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Local Government Byelaws (Wales) Bill

[AS PASSED]

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Local Government Byelaws (Wales) Bill

[AS PASSED]

A Bill of the National Assembly for Wales to make provision for the powers of county councils, county borough councils, community councils and other public bodies to make byelaws; the procedure for making byelaws; the enforcement of byelaws; and for connected purposes.

5 **Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

Introduction

1 Overview

This Act—

- 10
- (a) reforms procedures for making byelaws in Wales, including removing a requirement for confirmation of byelaws by the Welsh Ministers;
 - (b) enables certain byelaws to be enforced by fixed penalty notices;
 - (c) requires authorities that make byelaws to have regard to any guidance given by the Welsh Ministers on procedure;
 - (d) restates for Wales a general power to make byelaws.

15 *Power to make byelaws*

2 Byelaws for good rule and government and suppression of nuisances

- (1) A council for a county or county borough in Wales may make byelaws—
- (a) for the good rule and government of the whole or any part of its area;
 - (b) for the prevention and suppression of nuisances in its area.
- 20 (2) But byelaws may not make provision which—
- (a) is made by an Act of Parliament, Assembly Measure or Act of the Assembly;
 - (b) is made, or could be made, by subordinate legislation (which means legislation made by statutory instrument).

Interpretation

25 **3 Meaning of “legislating authority”**

Each of the following is a legislating authority for the purposes of this Act—

- (a) a council for a county or county borough in Wales;
- (b) a community council;

- (c) a National Park authority in Wales;
- (d) the Countryside Council for Wales.

Revocation of byelaws

4 Revocation by a legislating authority

- (1) A legislating authority may make a byelaw to revoke a byelaw previously made by it.
- (2) But this power may be exercised only where the authority has no other power to revoke the byelaw.

5 Revocation by the Welsh Ministers

- (1) The Welsh Ministers may by order revoke any byelaw made by a legislating authority which they conclude is obsolete.
- (2) Before making an order, the Welsh Ministers must consult any person (including a community council) who they think is likely to be interested in, or affected by, the revocation of the byelaw.
- (3) An order may make different provision for different areas, including different provision for different localities and for different authorities.

Procedure for byelaws

6 Byelaws not requiring confirmation

- (1) This section applies to byelaws made by a legislating authority under the enactments listed in Part 1 of Schedule 1, including byelaws which amend or revoke byelaws previously made by it.
- (2) Before it makes a byelaw, an authority must—
 - (a) publish on the authority's website an initial written statement which describes the issue which the authority thinks may be addressed by making a byelaw;
 - (b) consult any person (including, where applicable, a community council) who the authority thinks is likely to be interested in, or affected by, the issue.
- (3) Following the consultation, the authority must consider the responses and decide whether making a byelaw is the most appropriate way of addressing the issue.
- (4) The authority must then publish on its website a second written statement which contains—
 - (a) the initial written statement;
 - (b) a summary of the consultation and the responses;
 - (c) its decision;
 - (d) the reasons for that decision.

- (5) At least six weeks before the byelaw is made, notice of the intention to make the byelaw must be published –
- (a) in one or more local newspapers circulating in the area to which the byelaw is to apply;
 - (b) on the authority's website.
- (6) For at least six weeks before making the byelaw, the authority must ensure that –
- (a) a draft of the byelaw is published on the authority's website;
 - (b) a copy of the draft is deposited at a place in the authority's area;
 - (c) a copy is open to public inspection at all reasonable hours without payment;
 - (d) where applicable, a copy is sent to all community councils whose areas the authority thinks are likely to be affected by the byelaw.
- (7) The authority must give a copy of the draft byelaw to any person who applies for it, subject to that person paying such reasonable fee charged by the authority (if any).
- (8) An authority may not make a byelaw later than six months after the date of the notice under subsection (5).

