

EXPLANATORY MEMORANDUM TO
THE RECREATION GROUNDS (REVOCATION OF PARISH COUNCIL BYELAWS)
ORDER 2008

2008 No. 1285

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

This Order revokes the byelaws specified in the Schedule to the Order. They are revoked as being superseded by byelaws and orders made under other enactments.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

The byelaws revoked by this Order were made in the exercise of the powers conferred on parish councils by section 8(1)(d) of the Local Government Act 1894 (“the 1894 Act”). The relevant part of section 8(1)(d) of the 1894 Act was repealed by section 272(1) of, and Schedule 30 to, the Local Government Act 1972 (“the 1972 Act”). The byelaws which are to be revoked continued in force by virtue of section 262(1) of the 1972 Act notwithstanding the repeal.

5. Application

This instrument applies to the following bodies: Roade Parish Council, Watlington Parish Council, Sutton-in-Craven Parish Council and Kingsclere Parish Council.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 New byelaws to replace those being revoked have been made by the parish councils under other enactments and have been confirmed by the Department. Byelaws are normally revoked by new byelaws made under the same enabling legislation, but the parish councils cannot adopt this course of action in these cases because the power under which the existing byelaws were made – section 8(1)(d) of the 1894 Act – was repealed by the 1972 Act. It is therefore necessary to revoke the existing byelaws, subject to the exceptions explained below, by an Order made under section 262(8)(d) of the 1972 Act. Section 134 of the Local Government and Public Involvement in Health Act 2007, which inserts a new section 236B (Revocation of byelaws) into the 1972 Act, although not yet commenced, will in future enable a local authority (including a parish council) to make a

byelaw revoking a byelaw it has previously made where, for some reason, it has no other power to do so.

7.2 A separate legislative regime under the Clean Neighbourhoods and Environment Act 2005 (“the 2005 Act”) now applies to the control of dogs on land owned by local authorities (including parish councils). Watlington and Sutton-in-Craven Parish Councils have not made dog control orders under the 2005 Act and so the Order does not revoke the existing byelaws relating to dogs ("dog byelaws") or the byelaws required to give effect to those byelaws. If such dog control orders are made, section 64(3) of the 2005 Act provides that existing byelaws which have the effect of making a person guilty of any offence in relation to matters dealt with in the dog control order shall cease to have effect. The Order does revoke dog byelaws made by Kingsclere Parish Council as the council has already made a dog control order under section 55(1) of the 2005 Act which applies to the relevant recreation ground. The byelaws made by Roade Parish Council did not contain any dog byelaws and so are revoked in their entirety.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

William Tandoh at the Department for Communities and Local Government, tel: 020 7944 8765 or e-mail: william.tandoh@communities.gsi.gov.uk can answer any queries regarding the instrument.