



# Mobile Homes (Wales) Act 2013

2013 anaw 6

An Act of the National Assembly for Wales to reform and restate the law relating to mobile home sites in Wales. [4 November 2013]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:-**

VALID FROM 01/10/2014

## PART 1

### INTRODUCTION

#### **1 Overview of Act**

- (1) This Act makes provision about mobile home sites in Wales.
- (2) In this Act—
  - (a) Part 2 makes provision for and in connection with the licensing of regulated sites etc.,
  - (b) Part 3 makes provision for protection from eviction from protected sites,
  - (c) Part 4 makes provision about the terms of agreements for stationing mobile homes on protected sites,
  - (d) Part 5 makes provision under which local authorities may provide sites for mobile homes and may prohibit the stationing of mobile homes on commons, and
  - (e) Part 6 makes supplementary and general provision.

*Status: Point in time view as at 06/01/2014. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013. (See end of Document for details)*

## **2 Mobile home sites subject to Act**

- (1) In this Act “regulated site” means any land in Wales on which a mobile home is stationed for the purposes of human habitation (including any land in Wales used in conjunction with that land), other than—
  - (a) a site which Schedule 1 provides is not to be a regulated site, or
  - (b) a holiday site.
- (2) In this Act “protected site” means land which is—
  - (a) a regulated site, or
  - (b) a site that would be a regulated site but for paragraph 11 of Schedule 1.
- (3) In subsection (1) “holiday site” means a site in respect of which the relevant planning permission or the site licence for the site under the Caravan Sites and Control of Development Act 1960—
  - (a) is expressed to be granted for holiday use only, or
  - (b) requires that there are times of the year when no mobile home may be stationed on the site for human habitation.
- (4) For the purpose of determining whether or not a site is a holiday site, any provision of the relevant planning permission or of the site licence which permits the stationing of a mobile home on the land for human habitation all year round is to be ignored if the mobile home is authorised to be occupied by—
  - (a) the person who is the owner of the site, or
  - (b) a person employed by that person but who does not occupy the mobile home under an agreement to which Part 4 applies.
- (5) In this Act “local authority Gypsy and Traveller site” means land owned by a local authority for the stationing of mobile homes providing accommodation for Gypsies and Travellers.

## **3 Owners of sites**

In this Act “owner”, in relation to any land, means the person who, by virtue of an estate or interest in the land—

- (a) is entitled to possession of the land, or
  - (b) would be entitled to possession of the land but for the rights of any other person under any licence or contract granted in respect of the land (including a licence or contract to station or occupy a mobile home there),
- but see also sections 39(2), 42(7) and 55(2)(a).

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## PART 2

### LICENSING OF MOBILE HOME SITES ETC.

#### *Introduction*

#### **4 Overview of Part**

- (1) This Part makes provision about the licensing of regulated sites and related matters.
- (2) In this Part—
  - (a) sections 5 to 8 make provision for site licences,
  - (b) sections 9 to 25 make provision about conditions of site licences,
  - (c) sections 26 and 27 make provision about revocation and surrender of site licences,
  - (d) sections 28 and 29 require site managers to be fit and proper persons,
  - (e) sections 30 and 31 make provision for the appointment of interim managers,
  - (f) sections 32 and 33 contain other enforcement provisions, and
  - (g) sections 34 to 39 contain miscellaneous and supplementary provisions.

#### *Site licences*

#### **5 Prohibition on use of land as regulated site without site licence**

- (1) The owner of a regulated site must not cause or permit the site to be used as a regulated site unless the owner holds a licence under this Part in relation to the land (a “site licence”).
- (2) A person who contravenes subsection (1) commits an offence.
- (3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine.

#### **6 Application for site licence**

- (1) An application for the issue of a site licence in respect of any land is to be made by the owner of the land to the local authority in whose area the land is situated.
- (2) An application under this section—
  - (a) must specify the land in respect of which the application is made,
  - (b) must identify the applicant,
  - (c) if the applicant is not to be the manager of the site, must identify the person who is to be the manager of the site, and
  - (d) must comply with such other requirements as the local authority may specify.

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- (3) An applicant must, either at the time of making the application or subsequently, give to the local authority such other information as the local authority may reasonably require.
- (4) The application must be accompanied by a declaration by the applicant that—
  - (a) in a case in which the applicant is not to be the manager of the site, the person identified in accordance with subsection (2)(c), or
  - (b) in any other case, the applicant,
 is a fit and proper person to manage the site.
- (5) A local authority may require an application for a site licence to be accompanied by a fee fixed by the local authority (on which see section 36).

## **7 Issue of site licence**

- (1) A local authority may issue a site licence in respect of land if the applicant is, when the site licence is issued, entitled to the benefit of planning permission for the use of the land as a mobile home site otherwise than by a development order.
- (2) If, on the date when the applicant gives the information required by virtue of section 6, the applicant is entitled to the benefit of such planning permission, the local authority may issue a site licence in respect of the land within 2 months of that date or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to grant a site licence, within the period agreed.
- (3) If the applicant becomes entitled to the benefit of planning permission at some time after giving the information required by virtue of section 6, the local authority may issue a site licence in respect of the land within 6 weeks of the date on which the applicant becomes entitled to the benefit of planning permission or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to grant a site licence, within the period agreed.
- (4) Where a local authority decides not to issue a site licence under subsection (2) or (3)—
  - (a) the local authority must notify the applicant of the reasons for the decision and of the applicant's right of appeal under paragraph (b),
  - (b) the applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision, and
  - (c) no compensation may be claimed for loss suffered in consequence of the decision pending the outcome of the appeal.
- (5) A local authority must not at any time issue a site licence to a person whom the local authority knows has held a site licence which has been revoked under section 18 or 28 less than 3 years before that time.
- (6) Where a local authority fails to determine an application for a site licence within the period within which it is required to do so, no offence under section 5 is committed in respect of the land by the person by whom the application for the site licence was made at any time after the end of that period until the application is determined.

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## **8 Duration of site licence**

- (1) A site licence comes into operation at the time specified in or determined under the licence and, unless terminated by its revocation, continues in force for the period specified in or determined under the site licence.
- (2) That period must end not later than 5 years after the day on which the site licence comes into operation.

### *Conditions of site licences*

## **9 Power to attach conditions to site licence**

- (1) A site licence issued by a local authority in respect of any land may be issued subject to such conditions as the local authority may consider it necessary or desirable to impose on the owner of the land in the interests of—
  - (a) persons dwelling on the land in mobile homes,
  - (b) any other class of persons, or
  - (c) the public at large.
- (2) The conditions subject to which a site licence may be issued include (but are not limited to) conditions—
  - (a) for restricting the occasions on which mobile homes are stationed on the land for the purposes of human habitation, or the total number of mobile homes which are stationed on the land for those purposes at any one time,
  - (b) for controlling (whether by reference to their size, the state of their repair or, subject to subsection (3), any other feature) the types of mobile home which are stationed on the land,
  - (c) for regulating the positions in which mobile homes are stationed on the land for the purposes of human habitation (in particular in order to minimise risk from flooding and coastal erosion) and for prohibiting, restricting or otherwise regulating the placing or erection on the land, at any time when mobile homes are stationed on the land for those purposes, of structures and vehicles of any description and of tents,
  - (d) for securing the taking of any steps for preserving or enhancing the amenity of the land, including the planting and replanting of the land with trees and bushes,
  - (e) for securing that, at all times when mobile homes are stationed on the land, appropriate measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained,
  - (f) for securing that, at all times when mobile homes are stationed on the land, appropriate measures are taken for guarding against risk from flooding and coastal erosion and for communicating any known risk from flooding or coastal erosion to persons dwelling on the land in mobile homes,
  - (g) for securing that adequate sanitary facilities, and such other facilities, services or equipment as may be specified, are provided for the use of persons dwelling on the land in mobile homes and that, at all times when mobile homes are stationed on the land for the purposes of human habitation, any facilities and equipment provided for their use are properly maintained, and