7 Byelaws requiring confirmation

- (1) This section applies to byelaws made by a legislating authority under any enactment other than those listed in Part 1 of Schedule 1, including byelaws which amend or revoke byelaws previously made by it.
- (2) But this section does not apply to the extent that the enactment conferring the power to make a byelaw makes different provision in relation to one or more of the following –
- (a) a requirement to submit byelaws for confirmation;
 - (b) publication of a notice of intent to make the byelaw;
 - (c) publication of the byelaw;
 - (d) making copies of the byelaw available.
- (3) Before it makes a byelaw to which this section applies, an authority must –
- (a) publish on the authority's website an initial written statement which describes the issue which the authority thinks may be addressed by making a byelaw;
 - (b) consult any person (including, where applicable, a community council) who the authority thinks is likely to be interested in, or affected by, the issue.
- (4) Following the consultation, the authority must consider the responses and decide whether making a byelaw is the most appropriate way of addressing the issue.
- (5) The authority must then publish on its website a second written statement which contains –
- (a) the initial written statement;

- (b) a summary of the consultation and the responses;
- (c) its decision;
- (d) the reasons for that decision.
- 5 (6) Byelaws made by the legislating authority must be submitted to the confirming authority and do not have effect unless and until they are confirmed by the confirming authority.
- (7) At least six weeks before the byelaw is submitted for confirmation, notice of the legislating authority's intention to do so must be published –
- (a) in one or more local newspapers circulating in the area to which the byelaw is to apply;
- 10 (b) on the authority's website.
- (8) For at least six weeks before the byelaw is submitted for confirmation, the legislating authority must ensure that –
- (a) the byelaw is published on the authority's website;
- 15 (b) a copy of the byelaw is deposited at a place in the authority's area (and, in the case of a byelaw made by the Countryside Council for Wales under the National Parks and Access to the Countryside Act 1949, at a place in the area of each council of a county or county borough to whose area the byelaw applies);
- (c) where applicable, a copy is sent to all community councils whose area the authority thinks is likely to be affected by the byelaw;
- 20 (d) a copy is open to public inspection at all reasonable hours without payment.
- (9) The legislating authority must give a copy of the byelaw to any person who applies for it, subject to that person paying such reasonable fee charged by the authority (if any).
- (10) The confirming authority may confirm, or refuse to confirm, any byelaw submitted to it under this section.
- 25 (11) For the purposes of this Act, the confirming authority is –
- (a) the person specified in the enactment under which the byelaws are made as the person who is to confirm the byelaws, or
- (b) if no person is specified, the Welsh Ministers.
- 30 (12) The functions of the Welsh Ministers under subsection (11)(b) are exercisable concurrently with the Secretary of State.

8 Formalities, commencement and publication of byelaws

- (1) This section applies to byelaws made by a legislating authority under any enactment.
- (2) But this section does not apply to the extent that the enactment conferring the power to make the byelaw makes different provision in relation to one or more of the following –
- 35 (a) signature or sealing of the byelaw;
- (b) publication of the byelaw;

(c) making copies of the byelaw available.

(3) Byelaws made by a legislating authority must be made under the common seal of the authority, or, in the case of byelaws made by a community council not having a seal, signed by two members of the council.

5 (4) Byelaws come into effect on the date fixed by the legislating authority, or if they require confirmation, by the confirming authority. If no date is fixed, they come into effect at the end of one month from the date they are made (or confirmed, as applicable).

(5) The legislating authority which makes the byelaw must –

10 (a) publish the byelaw on the authority's website when made, or if it requires confirmation, when confirmed;

(b) deposit a copy of the byelaw at a place in the authority's area;

(c) ensure that the copy is open to public inspection at all reasonable hours without payment;

15 (d) give a copy of the byelaw to a person who requests it, subject to that person paying such reasonable fee charged by the authority (if any).

(6) The proper officer of a county borough council or county council must send a copy of a byelaw once made, or where required once confirmed, to the proper officer of the council of every community to which the byelaw applies.

20 (7) In the case of byelaws made by a National Park authority, the proper officer of the authority must send a copy of a byelaw once made, or where required once confirmed, to the proper officer of –

(a) the council for every county borough or county whose area includes the whole or part of the National Park;

25 (b) the council of every community whose area includes the whole or part of the National Park.

(8) In the case of byelaws made by the Countryside Council for Wales under the National Parks and Access to the Countryside Act 1949, the Council must ensure that it sends a copy of a byelaw once made, or where required once confirmed, to the proper officer of –

30 (a) the council of every county borough or county to whose area the byelaw applies;

(b) the council of every community to whose area the byelaw applies.

