



Department for Communities and Local Government

Chief Executive
Principal local authorities in England

1 March 2016

Dear Colleague,

MAKING AND REVOKING BYELAWS

I am writing to draw to your attention that the Byelaws (Alternative Procedure) (England) Regulations 2016, which were made on 11 February 2016, will come into force on Thursday 3 March 2016. These regulations introduce new arrangements for the making and revoking of those byelaws for which the Department for Communities and Local Government (DCLG) has policy responsibility. These are byelaws that principally relate to the peaceful enjoyment of public spaces such as parks, and the prevention of nuisance behaviour in towns and cities; a list of the byelaws subject to these new arrangements is enclosed at Annex A.

Previously, if a council wished to make a byelaw for which DCLG had policy responsibility (including making a byelaw simply revoking a previous byelaw), it had to advertise the byelaw, consult on it locally, and then request that the Secretary of State confirm the byelaw before it could come into force. In addition, before advertising the byelaw, the usual practice was for councils informally to seek provisional approval for their proposed byelaw from the Department.

The Regulations put in place new arrangements that decentralise the byelaw making process for the byelaws for which DCLG has policy responsibility, removing the need for the Secretary of State's confirmation. Instead, councils will assume responsibility for these byelaws, which in future will not be subject to any Secretary of State confirmation. There will thus also be no informal process of provisional approval.

Under the new arrangements where a council is proposing to make a new byelaw (other than a byelaw simply revoking a previous byelaw), it must first undertake its own deregulatory assessment of the impact that byelaw might have on all those potentially affected by it and submit that assessment, together with certain supporting material, to the Secretary of State. The Secretary of State must then respond within 30 days giving leave for the council to proceed to make the byelaw, refusing leave, or responding with a holding reply to be followed by a final decision on whether or not to grant leave.

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Where leave to proceed is given it is for the council to complete the byelaw making process without any further involvement by the Secretary of State. This process will involve the council advertising and consulting on the byelaw and then, having regard to any representations the authority receives, deciding whether to make the byelaw concerned.

Where a council wishes to revoke a byelaw, the Secretary of State plays no part in the process, which is an entirely local one.

There are transitional arrangements for those councils that are currently making a byelaw and are at a significantly advanced stage under the existing arrangements. If a council has sealed a byelaw, but not yet had that byelaw confirmed by the Secretary of State, then the byelaw making process in that case will conclude under the arrangements requiring the Secretary of State to confirm the byelaws before they come into force.

The Byelaws (Alternative Procedure) (England) Regulations 2016 are available at:
<http://www.legislation.gov.uk/id/uksi/2016/165>

More information about the new arrangements will be available on the Government's web site shortly. Should you require further details please contact the byelaws team at byelaws@communities.gsi.gov.uk. Alternatively you can contact Stephen McAllister (0303 444 2582) or Vanita Patel (0303 444 2581) on the new byelaw making and revoking arrangements.

Yours sincerely,

Paul Rowsell

Annex A

Description of byelaw	Enabling power
1. Byelaws relating to the regulation of public walks and pleasure grounds.	Public Health Act 1875 (c. 55).
2. Byelaws relating to the regulation of open spaces and burial grounds.	Open Spaces Act 1906 (c. 25).
3. Byelaws relating to the regulation of open spaces and burial grounds.	Open Spaces Act 1906 (c. 25).
4. Byelaws relating to the prevention of danger, obstruction or annoyance to persons using the sea-shore.	Public Health Acts Amendment Act 1907 (c. 53).
5. Byelaws relating to the prevention of danger, obstruction, or annoyance to persons using esplanades or promenades.	Public Health Acts Amendment Act 1907 (c. 53).
6. Byelaws relating to the regulation of public bathing.	Public Health Act 1936 (c. 49).
7. Byelaws relating to the regulation of pleasure fairs and roller skating rinks.	Public Health Act 1961 (c. 64).
8. Byelaws relating to the regulation of hairdressers and barbers.	Public Health Act 1961 (c. 64).
9. Byelaws relating to good rule and government and the prevention and suppression of nuisances.	Local Government Act 1972 (c. 70).
10. Byelaws relating to the regulation of market places.	Food Act 1984 (c.30).
11. Revocation of byelaws falling within any of the above entries.	Local Government Act 1972 (c. 70).