



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XIV

BYELAWS.

Code of Procedure, Penalties, &c, in case of Byelaws under several Enactments.

301 Procedure, and &c. for making byelaws.

- (1) The following provisions of this section shall apply to byelaws to be made by a local authority by virtue of—
 - (a) this Act; or
 - (b) the Public Parks (Scotland) Act, 1878; or
 - (c) the Burgh Police Acts; or
 - (d) the Public Health Acts; or
 - (e) any enactment in force at the date of the commencement of this Act and incorporating or applying section fifty-seven of the Local Government (Scotland) Act, 1889, or sections three hundred and seventeen to three hundred and twenty-three of the Burgh Police (Scotland) Act, 1892, or any of those sections, or sections one hundred and eighty-three to one hundred and eighty-seven of the Public Health (Scotland) Act, 1897, or any of those sections; or
 - (f) any enactment or statutory order passed or made after the commencement of this Act and conferring on any local authority a power to make byelaws.
- (2) Unless the enactment under which the byelaws are made specifically provides otherwise, any such byelaws may apply only to a part of the area of a local authority, and different byelaws may apply to different parts of the area.
- (3) The byelaws shall be authenticated by being sealed with the common seal of the local authority and signed by the clerk of the authority or, in the case of a district council not having a seal, by the signatures of two members and the clerk of the district council, and shall not have effect until they are confirmed by the confirming authority.

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- (4) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation, of the place where a copy of the byelaws may be inspected and of the authority to whom objections may be notified shall be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.
- (5) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment.
- (6) In the case of byelaws made by a county council or a district council, the clerk of the council shall, at least one month before application for confirmation is made, send a copy of the byelaws to the registrar of every registration district under the Registration of Births, Deaths and Marriages Acts within any part of which the byelaws are to apply, and, where in the case of a byelaw made by a county council; the byelaw will apply to any part of a burgh, to the town clerk of the burgh, and the registrar or town clerk, as the case may be, shall cause the copy to be open to public inspection without payment at his office at all reasonable hours for at least one month before application for confirmation is made.

It shall be sufficient compliance with the provisions of subsection (4) of this section so far as requiring notice of right to inspect byelaws at the offices of registrars if the notice under that subsection states that the byelaws may be inspected at the office of the registrar of every registration district specified in the notice or where the byelaws apply to the whole county or district, every registration district within or partly within the county or district, as the case may be, without the necessity of specifying the addresses of the individual registrars.

- (7) The local authority by whom the byelaws are made shall on application furnish to any person a copy of the byelaws or of any part thereof on payment of such sum, not exceeding sixpence for every hundred words contained in the copy, as the authority may determine.
- (8) Any person aggrieved by any byelaws may, within one month after notice has been published in accordance with the provisions of subsection (4) of this section, notify in writing his objection and the ground of his objection to the confirming authority.
- (9) Before confirming byelaws, the confirming authority shall take into consideration any objections received by them and may if they consider it necessary or desirable cause a local inquiry to be held.
- (10) Unless the Secretary of State shall otherwise direct, every inquiry with respect to byelaws made under any provision of this Act or of the Burgh Police Acts shall be held by the sheriff.
- (11) The confirming authority may confirm with or without modification or refuse to confirm any byelaws submitted under this section for confirmation and may fix the date on which the byelaws are to come into operation, and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation.
- (12) The local authority shall, as soon as practicable after receiving intimation of the confirmation of the byelaws by the confirming authority, cause a notice of such confirmation, of , the date on which the byelaws are to come into operation, and of

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the place where a copy of the byelaws as confirmed may be inspected, to be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances..

- (13) A copy of the byelaws when confirmed shall be printed and deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall on application be furnished to any person on payment of such sum not exceeding one shilling for every copy as the authority may determine.
- (14) In the case of byelaws made by a county council, the county clerk shall send a copy of the byelaws as confirmed to the clerk of the district council of every district within any part of which the byelaws apply, and where the byelaws apply to any part of a burgh, to the town clerk of the burgh, and the district council clerk or town clerk, as the case may be, shall cause the copy to be open to public inspection without payment at his office at all reasonable hours.
- (15) In this section the expression " the confirming authority " means—
- (a) in the case of byelaws made under the Public Parks (Scotland) Act, 1878, or under the Burgh Police Acts or under the Public Health Acts, or under any enactment incorporating or applying section fifty-seven of the Local Government (Scotland) Act, 1889, or section three hundred and eighteen of the Burgh Police (Scotland) Act, 1892, or section one hundred and eighty-five of the Public Health (Scotland) Act, 1897, the Secretary of State; and
 - (b) in any other case, the authority or person, if any, specified in the enactment under which the byelaws are made or in any enactment incorporated therein or applied thereby as the authority or person by whom the byelaws are to be confirmed:

Provided that, where under or by virtue of any enactment the power of an authority or person specified as aforesaid to confirm byelaws has been transferred, the authority or person to whom that power has been transferred shall be deemed to be the authority or person specified as aforesaid.

- (16) The provisions of this section shall apply in the case of byelaws made by the magistrates of a burgh in like manner as they apply in the case of byelaws made by the town council of the burgh.
- (17) The Secretary of State on the application of a local authority may by order apply the provisions of this section to the confirmation of byelaws made by the authority under any local Act passed before the commencement of this Act in substitution for the provisions of the local Act relating thereto, and any such order shall as soon as may be after it is made be laid before each House of Parliament.
- (18) The provisions of this section shall apply subject to the necessary modifications in the case of byelaws made by any authority (other than a local authority) under any enactment passed before the commencement of this Act and incorporating or applying any of the sections mentioned in paragraph (e) of subsection (1) of this section.

302 Penalties for offences against byelaws.

Byelaws to which the immediately preceding section applies may contain provisions for imposing on persons offending against the byelaws reasonable fines recoverable in a court of summary jurisdiction, not exceeding such sum as may be fixed by the

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enactment conferring the power to make the byelaws or if no sum is so fixed the sum of five pounds, and in the case of a continuing offence a further fine not exceeding such sum as may be fixed as aforesaid, or if no sum is so fixed the sum of forty shillings for each day during which the offence continues after written notice of the offence from the local authority or other authority.

303 Evidence of byelaws.

The production of a copy of a byelaw purporting to be made by a local authority under any enactment whatever or by any other authority to whose byelaws the last but one preceding section applies upon which is endorsed a certificate purporting to be signed by the clerk of the authority stating—

- (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 require, was sent to the Secretary of State and has not been disallowed;
- (d) that the byelaw made by a county council has been made with the consent of the town council of a burgh named in the certificate ;
- (e) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall, until the contrary is proved, be evidence of the facts stated in the certificate and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.