(9) The proper officer of the community council must –

(a) arrange for a copy of a byelaw sent to the officer to be deposited with the public documents of the community;

35 (b) ensure that the copy is open to public inspection at all reasonable hours without payment.

(10) In subsections (6) to (9) the "proper officer" is the officer duly authorised for that purpose by that body.

9 Power to amend Part 1 of Schedule 1

The Welsh Ministers may by order amend Part 1 of Schedule 1 (byelaws not requiring confirmation) by adding to or subtracting from the list of enactments, or by amending the type of authority that may make byelaws without confirmation.

5 *Enforcement of byelaws*

10 Offences against byelaws

(1) Byelaws made by a legislating authority under any enactment may provide that persons contravening the byelaws are liable on summary conviction to a fine.

(2) The fine must not exceed either –

- 10 (a) the sum fixed by the enactment which confers the power to make the byelaws, or
(b) if no sum is so fixed, level 2 on the standard scale.

(3) In the case of a continuing offence, the byelaws may provide that the offender is liable on summary conviction to a further fine.

(4) The further fine must not exceed either –

- 15 (a) the sum fixed by the enactment which confers the power to make the byelaws, or
(b) if no sum is so fixed, the sum of £5 for each day during which the offence continues after conviction for that offence.

11 Section 2 byelaws; powers of seizure etc

A byelaw made under section 2 may include provision for or in connection with –

- 20 (a) the seizure and retention of any property in connection with any contravention of the byelaw, and
(b) the forfeiture of any such property on a person's conviction of an offence of contravention of the byelaw.

Fixed penalty notices

25 12 Power to offer fixed penalties for offences against certain byelaws

(1) This section applies to byelaws made by a legislating authority under the enactments listed in Part 2 of Schedule 1 (byelaws in relation to which fixed penalties may be issued).

(2) If an authorised officer of a legislating authority has reason to believe that a person has committed an offence against a byelaw made by that authority, the officer may give a notice to the person offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

30

- 5 (3) If an authorised officer of a community council has reason to believe that a person has committed an offence in its area against a byelaw made by a legislating authority other than the community council, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (4) A fixed penalty 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 –
- 10 (a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and
- (b) the person may not be convicted of the offence if the person 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 to explain why an offence has occurred.
- 15 (7) A notice under this section must also state –
- (a) the period under subsection (5) during which proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty;
- (c) the person to whom and the address at which the fixed penalty may be paid.
- 20 (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 referred to, at the address provided, in the notice.
- (9) If a letter is sent, 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.
- 25 (10) The Welsh Ministers may by regulations specify the form of a notice under this section.
- (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,
- 30 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,
- 35 (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.

- 5 (13) The Welsh Ministers may by regulations prescribe conditions to be satisfied by a person before a community council may authorise the person in writing for the purpose of giving notices under this section.

13 Amount of fixed penalty

- (1) A legislating authority may –

(a) specify the amount of a fixed penalty payable in pursuance of a notice under section 12;

10 (b) specify different amounts in relation to different byelaws.

- (2) If no amount is so specified, the amount of the fixed penalty is £75.

- (3) The Welsh Ministers may by regulations make provision in connection with the powers under subsection (1).

- (4) Regulations under subsection (3) may, in particular –

15 (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 (1)(b).

- 20 (5) The Welsh Ministers may by order substitute a different amount for the amount for the time being specified in subsection (2).

14 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 12, the officer may require the person to give his or her name and address.

- (2) A person commits an offence if that person –

25 (a) without reasonable excuse, fails to give his or her name and address when required to do so, or

(b) gives a false or inaccurate name or address in response to a requirement under that subsection.

- 30 (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 12.

15 Use of fixed penalty receipts

- 35 (1) The authority must have regard to the desirability of using its fixed penalty receipts for the purpose of combating a nuisance for the prevention of which a byelaw was made by the authority.

- (2) “Fixed penalty receipts” means amounts paid to an authority in pursuance of notices under section 12.

16 Power to amend Part 2 of Schedule 1

The Welsh Ministers may by order amend Part 2 of Schedule 1 (byelaws in relation to which fixed penalty notices may be issued) by adding to or subtracting from the list of enactments, or by amending the type of authority that may offer fixed penalty notices.

