



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

VALID FROM 27/01/2010

PART 6

BYELAWS

129 Alternative procedure for byelaws

- (1) The Local Government Act 1972 (c. 70) is amended as follows.
- (2) In section 236 (procedure for byelaws), in subsection (2) (byelaws to which the section does not apply), after “apply to” insert—
 - “(a) byelaws of a class prescribed by regulations under section 236A, or
 - (b)”.
- (3) After section 236 insert—

“236A Alternative procedure for certain byelaws

- (1) The Secretary of State may, in relation to England, by regulations—
 - (a) prescribe classes of byelaws to which section 236 does not apply, and
 - (b) make provision about the procedure for the making and coming into force of such byelaws.
- (2) The regulations may prescribe a class of byelaws by reference, in particular, to one or more of the following—
 - (a) the enactment under which byelaws are made,
 - (b) the subject-matter of byelaws,

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- (c) the authority by whom byelaws are made,
 - (d) the authority or person by whom byelaws are confirmed.
- (3) The regulations may, in particular, include provision about—
- (a) consultation to be undertaken before a byelaw is made,
 - (b) publicising a byelaw after it is made.
- (4) The regulations may make—
- (a) such incidental, consequential, transitional or supplemental provision (including provision amending, repealing or revoking enactments) as the Secretary of State considers appropriate, and
 - (b) different provision for different areas, including different provision for different localities and for different authorities.
- (5) Regulations may not be made under subsection (1) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”
- (4) In section 237 (offences against byelaws), after “applies” insert “ and byelaws of a class prescribed by regulations under section 236A ”.

130 Fixed penalties for breach of byelaws

- (1) After section 237 of the Local Government Act 1972 (c. 70) insert—

“237A Fixed penalty notices

- (1) The Secretary of State may, in relation to England, by regulations prescribe classes of byelaws to which this section applies.
- (2) The regulations may prescribe a class of byelaws by reference, in particular, to one or more of the following—
- (a) the enactment under which byelaws are made,
 - (b) the subject-matter of byelaws,
 - (c) the authority by whom byelaws are made,
 - (d) the authority or person by whom byelaws are confirmed.
- (3) Where—
- (a) an authorised officer of an authority which has made a byelaw to which this section applies has reason to believe that a person has committed an offence against the byelaw, or
 - (b) an authorised officer of a parish council has reason to believe that a person has in its area committed an offence against a byelaw to which this section applies made by an authority other than the parish council,
- the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (4) A fixed penalty notice under this section is payable to the authority whose officer gave the notice.
- (5) Where a person is given a notice under this section in respect of an offence—

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- (a) no proceedings may be instituted for the offence before the end of the period of fourteen days following the date of the notice, and
 - (b) he may not be convicted of the offence if he pays the fixed penalty before the end of that period.
- (6) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence.
- (7) A notice under this section must also state—
 - (a) the period during which, by virtue of subsection (5), proceedings will not be taken for the offence,
 - (b) the amount of the fixed penalty, and
 - (c) the person to whom and the address at which the fixed penalty may be paid.
- (8) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (7)(c) at the address so mentioned.
- (9) Where a letter is sent in accordance with subsection (8) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) The form of a notice under this section may be specified in regulations under subsection (1).
- (11) In any proceedings a certificate which—
 - (a) purports to be signed on behalf of the chief finance officer of an authority, and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,is evidence of the facts stated.
- (12) In this section—
 - “authorised officer”, in relation to an authority, means—
 - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section,
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform the function, and
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices,
 - “chief finance officer”, in relation to an authority, means the person having responsibility for the financial affairs of the authority.
- (13) Regulations under subsection (1) may prescribe conditions to be satisfied by a person before a parish council may authorise him in writing for the purpose of giving notices under this section.

