

# WELSH GOVERNMENT

## LOCAL GOVERNMENT BYELAWS (WALES) ACT 2012

### GUIDANCE FOR MODEL BYELAWS SET 4: PLEASURE FAIRS

#### 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.
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 under the Local Government Byelaws (Wales) Act 2012.
4. It is recommended that Councils follow the model byelaws, in order to reduce the risk of drafting problems or to avoid the implementation of byelaws which are not fit for purpose.
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 is specifically designed to support the use of Welsh Government's model byelaws relating to pleasure fairs made under section 75 of the Public Health Act 1961, as amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1976 and section 20 of the Local Government Byelaws (Wales) Act 2012.

#### The Enabling Power

7. Section 75 of the Public Health Act 1961, as amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1976 and the Local Government Byelaws (Wales) Act 2012 allows local authorities to make byelaws in order to regulate the user of pleasure fairs open to the public; to secure safe and adequate ingress and egress to and from the premises; to provide for the prevention and suppression of nuisances and the preservation of sanitary conditions, cleanliness, order and public safety; and for the prevention of outbreaks of fire which might endanger stands, stalls etc. used at the premises.

8. Byelaws made under section 75 of the Public Health Act 1961 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.
9. The byelaws contain complex and detailed technical information which is deemed essential to preserve public safety. Uniform standards throughout the country should be maintained as far as possible both for the safety of the public and because those operating travelling fairs cannot be expected to familiarise themselves with a variety of byelaw regimes. Local variation on matters of public safety is not desirable. .

## **Consultation**

10. Section 6 of the Local Government Byelaws (Wales) Act 2012, imposes a duty on legislating authorities 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.
11. Section 75(9) of the Public Health Act 1961 also provides that a local authority in Wales which proposes to make a byelaw under this section must consult the appropriate representative bodies on the matters dealt with by the proposed byelaw. The appropriate representative bodies are those bodies which appear to the authority to be representative of the interests of those who carry on pleasure fairs and entertainments under section 75.
12. Section 75(11) of the Public Health Act 1961 also provides that a local authority in Wales making a byelaw in pursuance of section 75(1)(d) must consult the relevant fire and rescue authority on the matters dealt with by the proposed byelaw. The relevant fire and rescue authority is the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area to which the byelaw applies. Section 75(1)(d) provides that a local authority shall make byelaws for preventing outbreaks of fire which might endanger structures used in connection with a pleasure fair, and for reducing the risk of, and the spread of fire from such outbreaks and it shall be their duty to enforce such byelaws. However, it should be noted that under section 75(1A) of the Public Health Act 1961, no byelaw may be made under section 75 in relation to a pleasure fair, in so far as the byelaw relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.

## **Use of the Model Byelaws**

13. Words highlighted in italics 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.
14. Square brackets are used to indicate:
  - (1) additional wording, which it may be appropriate to use in some cases (e.g. “[Outside the designated areas]”;
  - (2) a choice of wording; or

- (3) “numbers which it is likely will need to be updated when editing the model byelaw set (e.g. Schedule [1])

If the byelaws are to include schedules or maps, these should appear before the council’s seal.

### **Interpretation provisions**

15. 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.

### **Age limits**

16. Section 75 of the Public Health Act 1961 enables local authorities to include provision in the byelaws relating to the hours during which amusement premises are open to the public, for securing public safety, to reduce fire risks, cleanliness and avoidance of nuisance. It is, therefore, beyond the scope of authorities to make a byelaw which imposes age limits or excludes minors. As such, no byelaw relating to age limit has been included in the model byelaws, and nor should one be added..

### **Hours of opening**

17. A manager should not be required to close the pleasure fair before **9 pm** nor allowed to keep it open after **12 midnight**. Neither should it be necessary to allow a pleasure fair to be open before **10 am**. Each local authority, however, may specify opening hours to reflect local circumstances.
18. When reaching a decision on what opening hours to impose on pleasure fairs, local authorities should give due weight to any existing restrictions imposed as conditions to a grant of planning permission under Section 72 of the Town and Country Planning Act 1990 and consider whether they can or need to be deviated from them,

### **Fire Prevention**

19. Under section 75(1)(d) of the Public Health Act 1961, local authorities in Wales may make byelaws for preventing the outbreaks of fire which might endanger structures used in connection with a pleasure fair and for reducing the risk and the spread of fire.
20. However, section 75(1A) of the Public Health Act 1961 provides that no byelaw may be made under section 75 in relation to a pleasure fair, in so far as the byelaw relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005. As such, there are no model byelaws included in relation to fire prevention that are also dealt with by the 2005 Order.

## **Health and Safety (Safety Signs and Signals) Regulations 1996**

21. The provisions of the Health and Safety (Safety Signs and Signals) Regulations (SI 1996 No 341) will apply where there are persons at work as defined by section 52 of the Health and Safety Act 1974. Guidance on the requirements of the Regulations can be found in Safety Signs and Signals - The Health and Safety (Safety Signs and Signals) Regulations 1996, Guidance on Regulations (HSE reference no. L64).

### **Fire safety signs**

22. The British Standard for fire safety signs and graphic symbols is BS 5499. Part 1 of this standard is the specification for fire safety signs and Part 2 the specification for self-luminous fire safety signs. The British Standard for internally illuminated exit signs is BS 2560. British Standards may be obtained from the British Standards Institution, Linford Wood, Milton Keynes MK14 6LE.

## **The Fire Precautions (Workplace) Regulations 1997**

23. The provisions of the Fire Precautions (Workplace) Regulations 1997, as amended, will apply where any part of the pleasure fair is being used as a work place, as defined by those Regulations. Councils may wish to consult the Home Office and HSE Guidance Note, *Fire Safety: An Employer's Guide*

## **Fairgrounds and Amusement Parks: Guidance on safe practice HSG175 and Amusement Parks: Guidance on safe practice HSG175**

24. HSE Inspectors are responsible for enforcing the Health and Safety at Work etc. Act 1974 at fairground sites. Guidance prepared by HSE for the industry includes Fairgrounds and Amusement Parks: Guidance on safe practice HSG175 which describes the measures necessary to safeguard the public and employees in terms of the management of health and safety by different duty holders who may be encountered at any fairground site. The guidance also includes details of the fire spacing of accommodation caravans agreed between the Showmen's Guild of Great Britain and the Home Office; other general fire precautions agreed with the Home Office, and recommendations on the safe use of electricity for public and employees.

### **Sanitary Accommodation**

25. The current relevant British Standard for sanitary accommodation is BS 6465 Part 1.

### **Revocation**

26. The text of this model byelaw, 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.