5 17 Community Support Officers etc

- (1) The Police Reform Act 2002 is amended as follows.
- (2) In Schedule 4 (powers exercised by police civilians) –
 - (a) in paragraph 1ZA(3) after “1972” insert “or under section 12 of the Local Government Byelaws (Wales) Act 2012”;
 - 10 (b) in paragraph 1ZA(5)(a) after “1972” insert “or to which section 12 of the Local Government Byelaws (Wales) Act 2012 applies”.
- (3) In Schedule 5 (powers exercised by accredited persons) –
 - (a) in paragraph 1A(3) after “1972” insert “or under section 12 of the Local Government Byelaws (Wales) Act 2012”;
 - 15 (b) in paragraph 1A(5)(a) after “1972” insert “or to which section 12 of the Local Government Byelaws (Wales) Act 2012 applies”.

*Miscellaneous and general***18 Guidance**

- (1) The Welsh Ministers may give guidance to legislating authorities about –
 - 20 (a) the making of byelaws to which section 6 or 7 applies;
 - (b) the procedure for making byelaws;
 - (c) the enforcement of byelaws;
 - (d) anything related to these matters including –
 - (i) consultation and publication requirements;
 - 25 (ii) the use of fixed penalties.
- (2) A legislating authority must have regard to the guidance when making or enforcing byelaws.

19 Evidence of byelaws

- (1) The production of a certified copy of a byelaw purporting to be made by a legislating authority is, until the contrary is proved, sufficient evidence of the facts stated in the certificate.
30
- (2) For the purposes of this section, a certified copy of a byelaw is a printed copy of the byelaw that is endorsed with a certificate purporting to be signed by the proper officer of a legislating authority stating –
 - 35 (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 be, was sent to the confirming authority and has not been disallowed;

(d) the date, if any, fixed by the confirming authority for the coming into effect of the byelaw.

(3) The requirements in paragraphs (c) and (d) of subsection (2) do not apply if the byelaw was not subject to confirmation after it was made.

20 Consequential amendments

Schedule 2 (minor and consequential amendments) has effect.

21 Orders and regulations

(1) A power to make an order or regulations under this Act (apart from an order under section 22 (commencement)) includes power to make such incidental, consequential, transitional or supplemental provision as the Welsh Ministers consider appropriate.

(2) In the case of the power under sections 9 and 16, this provision includes provision amending, repealing or revoking enactments.

(3) Any power of the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.

(4) A statutory instrument containing an order under section 9, 13(5) or 16 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(5) Any other statutory instrument containing an order or regulations under this Act, apart from an instrument containing only an order under section 22 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

22 Commencement

(1) The following provisions come into force on the day after the day on which this Act receives Royal Assent—

(a) section 18(1);

(b) section 21;

(c) this section;

(d) section 23.

(2) The other provisions of this Act come into force on such day as the Welsh Ministers may by order appoint.

(3) An order under subsection (2)—

(a) may appoint different days for different purposes;

(b) may include transitional, saving or transitory provision.

23 Short title

The short title of this Act is the Local Government Byelaws (Wales) Act 2012.

SCHEDULE 1
(introduced by sections 6 and 12)

LISTS OF BYELAW MAKING POWERS

PART 1

BYELAWS NOT REQUIRING CONFIRMATION

- 1 Section 6 applies to byelaws made –
- (a) under the enactments listed in the first column of table 1,
 - (b) in relation to the subject matter listed in the second column of table 1,
 - (c) by the type of authority listed in the third column of table 1.

TABLE 1

Enactment under which byelaws are made	Subject-matter of byelaws	Type of authority by whom the byelaws are made
Section 68 of the Town Police Clauses Act 1847	Regulation of hackney carriages	County council and county borough council
Section 164 of the Public Health Act 1875	Public walks and pleasure grounds	County council, county borough council and community council
Section 6 of the Town Police Clauses Act 1889	Regulation of horse drawn omnibuses	County council and county borough council
Sections 12 and 15 of the Open Spaces Act 1906	Open spaces and burial grounds	County council, county borough council and community council
Section 82 of the Public Health Acts Amendment Act 1907	Sea-shore	County council and county borough council
Section 83 of the Public Health Acts Amendment Act 1907	Promenades	County council and county borough council
Section 81 of the Public Health Act 1936	Prevention of certain nuisances	County council and county borough council
Section 82 of the Public Health Act 1936	Removal through streets of offensive matter or liquid	County council and county borough council
Section 87 of the Public Health Act 1936	Provision of public conveniences	County council, county borough council and community council