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- (h) for requiring that where there is a change in the person by whom the site is managed, a declaration is made by the holder of the site licence to the local authority that the new manager is a fit and proper person to manage the site.
- (3) No condition may be imposed controlling the types of mobile homes which are stationed on the land by reference to the materials used in their construction.
- (4) Where the Regulatory Reform (Fire Safety) Order 2005 applies to land, no condition may be imposed in a site licence relating to the land in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.
- (5) A site licence issued in respect of any land must, unless it is issued subject to a condition restricting to 3 or fewer the total number of mobile homes which may be stationed on the land at any one time, contain a condition that, at all times when mobile homes are stationed on the land for the purposes of human habitation, a copy of the site licence as for the time being in force, together with copies of the most recent utility bills relating to the site and of any current certificate of public liability insurance relating to the site, must be displayed on the land in a prominent place.
- (6) In subsection (5) “utility bills” means bills for the provision of gas, electricity, water, sewerage or other similar services.
- (7) A condition of a site licence may, if it requires the carrying out of any works on the land in respect of which the site licence is issued, prohibit or restrict the bringing of mobile homes on to the land for the purposes of human habitation until such time as the local authority has certified in writing that the works have been completed to its satisfaction.
- (8) Where the land to which the site licence relates is at the time in use as a mobile home site, a condition requiring the carrying out of any works on the land may, whether or not it contains any prohibition or restriction mentioned in subsection (7), require the works to be completed to the satisfaction of the local authority within a stated period.
- (9) A condition of a site licence is valid even if it can be complied with only by the carrying out of works which the holder of the site licence is not entitled to carry out as of right.

## **10 Model standards**

- (1) The Welsh Ministers may specify for the purposes of section 9 model standards with respect to the layout of, and the provision of facilities, services and equipment for, regulated sites or particular types of regulated sites.
- (2) In deciding what (if any) conditions to impose in a site licence, a local authority must have regard to any model standards which have been specified.
- (3) No model standards may be specified in relation to land to which the Regulatory Reform (Fire Safety) Order 2005 applies in so far as the standards relate to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.
- (4) The duty of a local authority to have regard to standards specified under this section is to be construed, as regards standards relating to fire precautions, as a duty to have regard to them subject to any advice given by the fire and rescue authority under section 11.

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- (5) In this section and section 11 “fire precautions” means precautions to be taken for any of the purposes specified in section 9(2)(e).

## **11 Fire precautions**

- (1) The local authority must, in considering what conditions to impose in a site licence relating to any land, consult the fire and rescue authority as to the extent to which any model standards relating to fire precautions which have been specified under section 10 are appropriate to the land.
- (2) If—
- (a) no such standards have been specified, or
  - (b) any standard that has been specified appears to the fire and rescue authority to be inappropriate to the land,
- the local authority must consult the fire and rescue authority as to what conditions relating to fire precautions ought to be imposed instead.
- (3) This section does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

## **12 Appeal against conditions of site licence**

- (1) Where a local authority decides to issue a site licence subject to conditions (other than the condition required by section 9(5)), the local authority must notify the applicant of the reasons for doing so and of the applicant's right of appeal under subsection (2).
- (2) The applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.
- (3) The tribunal may vary or cancel the condition if satisfied (having regard, among other things, to any standards which may have been specified by the Welsh Ministers under section 10) that the condition is unduly burdensome.
- (4) In a case where a residential property tribunal varies or cancels a condition under subsection (3), it may also attach a new condition to the site licence.
- (5) In so far as the effect of a condition subject to which a site licence is issued in respect of any land is to require the carrying out on the land of any works, the condition does not have effect—
- (a) during the period within which the person to whom the site licence is issued is entitled to appeal against the condition, or
  - (b) while an appeal against the condition is pending.

## **13 Power of local authority to vary conditions of site licence**

- (1) The conditions of a site licence may be varied at any time (whether by the variation or cancellation of existing conditions, by the addition of new conditions, or by a combination of any such methods) by the local authority if—
- (a) the holder of the site licence makes an application to the local authority for it to do so, or
  - (b) the local authority discovers new information or considers that there has been a change of circumstances.

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- (2) Before varying the conditions of a site licence under subsection (1)(b), the local authority must give to the holder of the site licence an opportunity to make representations.
- (3) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the land to which the site licence relates, no new condition may be added to a site licence under subsection (1) in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.
- (4) A local authority may require an application for a variation of the conditions of the site licence to be accompanied by a fee fixed by the local authority (on which see section 36).
- (5) The variation by a local authority of the conditions of site licence is not to have effect until written notification of it has been received by the holder of the site licence.
- (6) In exercising the powers conferred by subsection (1), a local authority must have regard (among other things) to any standards which may have been specified by the Welsh Ministers under section 10.
- (7) The local authority must consult the fire and rescue authority before exercising the powers conferred by subsection (1) in relation to a condition of a site licence imposed for the purposes set out in section 9(2)(e).
- (8) Subsection (7) does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

#### **14 Appeal against variation of conditions of site licence**

- (1) Where the holder of a site licence is aggrieved by any variation of the conditions of the site licence under section 13(1)(b) or by the refusal of the local authority of an application for the variation of those conditions, the holder may, within the period of 28 days beginning with the day following that on which notification of the alteration or refusal is received by the holder, appeal to a residential property tribunal.
- (2) The tribunal, may, if it allows the appeal, give to the local authority such directions as may be necessary to give effect to the tribunal's decision.
- (3) In so far as a variation of a site licence imposes a requirement on the holder of the site licence to carry out on the land to which the site licence relates any works which the holder of the site licence would not otherwise be required to carry out, the variation is not to have effect during the period within which the holder is entitled to appeal against the variation or while an appeal against the variation is pending.
- (4) In exercising the powers conferred by subsection (2) a residential property tribunal must have regard amongst other things to any standards which may have been specified by the Welsh Ministers under section 10.



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### *Breach of condition*

#### **15 Breach of condition**

- (1) If it appears to a local authority which has issued a site licence that the owner of the land is failing or has failed to comply with a condition of the site licence, the local authority may give the owner—
  - (a) a fixed penalty notice, or
  - (b) a compliance notice.
- (2) The Welsh Ministers may issue guidance to local authorities as to the considerations they should take into account in deciding whether to deal with a failure to comply with a condition of a site licence by giving a fixed penalty notice or a compliance notice.
- (3) A local authority must have regard to any such guidance in making such a decision.
- (4) Where a fixed penalty notice is given to a person in respect of a failure but payment of the amount specified in it is not made in accordance with the notice, the local authority may withdraw the fixed penalty notice and give the person a compliance notice in respect of the failure.

#### **16 Fixed penalty notice**

- (1) A fixed penalty notice is a notice which—
  - (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to pay a specified amount to the local authority at an address specified in the notice, and
  - (c) specifies the period within which the specified amount must be paid.
- (2) The amount specified in a fixed penalty notice given at any time must not exceed the amount specified at that time as level 1 on the standard scale for summary offences.
- (3) Without prejudice to payment by any other method, payment of an amount specified in a fixed penalty notice may be made by pre-paying and posting a letter containing the amount (in cash or otherwise) to the local authority at the address specified in the notice; and in that case payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

#### **17 Compliance notices**

- (1) A compliance notice is a notice which—
  - (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to take such steps as the local authority considers appropriate and as are specified in the notice in order to ensure that the condition is complied with,
  - (c) specifies the period within which those steps must be taken, and
  - (d) explains the right of appeal conferred by subsection (2).
- (2) An owner of land who has been served with a compliance notice may appeal to a residential property tribunal against that notice (see section 23).
- (3) A local authority may—

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- (a) revoke a compliance notice, or
  - (b) vary a compliance notice by extending the period specified in the notice under subsection (1)(c).
- (4) The power to revoke or vary a compliance notice is exercisable by the local authority—
- (a) on an application made by the owner of land on whom the notice was served, or
  - (b) on the local authority's own initiative.
- (5) Where a local authority revokes or varies a compliance notice, it must notify the owner of the land to which the notice relates of the decision as soon as is reasonably practicable.
- (6) Where a compliance notice is revoked, the revocation comes into force at the time when it is made.
- (7) Where a compliance notice is varied—
- (a) if the notice has not become operative when the variation is made, the variation comes into force at such time (if any) as the notice becomes operative in accordance with section 24, and
  - (b) if the notice has become operative when the variation is made, the variation comes into force at the time when it is made.

