

**WELSH GOVERNMENT
LOCAL GOVERNMENT BYELAWS (WALES) ACT 2012
GUIDANCE FOR MODEL BYELAWS SET 10:
MARKETS**

Introduction

1. A byelaw is a local law which is made by a statutory body, such as a Council for a county or county borough in Wales, under an enabling power in an Act of Parliament or an Act of the National Assembly for Wales.
2. Model byelaws act as a template for Councils when drafting byelaws and set out appropriate wording for byelaws on a number of different subjects. However, the models should not be adopted en bloc, but as genuinely required to address an existing problem. Councils should note that some of the individual model byelaws and/or their provisions are optional and only those which are needed and appropriate should be adopted.
3. Once a Council has established that the problem to be addressed is covered by a particular model byelaw, the Council should locate a copy of it from the Welsh Government website and adapt it according to their needs. The accompanying guidance notes will assist in the drafting process. Councils should also follow the relevant procedure as set out in the Local Government Byelaws (Wales) Act 2012.
4. It is recommended that Councils follow the model byelaws, to reduce the risk of drafting problems or avoid the implementation of byelaws which are not fit for purpose. It should be noted that the model byelaws are not compulsory and may be added to or amended in the light of experience, demand and changing circumstances. There are however some cases in which certain byelaws should be adopted in their entirety.
5. The following guidance note should be read alongside the model byelaws and the '*Local Government Byelaws (Wales) Act 2012 Guidance, including Statutory Guidance, to Welsh Local Authorities, Community and Town Councils, National Park Authorities and Natural Resources Wales*', issued by the Welsh Government. This can be found on the Welsh Government website at: <http://gov.wales/topics/localgovernment/local-government-byelaws/?lang=en>.
6. This guidance note is specifically designed to support the use of Welsh Government's model byelaws relating to the regulation and prevention of nuisances in market places, made under Section 60 of the Food Act 1984.

Further information/contact points

7. Any queries regarding these model byelaws should be addressed to:

Local Government Partnerships Policy Team
Local Government: Transformation and Partnerships Division
Welsh Government
Cathays Park

The Enabling Power

8. Section 60 of the Food Act 1984 provides for a local authority, who maintains a market, to make byelaws for regulating the use of the market place, for preventing nuisances or obstructions, for regulating porters and carriers resorting to the market, and fixing certain charges to be made for carrying articles from the market within the district, and for preventing the spread of fires in the market. The legislation requires the local authority to consult the fire authority before making byelaws under section 60 of the Food Act 1984.
9. Byelaws made under section 60 of the Food Act 1984 do not require confirmation by the Welsh Ministers under the Local Government Byelaws (Wales) Act 2012. The procedure for making such byelaws is set out in section 6 of that Act, which also imposes a duty to consult any person (including, where applicable, a community council) who the authority thinks is likely to be interested in, or affected by, the issue.

Use of the Model Byelaws

10. Words highlighted in *italic* give instructions on how to adapt the model (e.g. “*insert name*”) or provide a more detailed description of what is covered by the byelaw where a number of model byelaws relate to the same subject matter.
11. Square brackets are used to indicate:
 - a. additional wording, which it may be appropriate to use in some cases (e.g. “[Outside the designated areas]”);
 - b. a choice of wording; or
 - c. “numbers which it is likely will need to be updated when editing the model byelaw set (e.g. Schedule [1]).
12. If the byelaws are to include schedules or maps, these should appear before the Council’s seal.

Interpretation provisions

13. The general interpretation provision should be used to define terms which are used several times in the text of the byelaws. Councils should only use the definitions in the list which appear in the text of the model byelaws that the Council has selected. Where a defined word only appears in the text of one of the byelaws which a Council proposes to adopt, that definition should be included within the text of the relevant byelaw, preferably as a separate sub-paragraph.

Preservation of order

14. This model regulates against the noise generated in a market by a bell, horn, or other instrument. It cannot be used to regulate the noise made by a loudspeaker, this must be dealt with using section 62 of the Control of Pollution Act 1974.

Animals

15. This model does not regulate against dogs being brought into the market. This must be dealt with by means of a Dog Control Order or by equalities legislation.

Livestock markets

16. This model regulates the cleanliness of market spaces, which can be cleaned. It cannot be used to regulate the cleanliness of market stalls held on grass, which should be dealt with by the Welfare of Animals at Markets Order 1990 (WAMO).

Revocation

17. The text of this model, which can be used to revoke byelaws contains a number of instructions which may require further elaboration:

“insert name” – the relevant name will be that of the council which made the byelaws, even if that Council is no longer the local authority for that area or is now defunct.