	Section 198 of the Public Health Act 1936	Provision of mortuaries and post-mortem rooms	County council, county borough council and community council
5	Section 223 of the Public Health Act 1936	Regulation of baths, washhouses, swimming baths etc	County council, county borough council and community council
	Section 231 of the Public Health Act 1936	Public bathing	County council, county borough council and community council
10	Section 233 of the Public Health Act 1936	With respect to swimming baths and bathing pools not under the management of a local authority	County council, county borough council and community council
15	Section 268 of the Public Health Act 1936	Prevention of nuisances in connection with the use of tents, vans etc	County council and county borough council
	Section 270 of the Public Health Act 1936	Accommodation of hop-pickers and persons engaged in similar work	County council and county borough council
20	Section 75 of the Public Health Act 1961	Pleasure fairs and roller skating rinks	County council and county borough council
	Section 76 of the Public Health Act 1961	Seaside pleasure boats	County council and county borough council
	Section 77 of the Public Health Act 1961	Hairdressers and barbers	County council and county borough council
25	Section 19 of the Public Libraries and Museums Act 1964	Regulating the conduct of persons in libraries and museums and the use of those facilities	County council and county borough council
	Section 35 of the Highways Act 1980	Regulation of walkways	County council and county borough council
30	Section 114 of the Highways Act 1980	Conduct of persons using or entering public conveniences provided by highway authorities	County council and county borough council
35	Section 14 of the Local Government (Miscellaneous Provisions) Act 1982	Acupuncture	County council and county borough council

	Section 15 of the Local Government (Miscellaneous Provisions) Act 1982	Tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis	County council and county borough council
5	Section 60 of the Food Act 1984	Regulation and prevention of nuisances in market places	County council, county borough council and community council
	Section 31 of the Road Traffic Regulation Act 1984	Use of a road as a playground for children	County council and county borough council
10	Section 57(7) of the Road Traffic Regulation Act 1984	Use of parking places	Community council
15	Section 23 of the Housing Act 1985	Management, use and regulation of local authority houses, the use of land provided in connection with housing and as respects local authority lodging houses	County council and county borough council
	Section 16 of the Cardiff Bay Barrage Act 1993	Good rule and government of inland bay and harbour	County Council (Cardiff)
	Section 2 of this Act	Good rule and government	County council and county borough council
20	Section 4(1) of this Act in so far as it applies to byelaws made under any of the enactments listed in Part 1 of Schedule 1	Power to revoke byelaws	Legislating authority

PART 2

BYELAWS IN RELATION TO WHICH FIXED PENALTIES MAY BE ISSUED

2 Section 12 applies to byelaws made—

- 5 (a) under the enactments listed in the first column of table 2,
 (b) in relation to the subject matter listed in the second column of table 2,
 (c) by the type of authority listed in the third column of table 2.

TABLE 2

	Enactment under which byelaws are made	Subject- matter of byelaws	Type of authority by whom the byelaws are made
10	Section 68 of the Town Police Clauses Act 1847	Regulation of hackney carriages	County council and county borough council
	Section 164 of the Public Health Act 1875	Public walks and pleasure grounds	County council, county borough council and community council
15	Section 6 of the Town Police Clauses Act 1889	Regulation of horse drawn omnibuses	County council and county borough council
	Sections 12 and 15 of the Open Spaces Act 1906	Open spaces and burial grounds	County council, county borough council and community council
20	Section 82 of the Public Health Acts Amendment Act 1907	Sea-shore	County council and county borough council
	Section 83 of the Public Health Acts Amendment Act 1907	Promenades	County council and county borough council
25	Section 18 of the Children and Young Persons Act 1933	Restrictions on employment of children	County council and county borough council
	Section 20 of the Children and Young Persons Act 1933	Restrictions on the engagement or employment of children in street trading	County council and county borough council
30	Section 81 of the Public Health Act 1936	Prevention of certain nuisances	County council and county borough council
	Section 82 of the Public Health Act 1936	Removal through streets of offensive matter or liquid	County council and county borough council
	Section 87 of the Public Health Act 1936	Provision of public conveniences	County council, county borough council and community council