## **18 Compliance notice: offence and multiple convictions**

- (1) An owner of land who has been served with a compliance notice which has become operative commits an offence if the owner fails to take the steps specified in the notice under section 17(1)(b) within the period specified in the notice under section 17(1)(c).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (3) In proceedings against an owner of land for an offence under subsection (1), it is a defence that the owner had a reasonable excuse for failing to take the steps referred to in subsection (1) within the period referred to in that subsection.
- (4) Subsection (5) applies where—
- (a) an owner of land is convicted of an offence under subsection (1), and
  - (b) the owner has been convicted on two or more previous occasions of an offence under subsection (1) in relation to the site licence to which the conviction mentioned in paragraph (a) relates.
- (5) On an application by the local authority which served the compliance notice, the court before which the owner of the land was convicted may make an order revoking the site licence on the date specified in the order.
- (6) An order under subsection (5) must not specify a date which is before the end of the period within which notice of appeal (whether by case stated or otherwise) may be given against the conviction mentioned in subsection (4)(a).
- (7) Where an appeal against the conviction mentioned in subsection (4)(a) is made by the owner of the land before the date specified in an order under subsection (5), the order does not take effect until—

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- (a) the appeal is finally determined, or
- (b) the appeal is withdrawn.

(8) On an application by the owner of the land or by the local authority who issued the site licence, the court which made the order under subsection (5) may make an order specifying a date on which the revocation of the site licence takes effect which is later than the date specified in the order under subsection (5).

(9) But the court must not make an order under subsection (8) unless it is satisfied that adequate notice of the application has been given to the owner (if the applicant is the local authority) or to the local authority (if the applicant is the owner).

## **19 Compliance notice: power to demand expenses**

(1) When serving a compliance notice on an owner of land, a local authority may impose a charge on the owner as a means of recovering expenses incurred by the local authority—

- (a) in deciding whether to serve the notice, and
- (b) in preparing and serving the notice or a demand under subsection (3).

(2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).

(3) The power under subsection (1) is exercisable by serving the compliance notice together with a demand which sets out—

- (a) the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
- (b) a detailed breakdown of the relevant expenses, and
- (c) where the local authority propose to charge interest under section 25, the rate at which the relevant expenses carry interest.

(4) Where a tribunal allows an appeal under section 17 against the compliance notice with which a demand was served, the tribunal may make such order as it considers appropriate—

- (a) confirming, reducing or quashing any charge under this section made in respect of the notice, and
- (b) varying the demand as appropriate in consequence.

## **20 Power to take action following conviction of owner**

(1) Where an owner of land is convicted of an offence under section 18(1), the local authority which issued the compliance notice may—

- (a) take any steps required by the compliance notice to be taken by the owner but which have not been taken, and
- (b) take such further action as the authority considers appropriate for ensuring that the condition specified in the compliance notice is complied with.

(2) Where a local authority proposes to take action under subsection (1), it must serve on the owner of the land a notice which—

- (a) identifies the land and the compliance notice to which it relates,
- (b) states that the local authority intends to enter the land,
- (c) describes the action the local authority intends to take on the land,

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- (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) sets out the dates and times on which it is intended that the action will be taken (including when the local authority intends to start taking the action and when it expects the action to be completed).
- (3) The notice must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (4) In a case where the local authority authorises a person other than an officer of the local authority to take the action on its behalf, the reference in section 32(1) to an authorised officer of the local authority includes that person.
- (5) The requirement in section 32(2) to give 24 hours' notice of the intended entry, in its application to a case within this section, applies only in relation to the day on which the local authority intends to start taking the action on the land.

## **21 Power to take emergency action**

- (1) A local authority which has issued a site licence may take action in relation to any of the land comprising the site if it appears to the local authority that—
- (a) the owner of the land is failing or has failed to comply with a condition of the site licence, and
  - (b) as a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.
- (2) The action a local authority may take under this section (referred to in this section as “emergency action”) is such action as appears to the local authority to be necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b).
- (3) Where a local authority proposes to take emergency action, the local authority must serve on the owner of the land a notice which—
- (a) identifies the land to which it relates,
  - (b) states that the local authority intends to enter the land,
  - (c) describes the emergency action the local authority intends to take on the land,
  - (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) specifies the powers under this section and section 32 as the powers under which the local authority intends to enter the land.
- (4) A notice under subsection (3) may state that, if entry to the land were to be refused, the local authority would propose to apply for a warrant under section 32(3).
- (5) A notice under subsection (3) must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (6) In a case where the local authority authorises a person other than an officer of the local authority to take the emergency action on its behalf, the reference in section 32(1) to an authorised officer of the local authority includes that person.

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- (7) Section 32, in its application to a case within this section, has effect as if—
- (a) the words “at all reasonable hours” in subsection (1), and
  - (b) subsection (2),
- were omitted.
- (8) Within the period of 7 days beginning with the date when the local authority starts taking the emergency action, the local authority must serve on the owner of the land a notice which—
- (a) describes the imminent risk of serious harm to the health or safety of persons who are or may be on the land,
  - (b) describes the emergency action which has been, and any emergency action which is to be, taken by the local authority on the land,
  - (c) sets out when the local authority started taking the emergency action and when the local authority expects it to be completed,
  - (d) if the person whom the local authority has authorised to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) explains the right of appeal conferred by subsection (9).
- (9) The owner of land in respect of which a local authority has taken or is taking emergency action may appeal to a residential property tribunal against the taking of the action by the local authority (see section 23).
- (10) An appeal may be brought—
- (a) on the grounds that that there was no imminent risk of serious harm as mentioned in subsection (1)(b) (or, where the action is still being taken, that there is no such risk), or
  - (b) on the grounds that the action the authority has taken was not necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b) (or, where the action is still being taken, that it is not necessary to remove the risk).
- (11) The ways in which a notice under this section may be served include by fixing it in a prominent place at or near the main entrance to the land.

## **22 Action under section 20 or 21: power to demand expenses**

- (1) Where a local authority takes action under section 20 or emergency action under section 21, the local authority may impose a charge on the owner of the land as a means of recovering expenses incurred by the local authority—
- (a) in deciding whether to take the action,
  - (b) in preparing and serving any notice under section 20 or 21 or a demand under subsection (6), and
  - (c) taking the action.
- (2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).
- (3) In the case of emergency action under section 21, no charge may be imposed under subsection (1) until such time (if any) as is determined in accordance with subsection (4).

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- (4) For the purposes of subsection (3), the time when a charge in respect of emergency action may be imposed is—
- (a) if no appeal against the local authority's decision to take the emergency action is brought under section 21(9) within the appeal period under section 23, the end of that period, and
  - (b) if such an appeal is brought and a decision on the appeal confirms the local authority's decision—
    - (i) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, the end of that period, and
    - (ii) where an appeal to the Upper Tribunal is brought, when a decision is given on the appeal confirming the local authority's decision.
- (5) For the purposes of subsection (4)—
- (a) the withdrawal of an appeal against a decision by the local authority has the same effect as a decision on the appeal confirming the local authority's decision, and
  - (b) references to a decision on the appeal confirming the local authority's decision are to a decision which confirms that decision with or without variation.
- (6) The power under subsection (1) is exercisable by serving on the owner of the land a demand for the expenses which—
- (a) sets out the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
  - (b) sets out a detailed breakdown of the relevant expenses,
  - (c) where the local authority proposes to charge interest under section 25, sets out the rate at which the relevant expenses carry interest, and
  - (d) explains the right of appeal conferred by subsection (7).
- (7) The owner of land who is served with a demand under this section may appeal to a residential property tribunal against the demand (see section 23).
- (8) A demand under this section must be served—
- (a) in the case of action under section 20, before the end of the period of 2 months beginning with the date on which the action is completed, and
  - (b) in the case of emergency action under section 21—
    - (i) before the end of the period of 2 months beginning with the earliest date (if any) on which a charge may be imposed in accordance with subsection (4), or
    - (ii) if the action has not been completed by the end of that period, before the end of the period of 2 months beginning with the date on which the action is completed.

