

2008 No. 3095

LOCAL GOVERNMENT, ENGLAND

The Parish Councils (Power to Promote Well-being) (Prescribed Conditions) Order 2008

<i>Made</i>	- - - -	<i>2nd December 2008</i>
<i>Laid before Parliament</i>		<i>9th December 2008</i>
<i>Coming into force</i>	- -	<i>31st December 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 1(2) and 105 of the Local Government Act 2000(a), makes the following Order:

Citation, commencement, and interpretation

1.—(1) This Order may be cited as the Parish Councils (Power to Promote Well-being) (Prescribed Conditions) Order 2008 and shall come into force on 31st December 2008.

(2) In this Order, “relevant annual meeting” means an annual meeting of a parish council that takes place in a year of ordinary elections.

Prescribed conditions

2. The conditions prescribed for the purposes of section 1(2) of the Act are those specified in the Schedule to this Order.

Eligibility to use the power to promote well-being

3.—(1) Subject to article 4, a parish council which resolves that it meets the prescribed conditions shall be an eligible parish council for the duration of the eligibility period.

(2) In so far as it permits a local authority to arrange for the discharge of any of their functions by a committee or sub-committee, section 101(1)(a) of the Local Government Act 1972(b) does not apply to the passing of a resolution under this article.

(3) In this article—

“eligibility period” means the period which—

- (a) begins when a resolution under paragraph (1) is passed; and
- (b) ends on the day before the day of the next relevant annual meeting to be held after the resolution is passed.

(a) 2000 c.22. Section 1 of the Local Government Act 2000 applies in relation to parish councils in England only: *see* section 1(1)(a). Section 1(2) was inserted by section 77 of the Local Government and Public Involvement in Health Act 2007 (c.28).
(b) 1972 c.70.

Transitional provision

- 4.—(1) This article applies to a parish council in the circumstances described in paragraph (2).
- (2) The circumstances are that—
- (a) the parish council has passed a resolution under paragraph 3(1); and
 - (b) at the next relevant annual meeting to be held after the day on which the resolution is passed, the parish council does not pass another resolution under that paragraph.
- (3) The council shall continue to be an eligible parish council for the purpose of completing any activity—
- (a) undertaken in the exercise of section 2(1) of the Local Government Act 2000, but
 - (b) not completed before the day of the meeting referred to in paragraph (2)(b).

Signed by authority of the Secretary of State for Communities and Local Government

2nd December 2008

John Healey
Minister of State
Department for Communities and Local Government

SCHEDULE

Article 2

CONDITIONS FOR ELIGIBILITY TO USE THE POWER TO PROMOTE WELL-BEING

- 1.—(1) The persons declared to be elected^(a) at the last relevant ordinary elections of the council must be equal to or greater than the relevant number.
- (2) In this paragraph—
- “relevant number” means the number that is equal to two-thirds (or as nearly as may be) of the number of councillors to be elected at the last relevant ordinary elections of the council; and
- “relevant ordinary elections” means the last ordinary elections of councillors of the parish council to have been held before the day on which the resolution under article 3(1) is passed.
- 2.—(1) The clerk to the parish council—
- (a) must have obtained—
 - (i) the Certificate in Local Council Administration;
 - (ii) the Certificate of Higher Education in Local Policy; or
 - (iii) the Certificate of Higher Education in Local Council Administration; and
 - (b) must also have completed the relevant training, unless such training was required for the purpose of obtaining a certificate of a description mentioned in paragraph (a).
- (2) For the purposes of this paragraph and paragraph (3), “relevant training” means training—
- (a) in the exercise of the power under section 2(1) of the Local Government Act 2000;

(a) In relation to declaring a person to be elected, *see* the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305), in particular, rules 14 and 50 of the Rules for Conduct of an Election of Councillors of a Parish or Community where Poll is not taken together with Poll at another Election and rules 14 and 50 of the Rules for Conduct of an Election of Councillors for a Parish or Community where the Poll is taken together with Poll at a relevant Election or Referendum.

(b) provided in accordance with the national training strategy for parish councils published by the National Association of Local Councils and Commission for Rural Communities, as revised from time to time.

3. At least 80% (or as nearly as may be) of the members of the council must have completed the relevant training.

4.—(1) The council must have published a statement of intent as to community engagement.

(2) For the purposes of paragraph (1), the statement must include those matters referred to in any guidance issued by the Secretary of State as to the engagement of interested persons in the exercise of the power under section 2(1) of the Local Government Act 2000.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the conditions to be met by a parish council in order for it to be an eligible parish council for the purposes of section 1 of the Local Government Act 2000 (“the 2000 Act”). An eligible parish council can exercise the power to promote well-being (“the well-being power”) under section 2 of the 2000 Act. The conditions are prescribed in the Schedule to the Order and relate to—

- the number of councillors elected at ordinary elections;
- the qualifications of the clerk to the parish council;
- the number of councillors who have received training in the exercise of the power to promote well-being; and
- community engagement in relation to the use of that power.

Article 3 provides for a parish council to be an eligible parish council from the time that it resolves that it has met the prescribed conditions until the day before the day of the next annual meeting of the council to be held in an ordinary year of elections.

Article 4 sets out the transitional arrangements which apply where a council ceases to be an eligible parish council.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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