

Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure [AS INTRODUCED]

A MEASURE of the National Assembly for Wales to make provision in relation to community involvement in decisions by local authorities in Wales whether to dispose of playing fields; and for connected purposes.

This Measure, passed by the National Assembly for Wales on [] and approved by Her Majesty in Council on [], enacts the following provisions:-

1 Restriction on disposal of playing fields by local authorities in Wales

- (1) A local authority in Wales (“the authority”) may not dispose of a playing field or any part of a playing field unless it has first complied with the requirements of sections 3 to 6.
- 10 (2) Subsection (1) does not apply to a disposal if the person to whom the estate or interest is granted by the disposal is –
 - (a) a local authority,
 - (b) a registered charity, or
 - 15 (c) a body or association whose aims include the promotion of sporting or recreational activities.
- (3) If the authority has complied with those requirements in relation to a proposed disposal –
 - (a) it is also to be taken to have complied with those requirements in relation to a modified disposal,
 - 20 (b) it is not to be taken as having complied with those requirements unless the disposal takes place within 12 months of the day on which the notice referred to in section 3(8) is first published.
- (4) If in relation to a proposed disposal a direction is given by the Welsh Ministers under section 7(1) (a stop direction) and that direction is withdrawn under section 7(3) no account is to be taken when calculating the period of 12 months referred to in subsection (3)(b) of any period when that direction was in force.
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2 Principal definitions

In this Measure –

- (a) “dispose” means to grant any estate or interest in land (other than a short tenancy) or to enter into an agreement to do so, and “short tenancy” means –
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- (i) a term not exceeding seven years, or
 - (ii) the assignment of a term which at the date of the assignment has not more than seven years to run;
- (b) "local authority" means –
 - (i) a county or county borough council,
 - (ii) a community council (including a town council), or
 - (iii) a national park authority;
- (c) a "modified disposal" means a disposal which relates to a proposed disposal in respect of which the authority has complied with the requirements of sections 3 to 6 but which has been modified so that its impact on one or more of the matters referred to in section 3(1)(c)(i), (ii) and (iii) is less;
- (d) "playing field" means the whole of a site which encompasses at least one playing pitch; and
- (e) "playing pitch" means a delineated area which, together with any run-off area –
 - (i) is 0.2 hectares or more in area which has been marked for use for athletics or for playing association football, baseball, cricket, hockey, netball, rounders or rugby, or set aside for use for the playing of golf,
 - (ii) is 0.1 hectares or more in area, which has been marked or otherwise set aside for use for playing bowls, or
 - (iii) is 0.06 hectares or more in area, which has been marked for use for playing tennis,if the area in question has been marked or set aside for the playing of the sport in question at any time within the period of five years ending on the date on which the notice referred to in section 3(8) is first published.

3 Impact statement

- (1) The authority must prepare a statement identifying –
 - (a) the nature of the proposed disposal,
 - (b) the level of demand, including any foreseeable future demand, for the use of playing fields in the locality,
 - (c) the impact of the proposed disposal on –
 - (i) the overall provision of playing fields in the locality, including the quality and accessibility of such playing fields,
 - (ii) the health and well-being of residents of the locality generally and of children and young persons in particular, and
 - (iii) the strategy which the authority is required to prepare under section 24(1) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) (health, social care and well-being strategy).

- (2) A statement prepared under subsection (1) is referred to in this Measure as an “impact statement”.
- (3) The references in this section to “the locality” are references to the area or areas from which those likely to make use of the playing field if it continued to be available for use would be drawn and it is irrelevant whether such an area falls within the area of the local authority which is proposing to dispose of the playing field.
- (4) When describing the impacts referred to in subsection (1)(c) the impact statement may take into account any alternative provision of playing fields which the authority proposes to make or to secure at or before the time of the proposed disposal.
- (5) The impact statement must –
- (a) be available for inspection for a continuous period of not less than six weeks during normal office hours at the authority’s principal office and, if reasonably practicable, at one or more places within the locality, and
 - (b) if the authority maintains a web-site, appear on that web-site during the period referred to in paragraph (a).
- (6) The authority must, subject to payment of a reasonable charge, provide a copy of the impact statement to any person from whom the authority receives a request during the period referred to in subsection (5)(a).
- (7) The period referred to in subsection (5)(a) is referred to in this Measure as “the deposit period”.
- (8) Notice –
- (a) identifying the proposed disposal,
 - (b) identifying the deposit period,
 - (c) stating the place or places at which the impact statement may be inspected during the deposit period and the times between which it may be inspected,
 - (d) notifying the public of their entitlement, in accordance with subsection (6), to a copy of the impact statement, and
 - (e) notifying the public of their right, during the consultation period, to make representations to the authority in relation to the proposed disposal and of the means by which they may do so,
- must be published by the authority during at least two consecutive weeks in one or more newspapers circulating in the locality.
- (9) The deposit period may not end less than seven weeks after the day on which the notice referred to in subsection (8) is first published.
- (10) The “consultation period” means the period which begins on the same day as the deposit period and which ends two weeks after the end of the deposit period.