	Section 198 of the Public Health Act 1936	Provision of mortuaries and post-mortem rooms	County council, county borough council and community council
5	Section 223 of the Public Health Act 1936	Regulation of baths, washhouses, swimming baths etc	County council, county borough council and community council
	Section 231 of the Public Health Act 1936	Public bathing	County council, county borough council and community council
10	Section 233 of the Public Health Act 1936	With respect to swimming baths and bathing pools not under the management of a local authority	County council, county borough council and community council
15	Section 268 of the Public Health Act 1936	Prevention of nuisances in connection with the use of tents, vans etc	County council and county borough council
	Section 270 of the Public Health Act 1936	Accommodation of hop-pickers and persons engaged in similar work	County council and county borough council
20	Section 75 of the Public Health Act 1961	Pleasure fairs and roller skating rinks	County council and county borough council
	Section 76 of the Public Health Act 1961	Seaside pleasure boats	County council and county borough council
	Section 77 of the Public Health Act 1961	Hairdressers and barbers	County council and county borough council
25	Section 19 of the Public Libraries and Museums Act 1964	Regulating the conduct of persons in libraries and museums and the use of those facilities	County council and county borough council
	Section 35 of the Highways Act 1980	Regulation of walkways	County council and county borough council
30	Section 114 of the Highways Act 1980	Conduct of persons using or entering public conveniences provided by highway authorities	County council and county borough council
35	Section 14 of the Local Government (Miscellaneous Provisions) Act 1982	Acupuncture	County council and county borough council

	Section 15 of the Local Government (Miscellaneous Provisions) Act 1982	Tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis	County council and county borough council
5	Section 60 of the Food Act 1984	Regulation and prevention of nuisances in market places	County council, county borough council and community council
	Section 31 of the Road Traffic Regulation Act 1984	Use of a road as a playground for children	County council and county borough council
10	Section 57(7) of the Road Traffic Regulation Act 1984	Use of parking places	Community council
15	Section 23 of the Housing Act 1985	Management, use and regulation of local authority houses, the use of land provided in connection with housing and as respects local authority lodging houses	County council and county borough council
	Section 16 of the Cardiff Bay Barrage Act 1993	Good rule and government of inland bay and harbour	County Council (Cardiff)
	Section 2 of this Act	Good rule and government	County council and county borough council

SCHEDULE 2
(introduced by section 20)

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Health Act 1875

- 5 1 In section 184 of the Public Health Act 1875 (confirmation of byelaws) after “local authority” insert “in England”.

Commons Act 1899

- 2 (1) Section 10 of the Commons Act 1899 (byelaws) (as amended by section 50(7) of the Commons Act 2006 when brought into force) is amended as follows.
- 10 (2) In subsection (2), after “apply” omit “all byelaws under this section” and insert “byelaws under this section made by a council in England”.
- (3) After subsection (2) insert—
- 15 “(3) Sections 7, 8, 10 and 19 of the Local Government Byelaws (Wales) Act 2012 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide proof of byelaws in legal proceedings) apply to byelaws under this section made by a council in Wales.”.

Open Spaces Act 1906

- 3 20 In section 15(2) of the Open Spaces Act 1906 (byelaws) after “any local authority” insert “in England”.

Public Health Acts Amendment Act 1907

- 4 (1) The Public Health Acts Amendment Act 1907 is amended as follows.
- (2) In section 9 (byelaws) after “byelaws made” insert “by a local authority in England”.
- 25 (3) In section 82 (byelaws as to sea-shore), after the words “Provided that” insert “, in the case of byelaws made by a local authority in England,”.

National Parks and Access to the Countryside Act 1949

- 5 (1) The National Parks and Access to the Countryside Act 1949 is amended as follows.
- (2) In section 106 (supplementary provisions as to byelaws) after subsection (4) insert—
- 30 “(5) This section does not apply to byelaws made under this Act by the Countryside Council for Wales.”.

(3) After section 106 insert—

“106A Supplementary provisions as to byelaws made by the Countryside Council for Wales

- (1) Sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 shall apply to all byelaws made by the Countryside Council for Wales under this Act.
- (2) The confirming authority for the purposes of section 7 of the 2012 Act is the Welsh Ministers.”.

