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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1403 (W. 139)**

**LOCAL GOVERNMENT, WALES**

**The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015**

<i>Made</i>	- - - -	<i>22 June 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>24 June 2015</i>
<i>Coming into force</i>	- -	<i>1 October 2015</i>

The Welsh Ministers, in exercise of the powers conferred upon them by section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010<sup>(1)</sup>, make the following Regulations.

**Title and commencement**

1. The title of these Regulations is the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015, and they come into force on 1 October 2015.

**Interpretation**

2. In these Regulations—

“the 2013 Act” (“*Deddf 2013*”) means the School Standards and Organisation (Wales) Act 2013<sup>(2)</sup>;

“the consultation period” (“*y cyfnod ymgynghori*”) means the period specified by a local authority in accordance with regulation 5(2)(c) and (5);

“decision to dispose” (“*penderfyniad i waredu*”) means where a local authority<sup>(3)</sup> decides to enter into an agreement to dispose, or in the absence of such an agreement, decides to dispose;

“dispose” (“*gwaredu*”) means to grant any estate or interest in land, and “disposal” (“*gwarediad*”) is to be construed accordingly;

“playing field” (“*cae chwarae*”) means the whole of an open space which encompasses at least one playing pitch;

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(1) 2010 nawm 6.

(2) 2013 anaw 1.

(3) “Local authority” has the same meaning as defined in section 1(3) of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010. It means a county or county borough council, a community council (including a town council) and a National Park authority.

“playing pitch” (“*llain chwarae*”) means a delineated area which, together with any run-off area, is of—

- (a) 0.2 hectares or more and which is used for sport including, but not limited to, association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo, cycle polo, athletics or golf;
- (b) 0.1 hectares or more and which is used for playing bowls; or
- (c) 0.04 hectares or more and which is used for playing basketball, netball or tennis; and.

“proposed decision to dispose” (“*penderfyniad arfaethedig i waredu*”) means where a local authority is considering making a decision to enter into an agreement to dispose, or in the absence of such an agreement, is considering making a decision to dispose.

### Application

- 3. A local authority must comply with the requirements contained in regulations 5 to 10—
  - (a) in relation to a proposed decision to dispose of a playing field or any part of a playing field;
  - (b) where the playing field has been used as a sports or recreational facility by the public at any time in the previous 5 years; and
  - (c) where none of the exceptions in regulation 4(1) apply.

### Exceptions

- 4.—(1) The requirements contained in regulations 5 to 10 do not apply where—
  - (a) the proposed decision to dispose relates to the grant of an interest in the playing field, or any part of the playing field, that does not have an adverse impact on the use of the playing field as a sports or recreational facility by the public;
  - (b) the playing field is to be retained as a sports or recreational facility for use by the public, whether or not such use is subject to a payment, and the proposed disposal is to be made to—
    - (i) a local authority; or
    - (ii) a body whose aims or objectives include the promotion of sporting or recreational activities;
  - (c) a county or county borough council has consulted on the proposed decision to dispose of the playing field under section 48(2) of the 2013 Act;
  - (d) the Welsh Ministers have consulted on the proposed decision to dispose of the playing field under section 72(1) of the 2013 Act; or
  - (e) the proposed decision to dispose of a playing field or any part of a playing field is pending.
- (2) For the purposes of paragraph (1)(e), a proposed decision to dispose is pending where—
  - (a) the local authority has published a notice of disposal in accordance with section 123(2A) of the Local Government Act 1972(4) prior to these Regulations coming into force; and
  - (b) the local authority enters into an agreement to dispose, or completes the disposal, of the playing field referred to within that notice within 12 months following the first publication of that notice.

## Notice and consultation arrangements

5.—(1) A local authority must before making a decision to dispose of a playing field, or any part of a playing field, publish a notice (“the notice”) on two consecutive weeks in at least one newspaper circulating in the local authority’s area.

(2) The notice to which paragraph (1) refers must—

- (a) state that the local authority is proposing to dispose of a playing field;
- (b) inform the public of the place or places and times at which details of the proposed disposal may be inspected, and the period for which the details of the proposed disposal will be available for inspection; and
- (c) inform the public of their right to make representations to the local authority in relation to the proposed disposal, the means by which they must do so and the date by which representations must be received by the local authority.

(3) The local authority must make the details of the proposed disposal available for inspection during normal office hours at the local authority’s principal office, if it has one, and, if reasonably practicable, at one or more places in the local authority’s area.

(4) The local authority must specify a period of at least 6 weeks, starting from the date on which the notice is first published, for which the details of the proposed disposal must be available for inspection in accordance with paragraph (2)(b).

(5) The date specified by a local authority by which representations on the proposed disposal must be received by the local authority in accordance with paragraph (2)(c), must be at least 6 weeks after the date on which the notice is first published.