4 Consultation

- (1) The authority must, no later than the day on which the notice referred to in section 3(8) is first published, send a copy of the impact statement to –

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- (a) each of the persons and bodies identified in the Schedule,
 - (b) such other persons or bodies as appear to the authority to represent the interests of persons likely to make use of the playing field, and in particular the interests of children and young persons who do so and of their parents, and
 - (c) the occupiers of every household in respect of which there is, on the date on which the statement is sent, an entry in the register of electors for each local government electoral division which includes any part of the playing field or which has a common boundary with any part of the playing field,
- 10 and notify such persons or bodies in writing of their right, during the consultation period, to make representations to the authority in relation to the proposed disposal and of the means by which they may do so.

(2) The Welsh Ministers may, by order, amend the Schedule from time to time.

5 Consideration of representations

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- (1) The authority must consider any representations in relation to the proposed disposal which it receives during the consultation period.
 - (2) The authority may consider any such representations which it receives after the end of the consultation period.

6 Decision as to whether to proceed with the proposed disposal

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- (1) If, having considered any representations which it is required or empowered to consider under section 5, the authority decides not to proceed with the disposal, it must publish notice of that fact in one or more newspapers circulating in the locality.
 - (2) If, having considered such representations, the authority decides to proceed with the disposal or a modified disposal it must –
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- (a) prepare a decision statement,
 - (b) send a copy of the decision statement to every person or body to whom it was required by section 4(1) to send a copy of the impact statement,
 - (c) publish a notice, during at least two consecutive weeks, in one or more newspapers circulating in the locality, of the place or places at which the decision statement may be inspected and the period during which and the times between which it may be inspected in accordance with paragraph (d),
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- (d) make the decision statement available for inspection for a continuous period of not less than four weeks during normal office hours at the authority's principal office and, if reasonably practicable, at one or more places within that locality, and
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- (e) if the authority maintains a web-site, publish the decision statement on that web-site throughout the period referred to in paragraph (c).
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- (3) A "decision statement" is a statement summarising the representations which the authority has considered under section 5 and setting out its reasons for proceeding with the disposal (or a modified disposal).

- (4) The authority must, subject to payment of a reasonable charge, provide a copy of the decision statement to any person from whom the authority receives a request during the period referred to in subsection (2)(d).
- (5) The period referred to in subsection (2)(d) may not end less than five weeks after the day on which the notice referred to in subsection (2)(c) is first published.
- (6) The authority may not dispose of the playing field until the period referred to in subsection (2)(d) has expired.

7 Directions by the Welsh Ministers

- (1) If the Welsh Ministers receive representations –
 - (a) that an authority is proposing to dispose of a playing field, and
 - (b) that the authority has failed, in any respect, to comply with the requirements of sections 3 to 6 of this Measure in relation to the proposed disposal,the Welsh Ministers may direct the authority not to proceed with the disposal and the authority must comply with that direction.
- (2) A direction given under subsection (1) is referred to in this section as a “stop direction”.
- (3) If, after a stop direction has been given, it appears to the Welsh Ministers, having considered any representations made by the authority in question, that the authority has, in all substantial respects, complied with the requirements of sections 3 to 6 of this Measure in relation to the proposed disposal, the Welsh Ministers must withdraw the stop direction.
- (4) If, after a stop direction has been given, it appears to the Welsh Ministers, having considered such representations, that the authority has failed, in any substantial respect, to comply with the requirements of sections 3 to 6 of this Measure in relation to the proposed disposal, the Welsh Ministers must withdraw the stop direction but must, on doing so, give the authority a remedial direction.
- (5) A “remedial direction” is a direction to the authority to take such steps to ensure substantial compliance by the authority with such requirements of sections 3 to 6 of this Measure as are specified in the direction.
- (6) An authority to which the Welsh Ministers have given a remedial direction may not proceed with a disposal to which that direction relates unless it has complied with that direction.