Public Health Act 1961

- 6 (1) The Public Health Act 1961 is amended as follows.
- (2) In section 75 (byelaws as to pleasure fairs and roller skating rinks)—
- (a) in subsection (8) after the words “as respects byelaws” insert “made by a local authority in England”.
- (b) after subsection (8) insert—
- “ (9) A local authority in Wales which proposes to make a byelaw under this section must consult the appropriate representative bodies on the matters dealt with by the proposed byelaw.
- (10) For the purposes of subsection (9), “the appropriate representative bodies” are those bodies which appear to the authority to be representative of the interests of those who carry on pleasure fairs and entertainments to which this section applies.
- (11) A local authority in Wales making a byelaw in pursuance of subsection (1)(d) of this section must consult the relevant fire and rescue authority on the matters dealt with by the proposed byelaw.
- (12) For the purposes of subsection (11) “the relevant fire and rescue authority” is the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area to which the byelaw applies.”.
- (3) In section 76(2) (byelaws as to seaside pleasure boats) after the words “byelaws made” insert “by a local authority in England”.
- (4) In section 77(3) (byelaws as to hairdressers and barbers) after “byelaws” insert “made by a local authority in England”.

Public Libraries and Museums Act 1964

- 7 (1) Section 19 of the Public Libraries and Museums Act 1964 (byelaws in relation to libraries and museums) is amended as follows.
- 35 (2) In subsection (1) after the words “so made” insert “by a local authority in England”.
- (3) In subsection (2) after the words in brackets insert “and section 10 of the Local Government Byelaws (Wales) Act 2012”.

- (4) In subsection (3) after the words in brackets insert “and section 8(5) of the Local Government Byelaws (Wales) Act 2012 (as applicable)”.

Countryside Act 1968

8 (1) The Countryside Act 1968 is amended as follows.

5 (2) In section 8 (country parks: sailing, boating, bathing and fishing) –

(a) in subsection (5), omit “Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this subsection were byelaws under that Act.”,

(b) after subsection (5), insert –

10 “(5A) In the case of byelaws made by a local authority in England, section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under subsection (5) were byelaws under that Act.

(5B) In the case of byelaws made by a local authority in Wales –

15 (a) sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 apply, and

(b) the confirming authority for the purposes of section 7 of that Act is the Welsh Ministers.”.

(3) In section 12 (facilities in or near National Parks) –

20 (a) in subsection (5), omit “Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this subsection were byelaws under that Act.”,

(b) after subsection (5), insert –

25 “(5A) In the case of byelaws made by a local planning authority in England, section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under subsection (5) were byelaws under that Act.

(5B) In the case of byelaws made by a local planning authority in Wales –

30 (a) sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 apply, and

(b) the confirming authority for the purposes of section 7 of that Act is the Welsh Ministers.”.

(4) In section 13 (lakes in National Parks: control of boats etc) –

35 (a) in subsection (8), at the beginning, insert “In the case of byelaws made by a local planning authority in England,”,

(b) after subsection (8), insert –

“(8A) In the case of byelaws made by a local planning authority in Wales –

(a) sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 apply, and

(b) the confirming authority for the purposes of section 7 of that Act is the Welsh Ministers.”.

(5) In section 41 (powers to make byelaws and related provisions about wardens)–

(a) in subsection (7), at the beginning, insert “In the case of byelaws made by a local planning authority in England, or by Natural England,”,

(b) after subsection (7), insert–

“(7A) In the case of byelaws made by a local planning authority in Wales, or by the Council–

(a) sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 apply, and

(b) the confirming authority for the purposes of section 7 of that Act is the Welsh Ministers.”.

Local Government Act 1972

(1) The Local Government Act 1972 is amended as follows.

(2) In section 235(1) (powers of councils to make byelaws for good rule and government etc) –

(a) omit “the council of a principal area in Wales”;

(b) after the second “district” omit “principal area”.

(3) In section 236 (procedure etc for byelaws)–

(a) in subsection (1) after “local authority” in each case insert “in England”;

(b) in subsection (3), omit “or community”;

(c) in subsection (9)–

(i) omit “or in Wales of a principal council”;

(ii) omit the words “or community” in each case where they appear;

(d) omit subsection (10A).