### **23 Appeals under section 17, 21 or 22**

- (1) An appeal under section 17, 21 or 22 must be made before the end of the period of 21 days beginning with the day on which the relevant document was served (referred to in this section and section 24 as “the appeal period”).
- (2) In subsection (1) “relevant document” means—

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- (a) in the case of an appeal under section 17, the compliance notice,
  - (b) in the case of an appeal under section 21, the notice under subsection (8) of that section, and
  - (c) in the case of an appeal under section 22, the demand under that section.
- (3) A residential property tribunal may allow an appeal under section 17, 21 or 22 to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).
- (4) An appeal under section 17, 21 or 22—
- (a) is to be by way of a rehearing, but
  - (b) may be determined having regard to matters of which the local authority which made the decision was unaware.
- (5) The tribunal may by order—
- (a) on an appeal under section 17, confirm, vary or quash the compliance notice,
  - (b) on an appeal under section 21, confirm, vary or reverse the decision of the local authority, or
  - (c) on an appeal under section 22, confirm, vary or quash the demand.

#### **24 When compliance notice or expenses demand becomes operative**

- (1) The time when a compliance notice under section 17 or a demand under section 19 or 22 becomes operative (if at all) is to be determined in accordance with this section.
- (2) Where no appeal under section 17 is brought within the appeal period against the compliance notice, the notice and any demand under section 19 which was served with it become operative at the end of that period.
- (3) Where no appeal under section 22 is brought within the appeal period, the demand under that section becomes operative at the end of that period.
- (4) Where an appeal under section 17 is brought, and a decision on the appeal confirms the compliance notice, the notice and any demand under section 19 which was served with it become operative—
- (a) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, at the end of that period, or
  - (b) where an appeal to the Upper Tribunal is brought and a decision on the appeal is given which confirms the notice, at the time of the decision.
- (5) Where an appeal under section 22 is brought, and a decision on the appeal confirms the demand under that section, the demand becomes operative—
- (a) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, at the end of that period, or
  - (b) where an appeal to the Upper Tribunal is brought and a decision on the appeal is given which confirms the demand, at the time of the decision.
- (6) For the purposes of subsections (4) and (5)—
- (a) the withdrawal of an appeal against a notice or demand has the same effect as a decision confirming the notice or demand, and

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- (b) references to a decision which confirms the notice or demand are to a decision which confirms the notice or demand with or without variation.

## **25 Recovery of expenses demanded under section 19 or 22**

- (1) As from the time when a demand under section 19 or 22 becomes operative, the relevant expenses set out in the demand carry interest at such rate as the local authority may fix until recovery of all sums due under the demand; and the expenses and any interest are recoverable by it as a debt.
- (2) As from that time, the expenses and any interest are, until recovery, a charge on the land to which the compliance notice or emergency action in question relates.
- (3) The charge takes effect at that time as a legal charge which is a local land charge.
- (4) For the purpose of enforcing the charge the local authority has the same powers and remedies under the Law of Property Act 1925 and otherwise as if it was a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (5) The power of appointing a receiver is exercisable at any time after the end of the period of 1 month beginning with the date on which the charge takes effect.
- (6) In this section “relevant expenses”—
  - (a) in the case of a demand under section 19, has the meaning given by subsection (3) of that section, and
  - (b) in the case of a demand under section 22, has the meaning given by subsection (6) of that section.

### *Revocation and surrender of site licences*

## **26 Revocation on death, change of ownership or cessation of use**

- (1) When the holder of a site licence in respect of any land dies or ceases to be the owner of the land, the site licence is revoked.
- (2) Where land in respect of which a site licence is in force ceases to be used as a regulated site, the site licence is revoked.

## **27 Duty of licence holder to allow site licence to be altered**

- (1) A local authority which has issued a site licence may at any time require the holder to do whatever it considers necessary to enable the local authority to enter in it any variation of the conditions of the site licence made in pursuance of this Part.
- (2) If the holder of a site licence fails without reasonable excuse to comply with a requirement under this section, the holder of the site licence commits an offence.
- (3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.



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### *Site managers to be fit and proper persons*

#### **28 Requirement for manager of site to be fit and proper person**

- (1) The owner of land may not cause or permit any part of the land to be used as a regulated site unless (in addition to the owner holding a site licence) the local authority in whose area the land is situated—
  - (a) is satisfied that the owner is a fit and proper person to manage the site or (if the owner does not manage the site) that a person appointed to do so by the owner is a fit and proper person to do so, or
  - (b) has, with the owner's consent, itself appointed a person to manage the site.
- (2) Where the owner of land who holds a site licence in respect of the land contravenes subsection (1), the local authority in whose area the land is situated may apply to a residential property tribunal for an order revoking the site licence.
- (3) A person who contravenes the requirement imposed by subsection (1) commits an offence.
- (4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine.
- (5) Where the owner of land who holds a site licence in respect of land is convicted of an offence under subsection (3) in relation to the land and the person has been convicted of that offence in relation to the land on 2 or more previous occasions, the magistrates' court before which the owner is convicted may, on an application by the local authority in whose area the land is situated, make an order revoking the owner's site licence on the day specified in the order.

#### **29 Decision whether person is fit and proper**

- (1) In deciding whether a person is a fit and proper person to manage a regulated site a local authority must have regard to all such matters as it considers appropriate.
- (2) Among the matters to which the local authority must have regard is any evidence within subsection (3) or (4).
- (3) Evidence is within this subsection if it shows that the person has—
  - (a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),
  - (b) practised unlawful discrimination on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 in, or in connection with, the carrying on of any business, or
  - (c) contravened any provision of the law relating to housing (including mobile homes) or landlord and tenant.
- (4) Evidence is within this subsection if—
  - (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (3), and
  - (b) it appears to the local authority that the evidence is relevant to the question whether the person is a fit and proper person to manage a regulated site.

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- (5) The Welsh Ministers may by regulations amend this section to vary the evidence to which a local authority must have regard in deciding whether a person is a fit and proper person to manage a regulated site.
- (6) Where a local authority decides that a person is not a fit and proper person to manage a site—
  - (a) the local authority must notify the person of the reasons for the decision and of the person's right of appeal under paragraph (b), and
  - (b) the person may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.

### *Interim managers*

## **30 Appointment of interim manager**

- (1) If any of the conditions specified in subsection (2) is met in relation to a regulated site, a local authority by which the site is licensed may appoint an interim manager of the site.
- (2) The conditions referred to in subsection (1) are—
  - (a) that the local authority considers that the holder of the site licence is failing or has failed, either seriously or repeatedly, to comply with a condition of the site licence,
  - (b) that the local authority considers that the site is not being managed by a person who is a fit and proper person to manage the site, and
  - (c) that the local authority considers that there is no-one managing the site.
- (3) A local authority must, if requested to do so by an association that is a qualifying residents' association in relation to a site, consider whether to exercise its power under this section.
- (4) Subsection (3) does not affect the discretion of a local authority to exercise its power under this section on its own initiative.
- (5) A person aggrieved by a decision to appoint an interim manager may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.
- (6) The appointment of an interim manager comes to an end with the earliest of the following—
  - (a) the expiry of the site licence,
  - (b) the revocation of the site licence, and
  - (c) a date specified in the appointment.
- (7) If a person ceases to be an interim manager before the appointment has come to an end, the authority may appoint a new interim manager in place of that person.

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### **31 Terms of appointment and powers of interim manager**

- (1) Appointment of an interim manager is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.
- (2) The interim manager has—
  - (a) any power specified in the appointment, and
  - (b) any other power in relation to the management of the site required by the interim manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the holder of the site licence).
- (3) The local authority may give the interim manager general or specific directions.
- (4) The local authority may withdraw or amend any directions given.
- (5) The remuneration and expenses of an interim manager may be deducted by the interim manager from any income which the holder of the site licence is entitled to receive in respect of the site, but if that income is insufficient any balance must be paid by the local authority.
- (6) Any amounts paid by the local authority under subsection (5) may be recovered by the authority from the holder of the site licence.