8 Amendment to the Local Government Act 1972 (c.70)

- (1) Section 123 (Disposal of land by principal councils) of the 1972 Act is amended –
 - (a) by inserting in subsection (1), after “Subject to the following provisions of this section,” –

“and to those of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2008,”

(b) by inserting after subsection (2A) –

“(2AA) Subsection (2A) does not apply to a disposal to which the provisions of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2008 apply.”, and

5 (c) by inserting in subsection (2B), after “by virtue of subsection (2A) above” –

“or in accordance with the provisions of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2008.”.

10 (2) Section 127 (Disposal of land by parishes and communities) of the 1972 Act is amended by inserting in subsection (1), after “Subject to the following provisions of this section,” –

“and to those of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2008, “.

9 Orders and regulations

15 (1) Any power to make orders or regulations conferred by this Measure –

(a) is exercisable by statutory instrument,

(b) includes power –

(i) to make provision generally or in relation to specific cases,

(ii) to make different provision for different cases,

20 (iii) to make such incidental, supplementary, saving or transitional provision as the Welsh Ministers think fit,

(iv) as well as being exercisable in relation to all cases to which it extends may be exercised in relation to all those cases subject to exceptions or in relation to any particular case or class of case.

25 (2) Subject to subsections (3) and (4) any statutory instrument containing an order or regulations made under this Measure is subject to annulment in pursuance of a resolution of the Assembly.

(3) A statutory instrument which contains –

(a) an order under section 4(2), or

30 (b) regulations made by the Welsh Ministers under section 10 which amend or repeal any part of the text of an Act of Parliament or of an Assembly Measure,

may not be made unless a draft of the instrument has been laid before, and approved by, a resolution of the Assembly.

35 (4) Subsection (2) does not apply to a statutory instrument containing an order which only makes provision only under section 12(3).

10 Power to make further supplementary and consequential provision etc.

(1) The Welsh Ministers may at any time by regulations make –

(a) such supplementary, incidental or consequential provision, and

(b) such transitional or saving provision,

as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Measure.

5 (2) Regulations under subsection (1) may, in particular, make provision—

(a) amending or repealing any enactment passed before, or during the same Assembly year as, this Measure, and

(b) amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978 (c.30)) made before the passing of this Measure.

10 **11 Interpretation**

In this Measure—

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972 (c.70);

“consultation period” (“*cyfnod ymgynghori*”) is defined by section 3(10);

“decision statement” (“*datganiad penderfynu*”) is defined by section 6(3);

15 “deposit period” (“*cyfnod adneuo*”) is defined by section 3(7);

“dispose” (“*gwaredu*”) is defined by section 2(a);

“impact statement” (“*datganiad o’r effaith*”) is defined by section 3(2);

“local authority” (“*awdurdod lleol*”) is defined by section 2(b);

“the locality” (“*y gymdogaeth*”) is defined by section 3(3);

20 “modified disposal” (“*gwarediad diwygiedig*”) is defined by section 2(c);

“playing field” (“*cae chwarae*”) is defined by section 2(d);

“playing pitch” (“*maes chwarae*”) is defined by section 2(e);

“remedial direction” (“*cyfarwyddyd adfer*”) is defined by section 7(5); and

“stop direction” (“*cyfarwyddyd stopio*”) is defined by section 7(2);

25 **12 Short title and commencement**

(1) This Measure may be referred to as the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2008.

(2) This section and sections 9, 10 and 11 come into force on the day on which this Measure is approved by Her Majesty in Council.

30 (3) The remaining provisions of this Measure come into force on such day or days as the Welsh Ministers may by order appoint.

SCHEDULE
(Introduced by Section 4)

CONSULTEES

- 1 Fields in Trust Cymru.
- 5 The Open Spaces Society.
Play Wales.
The Sports Council for Wales.
- 2 Any sports club, association or other body who make regular use of the playing field.
- 3 Any local authority (other than the authority proposing to dispose of the playing
10 field) whose area includes any part of the locality.
Any Local Health Board whose area includes any part of the locality.
Any Communities First Partnership whose area of operation includes any part of the
locality.
- 4 The Commissioner for Older People in Wales
- 15 Barnado's.
The British Heart Foundation.
Disability Wales.
Disability Sports Wales.
- 5 The Children's Commissioner for Wales.
- 20 Any Local Youth Forum established in the locality.
Any School Council of a school in the locality.
The Youth Offending Team for every local authority area which includes any part of
the locality.