(4) In section 236A (alternative procedure for certain byelaws)–

(a) in subsection (1)(a) after “local authority” insert “in England”;

(b) in subsection (4)–

(i) omit paragraph (a);

(ii) in paragraph (b), omit “in relation to any other byelaw,”;

(c) omit subsections (6), (10) and (11).

(5) In section 238 (evidence of byelaws) after “local authority” insert “in England”.

Local Government (Miscellaneous Provisions) Act 1976

10 (1) Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 (fixing fares for hackney carriages) is amended as follows.

(2) In subsection (7) –

5 (a) after “this section” insert “by a district council in England”;

(b) after “district council” insert “in England”.

(3) After subsection (7) insert –

10 “(7A) Section 8(5) and section 19 of the Local Government Byelaws (Wales) Act 2012 shall extend and apply to a table of fares made or varied under this section by a council for a county or county borough in Wales as they apply to byelaws made by a council for a county or county borough in Wales.”.

Wildlife and Countryside Act 1981

11 (1) Section 37 of the Wildlife and Countryside Act 1981 (byelaws for protection of marine nature reserves) is amended as follows.

15 (2) In subsection (5) after “byelaws under this section” insert “, other than byelaws made by the Countryside Council for Wales”.

(3) After subsection (5) insert –

20 “(5A) Sections 3 to 19 of the Local Government Byelaws (Wales) Act 2012 apply to byelaws made by the Countryside Council for Wales under this section, subject to such modifications (including modifications increasing the maximum fines which the byelaws may impose) as may be prescribed by regulations made by the Welsh Ministers.

25 (5B) Regulations under subsection (5A) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

Food Act 1984

12 In section 121(1) of the Food Act 1984 (byelaws) after “Act” insert “by a local authority in England”.

Road Traffic Regulation Act 1984

30 (1) The Road Traffic Regulation Act 1984 is amended as follows.

(2) In section 31(2) (byelaws with respect to roads used as playgrounds) after “this section” insert “made by a local traffic authority in England”.

35 (3) In section 57(7) (byelaws with respect to the use of parking places) after “Secretary of State” insert “, in the case of byelaws made by a parish council”.

Land Drainage Act 1991

14 (1) Section 66 of the Land Drainage Act 1991 (powers to make byelaws) is amended as follows.

(2) In subsection (5) omit paragraph (c).

5 (3) After subsection (5) insert –

“(5A) In the case of byelaws made by a local authority in relation to any area of Wales, byelaws under this section shall not be valid until they are confirmed by the Welsh Ministers.

10 (5B) Sections 7 and 8 of the Local Government Byelaws (Wales) Act 2012 shall have effect in relation to byelaws under this section made by a local authority in Wales.”.

Cardiff Bay Barrage Act 1993

15 In section 16 of the Cardiff Barrage Act 1993 (byelaws) omit subsections (8), (9) and (10).

Environment Act 1995

15 16 (1) Paragraph 17 of Schedule 7 to the Environment Act 1995 (documents, notices, records, byelaws etc) is amended as follows.

(2) In sub-paragraph 2(e) after “Act,” insert “in the case of National Park authorities in England,”.

(3) In sub-paragraph (5) after “National Park authority” insert “in England”.

20 *National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)*

17 (1) Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) (enactments conferring functions transferred by article 2) is amended as follows.

(2) Under the heading “Local Government Act 1972” –

25 (a) omit the words “It is directed that the functions of the Secretary of State under section 236(11) and paragraph 25 of Schedule 14 shall be exercisable by the Assembly concurrently with the Secretary of State”;

(b) omit the words “Section 238 shall have effect as if after “the Secretary of State” there were inserted “or, as the case may be, the National Assembly for Wales””.

30 *Countryside and Rights of Way Act 2000*

18 (1) Section 17 of the Countryside and Rights of Way Act 2000 (byelaws) is amended as follows.

(2) In subsection (5) after “this section” insert “made by an access authority in England”.

(3) After subsection (5) insert –

“(5A) Sections 7, 8, 10 and 19 of the Local Government Byelaws (Wales) Act 2012 apply to all byelaws under this section made by an access authority in Wales.”.