#### *Other enforcement provisions*

### **32 Power of entry of officers of local authorities**

- (1) An authorised officer of a local authority, on producing (if required to do so), a duly authenticated document of authority, has a right at all reasonable hours to enter any land which is a regulated site or in respect of which an application for a site licence has been made for the purpose of—
  - (a) enabling the local authority to determine what conditions should be imposed on a site licence or whether the conditions of a site licence should be varied,
  - (b) ascertaining whether there is, or has been, on or in connection with the land, any contravention of the provisions of this Part,
  - (c) ascertaining whether or not circumstances exist which would authorise the local authority to take any action, or execute any work, under this Part, or
  - (d) taking any action, or executing any work, authorised by this Part to be taken or executed by the local authority.
- (2) But entry to any land must not be demanded as of right unless 24 hours' notice of the intended entry has been given to the owner.
- (3) If it is shown to the satisfaction of a justice of the peace—
  - (a) that any of the following sub-paragraphs apply—
    - (i) entry to any land has been refused,
    - (ii) refusal is apprehended,
    - (iii) the owner of the land is temporarily absent and the case is one of urgency,
    - (iv) an application for entry would defeat the object of the entry, and

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- (b) that there is reasonable ground for entering the land for any purpose mentioned in subsection (1),
- the justice of the peace may by warrant authorise the local authority by any authorised officer to enter the land, if need be by force.
- (4) But a warrant must not be issued unless the justice of the peace is satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the owner,
  - (b) that the owner is temporarily absent and the case is one of urgency, or
  - (c) that the giving of notice would defeat the object of the entry.
- (5) An authorised officer entering any land by virtue of this section, or of a warrant issued under it, may be accompanied by such other persons as may be necessary.
- (6) Every warrant issued under this section continues in force until the purpose for which the entry is necessary has been satisfied.
- (7) A person who intentionally obstructs any person acting in the execution of this section, or of a warrant under this section, commits an offence.
- (8) A person who is guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **33 Repayment orders**

- (1) For the purposes of this section land is an “unlicensed site” if it is a regulated site in respect of which no site licence is in force.
- (2) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
- (a) any provision requiring the payment of a pitch fee or the making of any other periodical payment in connection with any agreement to which Part 4 applies relating to an unlicensed site, or
  - (b) any other provision of such an agreement.
- (3) But amounts paid in respect of certain payments made under and in connection with such an agreement may be recovered in accordance with subsection (4).
- (4) If—
- (a) an application in respect of an unlicensed site is made to a residential property tribunal by the occupier of a mobile home stationed on the site, and
  - (b) the tribunal is satisfied as to the matters mentioned in subsection (6),
- the tribunal may make an order (a “repayment order”).
- (5) A repayment order is an order requiring the owner or manager of the site to pay to the occupier of the mobile home such sums as are specified in the order in respect of—
- (a) any payment made by the occupier of the mobile home (or any person through whom the occupier of the mobile home has acquired ownership of the mobile home) to the owner or manager of the site in respect of the purchase of a mobile home stationed on the site,
  - (b) any commission paid to the owner or manager of the site by any person in respect of the sale of a mobile home stationed on the site,
  - (c) the pitch fee paid in respect of such a mobile home, and

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- (d) any periodical payments paid in respect of such a mobile home.
- (6) The tribunal must be satisfied as to the following matters—
- (a) that owner of the site has been convicted of an offence under section 5 in relation to the site,
  - (b) that the occupier of the mobile home (or, in the case of payments referred to in subsection (5)(a) or (b), the person through whom the occupier of the mobile home has acquired ownership of the mobile home) made the payment to the owner or manager of the site during any period during which it appears to the tribunal that such an offence was being committed in relation to the site, and
  - (c) that the application is made within the period of 12 months beginning with the date of the conviction.
- (7) A repayment order may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for the owner or manager of the site to be required to pay.
- (8) The amount required to be paid by virtue of a repayment order under subsection (5) is (subject to subsections (9) to (11)) to be such amount as the tribunal considers reasonable in the circumstances.
- (9) The matters which the tribunal must take into account when determining the amount to be paid include (but are not limited to)—
- (a) the total amount of relevant payments paid in connection with ownership of the site during any period during which it appears to the tribunal that an offence was being committed by the owner of the site under section 5,
  - (b) the extent to which that total amount was actually received by the owner or manager of the site,
  - (c) whether the owner of the site has at any time been convicted of an offence under section 5 in relation to the site,
  - (d) the conduct and financial circumstances of the owner or manager of the site, and
  - (e) the conduct of the occupier of the mobile home;
- and in this subsection “relevant payments” means those payments referred to in subsection (5).
- (10) A repayment order may not require the payment of any amount which is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application, and the period to be taken into account under subsection (9) (a) is restricted accordingly.
- (11) Any amount payable to an occupier of a mobile home by virtue of a repayment order is recoverable as a debt due to the occupier of the mobile home from the owner or manager of the site.
- (12) In this section “occupier”, in relation to a mobile home and a regulated site, means a person who is entitled—
- (a) to station the mobile home on the site, and
  - (b) to occupy the mobile home as the person's only or main residence.

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### *Miscellaneous and supplementary*

#### **34 False or misleading statements or information**

- (1) A person who—
  - (a) makes a false or misleading declaration or other statement under this Part knowing or believing it to be false or misleading, or
  - (b) provides false or misleading information under this Part knowing or believing it to be false or misleading,commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

#### **35 Guidance by Welsh Ministers**

- (1) The Welsh Ministers may issue guidance to local authorities as to the performance of their functions under this Part.
- (2) Local authorities must have regard to any guidance issued under subsection (1).

#### **36 Powers to charge fees: supplementary**

- (1) This section applies where a local authority proposes to charge a fee under section 6 or 13.
- (2) Before charging the fee, the local authority must prepare and publish a fees policy.
- (3) When fixing a fee for the purposes of section 6 or 13 the local authority—
  - (a) must act in accordance with its fees policy,
  - (b) may fix different fees for different cases or descriptions of case, and
  - (c) may determine that no fee is required to be paid in certain cases or descriptions of case.
- (4) When fixing a fee for any of those purposes, the local authority may not take into account any costs incurred by it in exercising—
  - (a) its functions under any of sections 15 to 25, or
  - (b) any function under any provision of this Act in relation to a site which is not a regulated site.
- (5) The local authority may revise its fees policy and, where it does so, must publish the policy as revised.

#### **37 Registers of site licences**

- (1) Every local authority must keep a register of site licences issued in respect of land situated in the local authority's area.
- (2) The register is to be open for inspection by the public at all reasonable times.
- (3) Where under section 27 a local authority enters on a site licence a variation of any of the conditions of the site licence, the local authority must record that fact in the register of site licences.

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### **38 Crown land**

This Part applies to land the owner of which is not the Crown even if an interest in the land belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

### **39 Interpretation**

(1) In this Part—

“development order” (“*gorchymyn datblygu*”) means an order made under section 59 of the Town and Country Planning Act 1990;

“fire and rescue authority” (“*awdurdod tân ac achub*”), in relation to any land, means the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the land is situated.

(2) Where land amounting to not more than 400 square metres in area is let under a tenancy entered into with a view to the use of the land as a regulated site, for the purposes of this Part “owner”, in relation to the land, means the person who would be entitled to possession of the land but for the rights of any person under that tenancy.

(3) Any reference in this Part to the carrying out of works includes a reference to the planting of trees and shrubs and the carrying out of other operations for preserving or enhancing the amenity of land.

(4) Any reference in this Part to planning permission is to be taken as a reference to planning permission whether or not restricted in any way or subject to any condition or limitation, and any reference in this Part of this Act to planning permission includes a reference to planning permission deemed to be granted or granted on the designation of an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980.

VALID FROM 01/10/2014

## **PART 3**

### **PROTECTION FROM EVICTION**

#### **40 Application of Part**

This Part applies in relation to any licence or contract (whenever made) under which a person is entitled—

- (a) to station a mobile home on a protected site and occupy it as the person's residence, or
- (b) if the mobile home is stationed on the protected site by another, to occupy it as the person's residence.

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#### **41 Minimum length of notice**

In any case where a residential contract is determinable by notice given by either party to the other, a notice is of no effect unless it is given not less than 4 weeks before the date on which it is to take effect.