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237B Amount of fixed penalty

- (1) The amount of a fixed penalty payable in pursuance of a notice under section 237A is—
 - (a) the amount specified by the authority which made the byelaw, or
 - (b) if no amount is so specified, £75.
- (2) An authority may specify different amounts in relation to different byelaws.
- (3) The Secretary of State may by regulations make provision in connection with the powers under subsections (1)(a) and (2).
- (4) Regulations under subsection (3) may, in particular—
 - (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations,
 - (b) restrict the extent to which, and the circumstances in which, an authority can make provision under subsection (2).
- (5) The Secretary of State may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

237C Power to require name and address in connection with fixed penalty

- (1) If an authorised officer proposes to give a person a notice under section 237A, the officer may require the person to give him his name and address.
 - (2) A person commits an offence if—
 - (a) he fails to give his name and address when required to do so under subsection (1), or
 - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
 - (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (4) In this section, “authorised officer” has the same meaning as in section 237A.”
- (2) After section 237E of the Local Government Act 1972 (c. 70) (as inserted by section 132) insert—

“237F Further provision about regulations and orders under section 237A or 237B

- (1) Regulations under section 237A or 237B, and an order under section 237B, may make—
 - (a) such incidental, consequential, transitional or supplemental provision (including provision amending, repealing or revoking enactments) as the Secretary of State considers appropriate, and
 - (b) different provision for different areas, including different provision for different localities and for different authorities.

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- (2) A statutory instrument containing—
- (a) regulations under section 237A or 237B which amend or repeal any provision of an Act, or
 - (b) an order under section 237B which amends or repeals any provision of an Act,
- may not be made unless a draft of the instrument containing the regulations or order has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Otherwise, a statutory instrument containing regulations under section 237A or 237B, or an order under section 237B, shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

131 Use of fixed penalty receipts

After section 237C of the Local Government Act 1972 (as inserted by section 130) insert—

“237D Use of fixed penalty receipts

- (1) “Fixed penalty receipts” means amounts paid to an authority in pursuance of notices under section 237A.
- (2) The authority shall have regard to the desirability of using its fixed penalty receipts for the purpose of combating any relevant nuisance.
- (3) A “relevant nuisance” is a nuisance in the authority's area for the prevention of which any byelaw to which section 237A applies was made.”

132 Guidance

After section 237D of the Local Government Act 1972 (c. 70) (as inserted by section 131) insert—

“237E Guidance relating to sections 236A and 237A to 237D

An authority which makes byelaws of a class prescribed by regulations under section 236A or 237A must have regard to any guidance issued by the Secretary of State about—

- (a) procedure for which provision is made by regulations under section 236A(1);
- (b) fixed penalties;
- (c) anything related to the matters mentioned in paragraph (a) or (b).”

133 Community support officers etc

- (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In Schedule 4 (community support officers)—
 - (a) in paragraph 1 (powers to issue fixed penalty notices), after subparagraph (3) insert—

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- “(3A) For the purposes of paragraph (e) of section 64A(1B) of the Police and Criminal Evidence Act 1984 (photographing of suspects in relation to fixed penalty offences) “relevant fixed penalty offence”, in relation to a designated person, includes an offence under a relevant byelaw within the meaning of paragraph 1ZA(4) (and, accordingly, the reference in that paragraph (e) to paragraph 1 of this Schedule includes a reference to paragraph 1ZA of this Schedule).”;
- (b) after paragraph 1 (powers to issue fixed penalty notices) insert—
- “1ZA
- (1) This paragraph applies if a designation applies it to any person.
- (2) Such a designation may specify that, in relation to that person, the application of sub-paragraph (3) is confined to one or more only (and not all) relevant byelaws, being in each case specified in the designation.
- (3) Where that person has reason to believe that an individual has committed an offence against a relevant byelaw at a place within the relevant police area, he may exercise the power of an authorised officer of an authority to give a notice under section 237A of the Local Government Act 1972 (fixed penalty notices in relation to offences against certain byelaws).
- (4) In this paragraph “relevant byelaw”, in relation to a designated person, means a byelaw which—
- (a) falls within sub-paragraph (5); and
- (b) is specified or described in that person's designation as a byelaw he has been designated to enforce under this paragraph.
- (5) A byelaw falls within this sub-paragraph if—
- (a) it is a byelaw to which section 237A of the Local Government Act 1972 applies (fixed penalty notices in relation to offences against certain byelaws); and
- (b) the chief officer of the police force for the relevant police area and the authority who made the byelaw have agreed to include it in a list of byelaws for the purposes of this sub-paragraph.
- (6) A list under sub-paragraph (5)(b) must be published by the chief officer in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (7) The list may be amended from time to time by agreement between the chief officer and the authority, by adding byelaws to it or removing byelaws from it, and the amended list shall also be published by the chief officer as mentioned in sub-paragraph (6).”;
- (c) in paragraph 2(6) (relevant offence for the purpose of the power to detain etc), after paragraph (aa) insert—
- “(aza) an offence under a relevant byelaw within the meaning of paragraph 1ZA(4); or”.