(6) No later than the day on which the notice is first published, the local authority must—

- (a) display a copy of the notice in at least one place on or near the playing field to which the proposed disposal relates, and in any event at each official entrance to the playing field, for at least 6 weeks;
- (b) where the local authority has a website, place a copy of the notice on that website for at least 6 weeks;
- (c) send a copy of the notice to any owner or occupier of land adjoining the playing field;
- (d) send a copy of the notice and details of the proposed disposal to—
  - (i) any local authority whose area includes any part of, or shares a boundary with any part of, the playing field to which the proposed disposal relates;
  - (ii) the Sports Council for Wales<sup>(5)</sup>;
  - (iii) the National Playing Fields Association<sup>(6)</sup>;
  - (iv) those persons as appear to the local authority to represent the interests of persons in the local authority’s area, or in the area of a local authority that shares a boundary with any part of the playing field, who make use of the playing field;
  - (v) any body whose main aims include preserving—
    - (aa) open spaces throughout Wales; or
    - (bb) play opportunities for children throughout Wales;
  - (vi) such other persons as the local authority considers appropriate.

(7) The local authority must provide (on payment if required by a local authority of a reasonable charge) a copy of the details of the proposed disposal to any person from whom the local authority receives a request during the consultation period.

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<sup>(5)</sup> Established by Royal Charter dated 4 February 1972, operating under the name “*Sports Wales*”.

<sup>(6)</sup> Founded in 1925 and incorporated by Royal Charter in 1933, operating under the name “*Fields in Trust*”.

## Impact assessment

6.—(1) Details of the proposed disposal, prepared by a local authority for the purposes of regulation 5(2)(b), (3), (4), (6)(d) and (7), must include information about the effect a local authority considers the proposed disposal of a playing field, or any part of a playing field, would have on any relevant strategies, plans or assessments.

- (2) The relevant strategies, plans or assessments for the purposes of paragraph (1) are—
- (a) the plan prepared for the area under section 62 of the Planning and Compulsory Purchase Act 2004<sup>(7)</sup>;
  - (b) the assessment prepared for the area under section 11 of the Children and Families (Wales) Measure 2010<sup>(8)</sup>;
  - (c) the strategy prepared for the area under section 39 of the Local Government (Wales) Measure 2009<sup>(9)</sup>;
  - (d) the strategy prepared for the area under section 40 of the National Health Service (Wales) Act 2006<sup>(10)</sup>; and
  - (e) such other strategies, plans or assessments as the local authority considers appropriate.

## Consideration of representations

7.—(1) The local authority must consider all representations received in relation to the proposed decision to dispose during the consultation period.

(2) The local authority may consider any representations received in relation to the proposed decision to dispose after the end of the consultation period.

## Decision

8.—(1) If, having considered any representations which the local authority is required or empowered to consider under regulation 7, the local authority decides to proceed with the decision to dispose, the local authority must prepare a report of that decision (“the decision report”).

- (2) The decision report must include—
- (a) a summary of the representations received and considered by the local authority; and
  - (b) the reasons for the local authority’s decision.

(3) As soon as reasonably practicable after the local authority has made a decision to dispose of a playing field or any part of a playing field, the local authority must publish, on two consecutive weeks in at least one newspaper circulating in the local authority’s area, a notice of the local authority’s decision (“the decision notice”)—

- (a) informing the public of the local authority’s decision to dispose of the playing field or part of a playing field; and
- (b) informing the public of the place or places and times at which the decision report may be inspected, and the period for which the decision report will be available for inspection.

(4) The local authority must make the decision report available for inspection during normal office hours at the local authority’s principal office, if it has one, and, if reasonably practicable, at one or more places in the local authority’s area.

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(7) 2004 c. 5. Section 62 was amended by section 51(2) of and paragraphs 4, 5 and 6 of Schedule 2 to the Local Government (Wales) Measure 2009 (nawm 2).

(8) 2010 nawm 1.

(9) 2009 nawm 2.

(10) 2006 c. 42.

(5) The local authority must specify a period of at least 6 weeks, starting from the date on which the decision notice is first published, for which the decision report must be available for inspection in accordance with paragraph (3)(b).

(6) No later than the day on which the decision notice is first published, the local authority must—

- (a) display a copy of the decision notice in at least one place on or near the playing field to which the proposed disposal relates, and in any event at each official entrance to the playing field, for at least 6 weeks;
- (b) where a local authority has a website, place a copy of the decision notice and the decision report on that website for at least 6 weeks;
- (c) send a copy of the decision notice and the decision report to any person from whom the local authority received a substantive representation which the local authority considered in accordance with regulation 7.

(7) The local authority must provide (on payment if required by a local authority of a reasonable charge) a copy of the decision report to any person that requests a copy of the decision report.

(8) The local authority may not proceed with the proposed disposal, or agreement to dispose, until a period of 12 weeks has elapsed from the day on which the decision notice is first published.