#### **42 Protection of occupiers against eviction and harassment, false information etc.**

- (1) A person to whom any of subsections (2) to (6) applies commits an offence.
- (2) This subsection applies to a person if, during the subsistence of a residential contract, the person unlawfully deprives the occupier of the mobile home of occupation on the protected site of any mobile home which the occupier is entitled by the contract to station and occupy, or to occupy, as the occupier's residence on the protected site.
- (3) This subsection applies to a person if, after the expiry or determination of a residential contract, the person enforces, otherwise than by proceedings in the court, any right to exclude the occupier of the mobile home from the protected site or from any such mobile home, or to remove or exclude any such mobile home from the protected site.
- (4) This subsection applies to a person if (whether during the subsistence, or after the expiry or determination, of a residential contract) with intent to cause the occupier of the mobile home—
  - (a) to abandon the occupation of the mobile home or remove it from the site, or
  - (b) to refrain from exercising any right or pursuing any remedy in respect of that,
 the person does acts likely to interfere with the peace or comfort of the occupier or persons residing with the occupier, or withdraws or withholds services or facilities reasonably required for the occupation of the mobile home as a residence on the site.
- (5) This subsection applies to a person if the person is, or is the agent of, the owner of the protected site and (whether during the subsistence or after the expiration or determination of a residential contract)—
  - (a) the person does acts likely to interfere with the peace or comfort of the occupier of the mobile home or persons residing with the occupier, or
  - (b) withdraws or withholds services or facilities reasonably required for the occupation of the mobile home as a residence on the site,
 and (in either case) the person knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (4)(a) or (b).
- (6) This subsection applies to a person if the person is, or is the agent of, the owner of a protected site and, during the subsistence of a residential contract, the person—
  - (a) knowingly or recklessly provides information or makes a representation which is false or misleading in a material respect to any person, and
  - (b) knows, or has reasonable cause to believe, that doing so is likely to cause—
    - (i) the occupier to do any of the things mentioned in subsection (4)(a) or (b), or
    - (ii) a person who is considering whether to purchase or occupy the mobile home to which the residential contract relates to decide not to do so.



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- (7) In subsections (5) and (6) references to the owner of a protected site include references to a person with an estate or interest in the site which is superior to that of the owner.
- (8) In this section references to the occupier of the mobile home include references to the person who was the occupier of the mobile home under a residential contract which has expired or been determined and, in the case of the death of the occupier (whether during the subsistence or after the expiry or determination of the contract), to any person then residing with the occupier.
- (9) Nothing in this section applies to the exercise by the owner of a mobile home of a right to take possession of the mobile home, other than a right conferred by or arising on the expiry or determination of a residential contract, or to anything done pursuant to the order of any court.

#### **43 Offences under section 42: supplementary**

- (1) In proceedings for an offence of contravening section 42(2) or (3) it is a defence to prove that the accused believed, and had reasonable cause to believe, that the occupier of the mobile home had ceased to reside on the site.
- (2) In proceedings for an offence of contravening section 42(5) it is a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.
- (3) A person guilty of an offence under section 42 is liable—
  - (a) on summary conviction, to a fine or to imprisonment for a term not exceeding 12 months, or to both, or
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

#### **44 Provision for suspension of eviction orders**

- (1) If in proceedings by the owner of a protected site the court makes an order for enforcing in relation to the site any such right as is mentioned in section 42(3), the court may (without prejudice to any power apart from this section to postpone the operation or suspend the execution of an order) suspend the enforcement of the order for such period not exceeding 12 months from the date of the order as the court thinks reasonable.
- (2) Where the court by virtue of this section suspends the enforcement of an order, it may impose such terms and conditions, including conditions as to the payment of rent or other periodical payments or of arrears of such rent or payments, as the court thinks reasonable.
- (3) The court may from time to time, on the application of either party, extend, reduce or terminate the period of suspension ordered, or vary any terms or conditions imposed, but may not extend the period of suspension for more than 12 months at a time.
- (4) In considering whether or how to exercise its powers under this section, the court must have regard to all the circumstances which include (but are not limited to) the questions—
  - (a) whether the occupier of the mobile home has failed, whether before or after the expiry or determination of the relevant residential contract, to observe

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any terms or conditions of that contract, any conditions of the site licence, or any reasonable rules made by the owner of the protected site for the management and conduct of the site or the maintenance of mobile homes on it,

(b) whether the occupier of the mobile home has unreasonably refused an offer by the owner to renew the residential contract or make another residential contract for a reasonable period and on reasonable terms, and

(c) whether the occupier of the mobile home has failed to make reasonable efforts to obtain elsewhere other suitable accommodation for the mobile home or another suitable mobile home and accommodation for it.

(5) Where the court makes an order such as is mentioned in subsection (1) but suspends the enforcement of the order, the court may not make any order for costs unless it appears to the court, having regard to the conduct of the owner of the protected site or of the occupier of the mobile home, that the circumstances of the case are exceptional.

(6) The court may not suspend the enforcement of an order by virtue of this section if—  
 (a) no site licence is in force in respect of the site, and  
 (b) the site is not owned by a local authority;

and where a site licence in respect of the site is expressed to expire at the end of a specified period, the period for which enforcement may be suspended by virtue of this section does not extend beyond the expiry of the site licence.

#### **45 Supplementary**

(1) The power of the court under section 44 to suspend the enforcement of an order extends to any order made but not executed before the commencement of this Part.

(2) Nothing in this Part affects the operation of section 13 of the Compulsory Purchase Act 1965.

(3) The Protection from Eviction Act 1977 does not apply to any premises consisting of a mobile home stationed on a protected site.

#### **46 Offences**

Proceedings for an offence under this Part may be instituted by any local authority.

#### **47 Interpretation**

(1) In this Part—

“occupier” (“*meddiannydd*”) in relation to a mobile home and a protected site, means the person entitled as mentioned in section 40 in relation to a mobile home and the protected site;

“residential contract” (“*contract preswyl*”) means a licence or contract within that section.

(2) In this Part “the court” means the county court.

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VALID FROM 07/01/2014

## PART 4

### MOBILE HOME AGREEMENTS

VALID FROM 01/10/2014

#### 48 Agreements to which Part applies

- (1) This Part applies to any agreement under which a person is entitled—
  - (a) to station a mobile home on a protected site, and
  - (b) to occupy the mobile home as the person's only or main residence.
- (2) In this Part “occupier”, in relation to a mobile home and a protected site, means the person entitled as mentioned in subsection (1) in relation to a mobile home and the protected site (but see also section 55(2)(b)).

VALID FROM 01/10/2014

#### 49 Particulars of agreements

- (1) Before making an agreement to which this Part applies, the owner of the protected site must give to the proposed occupier under the agreement a written statement which—
  - (a) specifies the names and addresses of the parties,
  - (b) includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land,
  - (c) sets out the express terms to be contained in the agreement (including any site rules),
  - (d) sets out the terms to be implied by section 50(1), and
  - (e) complies with such other requirements as may be prescribed by regulations made by the Welsh Ministers.
- (2) The written statement required by subsection (1) must be given—
  - (a) no later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
  - (b) (if no such agreement is made before the making of the agreement to which this Part applies) no later than 28 days before the date on which the agreement to which this Part applies is made.
- (3) But if the proposed occupier consents in writing to that statement being given by a date (“the chosen date”) which is less than 28 days before the date mentioned in subsection (2)(a) or (b), the statement must be given to the proposed occupier not later than the chosen date.
- (4) If any express term other than a site rule—

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- (a) is contained in an agreement to which this Act applies, but
  - (b) was not set out in a written statement given to the proposed occupier in accordance with subsections (1) to (3),
- the term is unenforceable by the owner or any person within section 53(1); but this is subject to any order made by the appropriate judicial body under section 50(3).
- (5) If the owner has failed to give the occupier a written statement in accordance with subsections (1) to (3) the occupier may, at any time after the making of the agreement, apply to the appropriate judicial body for an order requiring the owner—
- (a) to give the occupier a written statement which complies with paragraphs (a) to (e) of subsection (1) (read with any modifications necessary to reflect the fact that the agreement has been made), and
  - (b) to do so not later than such date as is specified in the order.
- (6) A statement required to be given to a person under this section may be either delivered to the person personally or sent to the person by post.
- (7) Any reference in this section to the making of an agreement to which this Part applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Part applies.
- (8) Subsections (2), (3) and (5) do not apply in relation to a person occupying or proposing to occupy a transit pitch on a local authority Gypsy and Traveller site; and in such a case the reference in subsection (4) to subsections (1) to (3) is to be treated as a reference to subsection (1).

