

**EXPLANATORY MEMORANDUM TO**  
**THE SUSTAINABLE COMMUNITIES (PARISH COUNCILS) ORDER 2013**

**2013 No. 2275**

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. **Purpose of the instrument**

To give parish councils the same powers as local authorities to make proposals to promote the sustainability of local communities under the Sustainable Communities Act 2007.

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

None

4. **Legislative Context**

4.1 The Sustainable Communities Act 2007 (“the 2007 Act”) provides for the Secretary of State to invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities and for the publication of action plans by the Secretary of State setting out what action if any will be taken to implement the proposals. Sections 2 to 5 apply to the first invitation made by the Secretary of State. Sections 5A to 5C, inserted by the Sustainable Communities Act 2007 (Amendment) Act 2010, apply to second and subsequent invitations and include a power for the Secretary of State to specify additional persons who may make proposals.

4.2 The Sustainable Communities Regulations 2012 (‘the 2012 Regulations’) set out the process for dealing with proposals submitted by local authorities in response to an invitation issued by the Secretary of State under section 5A (subsequent invitations) of the 2007 Act. Section 5B(6) of the 2007 Act combined with section 11 of the Interpretation Act 1978 provide for references to a local authority in the 2012 Regulations to be treated as including a reference to parish councils once they have been specified as additional persons who may make proposals.

4.3 This instrument is being made following a consultation by the Department for Communities and Local Government in 2012, which was prompted by responses to a previous consultation on a related issue (regulations under section 5B of the 2007 Act governing the process for managing a second round of proposals) which closed in June 2011.

4.4 A local authority is defined in the 2007 Act as a county council in England, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.

## **5. Territorial Extent and Application**

This instrument applies to England only.

## **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 The Department recognises the importance of empowering local people to make decisions about the issues that matter most to them. The 2007 Act aims to harness the power of communities to deliver improvements and to shift the power balance from national government to a local level.

7.2 The 2007 Act enables local authorities to submit proposals to central government for measures to remove barriers that prevent them from improving the sustainability of their local areas. Proposals can be submitted covering a wide range of topics including economic, social and environmental issues. The first invitation for proposals was issued in 2008 and the Department issued a decision on the proposals in December 2010. At the same time the Department issued the second invitation for proposals.

7.3 During the consultation on regulations governing the process for managing second invitation proposals, a number of the respondents requested that town and parish councils should also be given powers to submit proposals. As a result the Department consulted specifically on that question in 2012.

## **8. Consultation outcome**

8.1 A 12 week consultation on whether to extend powers under the 2007 Act to town and parish councils ran from 13 June to 5 September 2012. It received 139 responses. Of these, 132 (95%) were in favour of extending the power, 3 (2%) were against and 4 (3%) were neutral.

8.2 Responses in favour of change included the following points:

- the change is consistent with the localism agenda to shift power from national government to a local level;
- current arrangements for town and parish councils to submit their proposals to the Barrier Busting Portal (a DCLG website inviting people to submit their ideas for policies that would remove barriers to

community action in towns and neighbourhoods)<sup>1</sup> do not provide the same opportunities as the 2007 Act;

- town and parish councils are more closely connected to the communities they serve than local authorities and are more aware of local needs and what is required to promote sustainable communities;
- town and parish councils and local authorities do not always agree on issues so local authorities may choose not to submit proposals put forward by local communities.

8.3 Those opposed to the change raised the following concerns:

- changes are not necessary because local authorities must consult representatives of local communities, which include town and parish councils;
- change would discourage dialogue between different tiers of local government; and
- an increased number of proposals would impact on attempts to streamline the process, leading to a more bureaucratic and resource intensive process.

8.4 The Department's response was published in May 2013<sup>2</sup>. In light of the overwhelming support given to the proposal from a range of respondents, including town and parish councils, local citizens and across the private and commercial sector, the Department concluded that the existing legislation should be extended to town and parish councils. It believes that the 2007 Act positively embodies its commitment to localism and the principle of empowering communities to take decisions about the social, economic and environmental improvements they want to see introduced in their local areas. Extending the legislation should, in the Department's view, strengthen rather than discourage dialogue between the different tiers of local government. The Department would welcome increased use of the 2007 Act and believes that the streamlined processes introduced by the 2012 Regulations are robust enough to handle this.

## **9. Guidance**

The Department will write to town and parish councils to advise them of their new powers and invite them to submit proposals. It is also working with their representative body, the National Association for Local Councils, on the process for handling proposals.

## **10. Impact**

10.1 No impact is foreseen on business, charities or voluntary bodies.

10.2 There are no new burdens on the public sector.

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<sup>1</sup> <http://barrierbusting.communities.gov.uk/>

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/198373/Sustainable\\_Communities\\_Act\\_2007\\_Gov\\_response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198373/Sustainable_Communities_Act_2007_Gov_response.pdf)

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen and the impact on the public sector is minimal.

**11. Regulating small business**

The legislation does not apply to small business.

**12. Monitoring & review**

The take-up of the new power will be monitored to ensure that there are no barriers that prevent town and parish councils from exercising their rights under the 2007 Act.

**13. Contact**

Jon Yates at the Department for Communities and Local Government. Tel: 0303 444 3720 or email: [jon.yates@communities.gsi.gov.uk](mailto:jon.yates@communities.gsi.gov.uk) can answer any queries regarding the instrument.