(9) If the local authority decides not to proceed with the decision to dispose, the local authority must—

- (a) prepare a report of that decision which complies with the requirements in paragraph (2);
- (b) send a copy of the report to any person from whom the local authority received a substantive representation which the local authority considered in accordance with regulation 7 as soon as reasonably practicable after the local authority has made the decision.

### **Electronic communications**

9.—(1) Where, in accordance with these Regulations—

- (a) a local authority is required to—
  - (i) send a document, copy of a document or any notice to another local authority or person; or
  - (ii) notify another local authority or person of any matter; and
- (b) that other local authority or person has an address for the purposes of electronic communications,

the document, copy, notice or notification may be sent or made by way of electronic communications.

(2) Where, within these Regulations, another local authority or person may make representations to the local authority on any matter or documents, those representations may be made by way of electronic communications to the address provided by the local authority for that purpose.

(3) Any electronic communication received in accordance with these Regulations by the recipient outside the recipient's normal office hours will be taken to have been received on the next working day.

(4) In this regulation—

“electronic communication” (“*cyfathrebiad electronig*”) has the same meaning as in section 15(1) of the Electronic Communications Act 2000<sup>(11)</sup>; and

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(11) 2000 c. 7. In section 15(1) of the Electronic Communications Act 2000, “electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) – (a) by means of an electronic communications network; or (b) by other means but while in an electronic form. The definition was amended by section 406 of, and paragraph 158 of Schedule 17 to, the Electronic Communications Act 2003 (c. 21).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning (and “bank holiday” (“*gŵyl banc*”) means a day to be observed as such under the Banking and Financial Dealings Act 1971(12)).

### **Guidance**

**10.** In exercising its functions under these Regulations, a local authority must have regard to any guidance given by the Welsh Ministers.

22 June 2015

*Leighton Andrews*  
Minister for Public Services, one of the Welsh  
Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010 enables the Welsh Ministers, by regulations, to make provision for the involvement of communities in the disposal of land consisting, or forming part of, a playing field by a local authority.

These Regulations apply to the decision by a local authority to dispose of playing fields that meet the definition set out in regulation 2, fall within regulation 3 and do not fall within any of the exceptions in regulation 4.

Regulation 3 provides that the requirements in regulations 5 to 10 apply where a local authority is considering making a decision to dispose, or to make a decision to enter into an agreement to dispose, of a playing field or any part of a playing field. The requirements would only apply where the playing field in question has been used as a sports or recreational facility by the public at any time in the 5 years before disposal. However, regulation 3(c) provides that the requirements in regulations 5 to 10 do not apply where any of the exceptions in regulation 4(1) apply.

If the disposal in question is a grant of an interest in the playing field which does not have an adverse impact on the use of the playing field, the requirements for consultation, notification and decision making provided for in the Regulations at regulations 5 to 10 do not apply. Similarly, these requirements do not apply where the playing field is disposed to another local authority or sporting or recreational body and the playing field will be retained for sporting or recreational use.

The requirements at regulations 5 to 10 of the Regulations do not apply where consultation has been undertaken in respect of particular proposals relating to school organisation under Part 3 of the School Standards and Organisation (Wales) Act 2013.

Similarly, they do not apply to any disposals which are pending at the time that these Regulations come into force.

The requirements in regulation 5 relate to the notice and consultation arrangements which must be followed prior to any decision to dispose, or enter into an agreement to dispose, of a playing field or any part of a playing field.

Regulation 5 includes a duty on local authorities to send details of the proposed disposal to specified bodies. These bodies include:

- the National Playing Fields Association (currently known as Fields in Trust Cymru);
- bodies who have an interest in the preservation of open spaces across Wales (such as the Open Spaces Society); and
- bodies who have an interest in the preservation of children's play opportunities across Wales (such as Play Wales).

Regulation 6 requires a local authority to ensure that these details include information about the effect that the local authority considers the disposal would have on a number of strategies, plans and assessments. This may include information regarding the effect the disposal would have on the successful implementation or delivery of any relevant strategy, plan or assessment.

Regulation 7 requires a local authority to have regard to all representations received during the consultation period, and also enables the local authority to have regard to any representations received after the end of the consultation period.

Regulation 8 applies where a local authority has decided to proceed with a decision to dispose of a playing field or any part of a playing field. The requirements in regulation 8 must be complied with before a local authority disposes, or enters into an agreement to dispose, of playing fields or any part of a playing field. Regulation 8(9) imposes requirements on a local authority where it has decided not to proceed with a disposal.

Regulation 9 provides that communications under these Regulations may take an electronic form. Any such electronic communication that is received outside a recipient's normal office hours will be taken to have been received on the next working day. A working day is defined in regulation 9(4) and would include a bank holiday which is further defined as a day to be observed as such under the Banking and Financial Dealings Act 1971. This would include all bank holidays specified in Schedule 1 to that Act and any day appointed as a bank holiday by royal proclamation under section 1(3) of that Act.

Regulation 10 requires local authorities to have regard to any guidance given by the Welsh Ministers when exercising their functions under these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Democracy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.