VALID FROM 01/10/2014

## **50 Terms of agreements**

- (1) The applicable terms set out in Part 1 of Schedule 2 are implied in any agreement to which this Part applies; and this subsection has effect despite any express term of the agreement.
- (2) The appropriate judicial body may, on the application of either party made within the relevant period, order that terms concerning the matters mentioned in Part 2 of Schedule 2 are to be implied in the agreement.
- (3) The appropriate judicial body may, on the application of either party made within the relevant period, make an order—
- (a) varying or deleting any express term of the agreement other than a site rule,
  - (b) in the case of any express term to which section 49(4) applies other than a site rule, providing for the term to have full effect or to have such effect subject to any variation specified in the order.
- (4) In subsections (2) and (3) “the relevant period” means the period beginning with the date on which the agreement is made and ending—
- (a) 6 months after that date, or
  - (b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 49(5)), 6 months after the date on which the statement is given;

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and subsection (7) of section 49 applies for the purposes of this subsection as it applies for the purposes of that section.

- (5) On an application under this section, the appropriate judicial body must make such provision as it considers just and equitable in the circumstances.
- (6) Subsections (2) to (4) do not apply in relation to a person occupying or proposing to occupy a transit pitch on a local authority Gypsy and Traveller site.

VALID FROM 01/10/2014

## **51 Power to amend implied terms**

- (1) The Welsh Ministers may by order make such amendments of Schedule 2, apart from paragraph 11, as they consider appropriate.
- (2) Without prejudice to the generality of subsection (1), an order under this section may—
  - (a) make provision for or in connection with the determination by the court or a tribunal of such questions, or the making by the court or a tribunal of such orders, as are specified in the order, or
  - (b) make such amendments of any other provision of this Part as the Welsh Ministers consider appropriate in consequence of any amendment made in Schedule 2 by the order.

## **52 Site rules**

- (1) In the case of a protected site, other than a local authority Gypsy and Traveller site, for which there are site rules, each of the rules is to be an express term of each agreement to which this Part applies that relates to a pitch on the site (including an agreement made before commencement or one made before the making of the rules).
- (2) The “site rules” for a protected site are rules made by the owner, in accordance with such procedure as may be prescribed by regulations made by the Welsh Ministers, which relate to—
  - (a) the management and conduct of the site, or
  - (b) such other matters as may be prescribed by regulations made by the Welsh Ministers.
- (3) Any rules made by the owner before the coming into force of this section which relate to a matter mentioned in subsection (2) cease to have effect at the end of such period beginning with the day on which this section comes into force as may be prescribed by regulations made by the Welsh Ministers.
- (4) Site rules come into force at the end of such period beginning with the first consultation day as may be prescribed by regulations made by the Welsh Ministers, if before the end of that period a copy of the rules is deposited with the local authority in whose area the protected site is situated.
- (5) Where a site rule is varied, the rule as varied comes into force at the end of such period beginning with the first consultation day as may be prescribed by regulations made by the Welsh Ministers, if—

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- (a) the rule is varied in accordance with the procedure prescribed by regulations made by the Welsh Ministers, and
  - (b) a copy of the rule as varied is before the end of that period deposited with the local authority in whose area the protected site is situated.
- (6) Where a site rule is deleted, the deletion comes into force at the end of such period beginning with the first consultation day as may be prescribed by regulations made by the Welsh Ministers, if—
- (a) the rule is deleted in accordance with such procedure as may be prescribed by regulations made by the Welsh Ministers, and
  - (b) notice of the deletion is deposited before the end of that period deposited with the local authority in whose area the protected site is situated.
- (7) The Welsh Ministers may by regulations provide that a site rule may not be made, varied or deleted unless a proposal to make, vary or delete the rule is notified to the occupiers of mobile homes on the site in question in accordance with the regulations.
- (8) The Welsh Ministers may by regulations provide that site rules, or rules such as are mentioned in subsection (3), are of no effect in so far as they make provision in relation to matters prescribed by the regulations.
- (9) The Welsh Ministers may by regulations make provision as to the resolution of disputes—
- (a) relating to a proposal to make, vary or delete a site rule,
  - (b) as to whether the making, variation or deletion of a site rule was in accordance with the applicable procedure prescribed by the regulations,
  - (c) as to whether a deposit required to be made by virtue of subsection (4), (5) or (6) was made before the end of the relevant period.
- (10) Provision under subsection (9) may confer functions on a tribunal.
- (11) The Welsh Ministers may by regulations—
- (a) require a local authority to establish and keep up to date a register of site rules in respect of protected sites in its area,
  - (b) require a local authority to publish the up-to-date register,
  - (c) provide that any deposit required to be made by virtue of subsection (4), (5) or (6) must be accompanied by a fee of such amount as the local authority may determine.
- (12) In this section “first consultation day” means the day on which a proposal made under regulations under subsection (7) is notified to the occupiers of mobile homes on the site in accordance with the regulations.

VALID FROM 01/10/2014

### **53 Successors in title**

- (1) An agreement to which this Part applies is binding on, and has effect for the benefit of, any successor in title of the owner and any person claiming through or under the owner or any such successor.
- (2) Where an agreement to which this Part applies is lawfully assigned to any person, the agreement has effect for the benefit of, and is binding on, that person.

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- (3) Where a person entitled to the benefit of and bound by an agreement to which this Part applies dies, the agreement has effect for the benefit of, and is binding on—
- (a) any person residing in the mobile home as that person's only or main residence at that time, being—
    - (i) the widow, widower or surviving civil partner of the deceased or the surviving partner of an enduring family relationship of the deceased, or
    - (ii) in default of a person within sub-paragraph (i) residing in the mobile home as that person's only or main residence at that time, any member of the deceased's family, or
  - (b) in default of any such person residing in the mobile home as that person's only or main residence at that time, the person entitled to the mobile home by virtue of the deceased's will or under the law relating to intestacy, but subject to subsection (4).
- (4) An agreement to which this Act applies does not have effect for the benefit of, and is not binding on, a person by virtue of subsection (3)(b) in so far as—
- (a) it would, but for this subsection, enable or require that person to occupy the mobile home, or
  - (b) it includes terms implied by virtue of paragraph 6, 12, 13, 39 or 41 of Schedule 2.

VALID FROM 01/10/2014

#### **54 Jurisdiction of a tribunal or the court**

- (1) A tribunal has jurisdiction—
- (a) to determine any question arising under this Part or any agreement to which it applies, and
  - (b) to entertain any proceedings brought under this Part or any such agreement, subject to subsections (2) to (6).
- (2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.
- (3) The court has jurisdiction—
- (a) to determine any question arising by virtue of paragraph 5, 6, 7(1)(b), 38, 39 or 40(1)(b) of Schedule 2 under this Part or any agreement to which it applies, and
  - (b) to entertain any proceedings arising by virtue of any of those provisions brought under this Part or any such agreement, subject to subsections (4) to (6).
- (4) Subsection (5) applies if the owner and occupier have entered into an arbitration agreement before the question mentioned in subsection (3)(a) arises and the agreement applies to that question.
- (5) A tribunal has jurisdiction to determine the question and entertain any proceedings arising instead of the court.

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(6) Subsection (5) applies irrespective of anything contained in the arbitration agreement mentioned in subsection (4).

VALID FROM 01/10/2014

## 55 Interpretation

(1) In this Part—

“the appropriate judicial body” (“*corff barnwrol priodol*”) means whichever of the court or a tribunal has jurisdiction under section 54;

“arbitration agreement” (“*cytundeb cymrodeddu*”) means an agreement in writing to submit to arbitration any question arising under this Part or any agreement to which it applies;

“the court” (“*y llys*”) means the county court for the district in which the protected site is situated or, where the parties have entered into an arbitration agreement that applies to the question to be determined, the arbitrator;

“occupier” (“*meddiannydd*”) has the meaning given by section 48(2) (but see also subsection (2)(b));

“permanent pitch” (“*llain barhaol*”) means a pitch which is not a transit pitch;

“pitch” (“*llain*”) means the land, forming part of a protected site and including any garden area, on which an occupier is entitled to station a mobile home under the terms of an agreement;

“transit pitch” (“*llain dramwy*”) means a pitch on which a person is entitled to station a mobile home under the terms of an agreement for a fixed period of up to 3 months;

“tribunal” (“*tribiwnlys*”) means a residential property tribunal or, where the parties have entered into an arbitration agreement that applies to the question to be determined and that question arose before the agreement was made, the arbitrator;

“site rules” (“*rheolau safle*”) has the meaning given by section 52(2).