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(3) In Schedule 5 (accredited persons)—

- (a) in paragraph 1 (power to issue fixed penalty notices), after sub-paragraph (3) insert—

“(3A) For the purposes of paragraph (f) of section 64A(1B) of the Police and Criminal Evidence Act 1984 (photographing of suspects in relation to fixed penalty offences) “relevant fixed penalty offence”, in relation to an accredited person, includes an offence under a relevant byelaw within the meaning of paragraph 1A(4) (and, accordingly, the reference in that paragraph (f) to paragraph 1 of this Schedule includes a reference to paragraph 1A of this Schedule).”;

- (b) after paragraph 1 insert—

“1A

- (1) This paragraph applies to an accredited person whose accreditation specifies that it applies to him.
- (2) The accreditation may specify that, in relation to that person, the application of sub-paragraph (3) is confined to one or more only (and not all) relevant byelaws, being in each case specified in the accreditation.
- (3) Where that person has reason to believe that an individual has committed an offence against a relevant byelaw at a place within the relevant police area, he may exercise the power of an authorised officer of an authority to give a notice under section 237A of the Local Government Act 1972 (fixed penalty notices in relation to offences against certain byelaws).
- (4) In this paragraph “relevant byelaw”, in relation to an accredited person, means a byelaw which—
 - (a) falls within sub-paragraph (5); and
 - (b) is specified or described in that person's accreditation as a byelaw he has been accredited to enforce under this paragraph.
- (5) A byelaw falls within this sub-paragraph if—
 - (a) it is a byelaw to which section 237A of the Local Government Act 1972 applies (fixed penalty notices in relation to offences against certain byelaws); and
 - (b) the chief officer of the police force for the relevant police area and the authority who made the byelaw have agreed to include it in a list of byelaws for the purposes of this sub-paragraph.
- (6) A list under sub-paragraph (5)(b) must be published by the chief officer in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (7) The list may be amended from time to time by agreement between the chief officer and the authority, by adding byelaws to it or removing byelaws from it, and the amended list shall also be published by the chief officer as mentioned in sub-paragraph (6).”;

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- (c) in paragraph 2(3) (relevant offence for the purpose of the power to require giving of name and address), after paragraph (aa) insert—
 - “(aza) an offence under a relevant byelaw within the meaning of paragraph 1A(4); or”;
- (d) in paragraph 9ZA (photographing of persons given fixed penalty notices), after “paragraph 1(2)” insert “ or in exercise of the power mentioned in paragraph 1A(3) ”.

134 Revocation of byelaws

After section 236A of the Local Government Act 1972 (inserted by section 129) insert—

“236B Revocation of byelaws

- (1) This section applies to—
 - (a) a local authority;
 - (b) the Greater London Authority;
 - (c) Transport for London;
 - (d) a metropolitan county passenger transport authority.
- (2) Such an authority may make a byelaw under this section to revoke a byelaw made by the authority.
- (3) The power under subsection (2) may be exercised only where the authority has no other power to revoke the byelaw.
- (4) The confirming authority in relation to a byelaw made under this section shall be—
 - (a) in relation to a byelaw made by a local authority in Wales, the Welsh Ministers;
 - (b) in relation to any other byelaw, the Secretary of State.
- (5) The Secretary of State may, in relation to England, by order revoke any byelaw which appears to him to have become spent, obsolete or unnecessary.
- (6) The Welsh Ministers may, in relation to Wales, by order revoke any byelaw which appears to them to have become spent, obsolete or unnecessary.
- (7) An order under this section may make—
 - (a) such incidental, consequential, transitional or supplemental provision (including provision amending, repealing or revoking enactments) as the person making the order considers appropriate, and
 - (b) different provision for different areas, including different provision for different localities and for different authorities.
- (8) A statutory instrument containing an order under this section which amends or repeals any provision of an Act may not be made by the Secretary of State unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

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- (9) Otherwise, a statutory instrument containing an order made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under this section which amends or repeals any provision of an Act may not be made by the Welsh Ministers unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Otherwise, a statutory instrument containing an order made by the Welsh Ministers under this section shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

135 Further amendments relating to byelaws

Schedule 6 (further amendments of the law relating to byelaws) has effect.

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