in place for its area. In the case of a community council, the relevant toilets strategy will be the strategy for the council of the county or county borough in which the community is located. A local authority may charge fees for the use of toilets that it provides under this section.
255. If toilets are to be on or under land adjoining, or in the vicinity of, a highway or proposed highway, the relevant highway authority must consent to the provision of the toilets. In some cases, the local authority will be the highway authority, so no consent will be required. The definition of “highway” in this section is the same as in section 328 of the Highways Act 1980; this definition captures bridges in cases where a highway passes over a bridge and tunnels in cases where a highway passes through a tunnel.

Section 117 - Power to make byelaws in relation to toilets

256. Subsection (1) enables a local authority which provides toilets to make byelaws relating to the conduct of persons using or entering the toilets. As with section 116 above, this restates the power previously conferred on local authorities under section 87 of the Public Health Act 1936 to make such byelaws.
257. “Local authority” in this section includes a community council. If a community council makes such byelaws, any relevant byelaws made by a county or county borough council under section 2 of the Local Government Byelaws (Wales) Act 2012 in relation to the

*These notes refer to the Public Health (Wales) Act
2017 (c.2) which received Royal Assent on 3 July 2017*

toilets will not apply for as long as the relevant community council's byelaws remain in force.

Section 118 - Consequential amendments

258. This section gives effect to Schedule 4, which makes consequential amendments in relation to the provision of toilets. See Schedule 4 below for further information.