(2) In relation to an agreement to which this Part applies—

- (a) any reference in this Part to the owner includes a reference to any person who is bound by and entitled to the benefit of the agreement by virtue of subsection (1) of section 53, and
- (b) subject to subsection (4) of that section, any reference in this Part to the occupier includes a reference to any person who is entitled to the benefit of and bound by the agreement by virtue of subsection (2) or (3) of that section.

(3) For the purposes of this Part the following are members of a person's family—

- (a) the person's spouse or civil partner or any person who lives together with the person as a partner in an enduring family relationship,
- (b) the person's parents, grandparents, children and grandchildren (including any person who is in that relationship by virtue of a marriage or civil partnership or an enduring family relationship) and any other person treated by the person as a child of the person's family, and



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- (c) the person's brothers, sisters, uncles, aunts, nephews and nieces (including any person who is in that relationship by virtue of a marriage or civil partnership or an enduring family relationship).

## PART 5

### POWERS OF LOCAL AUTHORITIES

#### 56 Power to provide sites for mobile homes

- (1) A local authority may within its area provide sites where mobile homes may be brought, whether for holidays or other temporary purposes or for use as permanent residences, and may manage the sites or lease them to another person.
- (2) A local authority has power to do anything appearing to it desirable in connection with the provision of such sites and the things which it has power to do include (but are not limited to)—
  - (a) acquiring land which is in use as a mobile home site or which has been laid out as a mobile home site,
  - (b) providing for the use of those occupying mobile home sites any services for their health or convenience, and
  - (c) providing, in or in connection with sites for the accommodation of Gypsies and Travellers, working space and facilities for the carrying on of activities normally carried on by them.
- (3) In exercising its powers under this section a local authority must have regard to any standards specified by the Welsh Ministers under section 10.
- (4) Before exercising the power under subsection (1) to provide a site the local authority must consult the fire and rescue authority—
  - (a) as to measures to be taken for preventing and detecting the outbreak of fire on the site, and
  - (b) as to the provision and maintenance of means of fighting fire on it.
- (5) A local authority must make in respect of sites managed by it, and of any services or facilities provided or made available under this section, such reasonable charges as it may determine.
- (6) A local authority may make available the services and facilities provided under this section for persons whether or not they normally reside in its area.
- (7) A local authority may, where it appears to it that—
  - (a) a mobile home site or an additional mobile home site is needed in its area, or
  - (b) that land which is in use as a mobile home site should in the interests of the users of mobile homes be taken over by the local authority,acquire land, or any interest in land, compulsorily.
- (8) The power conferred by subsection (7) is exercisable in any particular case only if the local authority is authorised by the Welsh Ministers to exercise it.
- (9) The Acquisition of Land Act 1981 has effect in relation to the acquisition of land, or an interest in land, under subsection (7).

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(10) A local authority does not have power under this section to provide mobile homes.

**Modifications etc. (not altering text)**

**C1** S. 56 modified by 1995 c. 25, Sch. 9 para. 4A(a) (as inserted (5.11.2013) by [Mobile Homes \(Wales\) Act 2013 \(anaw 6\)](#), s. 64(1), [Sch. 4 para. 8\(3\)](#) (with [Sch. 5 para. 7](#)) (this amendment is to be treated as not having effect until 1.10.2014 by virtue of S.I. 2014/11, art. 3(2)))

VALID FROM 01/10/2014

**57 Power to prohibit mobile homes on commons**

- (1) This section applies to any land in Wales which is or forms part of a common and is not—
  - (a) land to which section 193 of the Law of Property Act 1925 (rights of public over certain commons and waste lands) applies,
  - (b) land subject to a scheme under Part 1 of the Commons Act 1899 (schemes for the regulation and management of certain commons), or
  - (c) land as respects which a site licence is for the time being in force.
- (2) A local authority may make with respect to land to which this section applies and which is in its area an order prohibiting, either absolutely or except in such circumstances as may be specified in the order, the stationing of mobile homes on the land for the purposes of human habitation.
- (3) A person who stations a mobile home on any land in contravention of an order under subsection (2) for the time being in force with respect to the land commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) A local authority must take all reasonable steps to secure that copies of any order under subsection (2) which is for the time being in force with respect to any land in its area are displayed on the land so as to give persons entering the land warning of the existence of the order.
- (6) A local authority has the right to place on the land the notices that it considers necessary for the performance of its duty under subsection (5).
- (7) An order made by a local authority under subsection (2) may be revoked at any time by a subsequent order made under that subsection by the local authority or may be varied so as to exclude any land from the operation of the order or so as to introduce any exception, or further exception, from the prohibition imposed by the order.
- (8) Where the whole or part of any land to which an order under subsection (2) is in force ceases to be land to which this section applies, the order ceases to have effect with respect to the land or that part of it.
- (9) Where an order ceases to have effect with respect to part only of any land, the local authority must cause any copy of the order which is displayed on that part of the land with respect to which the order remains in force to be amended accordingly.
- (10) Schedule 3 makes further provision with respect to orders under subsection (2).

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(11) In this section “common” includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882 and any town or village green.

## PART 6

### SUPPLEMENTARY AND GENERAL

#### 58 Consequential amendments and transitionals etc.

- (1) Schedule 4 contains consequential amendments.
- (2) Schedule 5 contains transitional and transitory provisions and savings.
- (3) The Welsh Ministers may by order—
  - (a) make any other amendments (including repeals or revocations) of any enactment or instrument which are consequential on any provision made by this Act, and
  - (b) make any other transitional or transitory provision, or savings, which appear appropriate in connection with the coming into force of any provision of this Act.

#### 59 Liability of officers of bodies corporate

- (1) Where a body corporate commits an offence under this Act and it is proved that—
  - (a) the offence was committed with the consent or connivance of an officer of the body corporate, or
  - (b) the offence was attributable to neglect on the part of an officer of the body corporate,the officer, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer” means—
  - (a) a director, manager, secretary or similar officer of the body corporate,
  - (b) in the case of a body corporate whose affairs are managed by its members, a member of the body corporate, or
  - (c) a person purporting to act in a capacity mentioned in paragraph (a) or (b).

#### 60 Meaning of “mobile home”

- (1) In this Act “mobile home” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle designed or adapted for human habitation, but does not include—
  - (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
  - (b) any tent.
- (2) A structure designed or adapted for human habitation which—

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- (a) is composed of not more than 2 sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices, and
- (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),

is not to be regarded as not being (or as not having been) a mobile home for the purposes of this Act by reason only that it cannot lawfully be moved on a highway when assembled.

- (3) For the purposes of this Act “mobile home” does not include a structure designed or adapted for human habitation which falls within subsection (2)(a) and (b) if its dimensions when assembled exceed any of the following limits, namely—
  - (a) length (exclusive of any drawbar): 20 metres,
  - (b) width: 6.8 metres, and
  - (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres.
- (4) The Welsh Ministers may by order substitute for any figure mentioned in subsection (3) such other figure as may be specified in the order.

## **61 Meaning of “qualifying residents' association”**

- (1) For the purposes of this Act an association is a “qualifying residents' association”, in relation to a site, if—
  - (a) it is an association representing the occupiers of mobile homes on the site,
  - (b) occupiers of at least 50 per cent of those mobile homes are members of the association,
  - (c) it is independent from the owner of the site who, together with any agent or employee of the owner, is excluded from membership,
  - (d) subject to paragraph (c), membership is open to occupiers of all mobile homes on the site,
  - (e) its rules and constitution are open to public inspection and it maintains a list of members,
  - (f) it has a chairman, secretary and treasurer who are elected by and from among the members, and
  - (g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only 1 vote for each mobile home.
- (2) Only 1 occupier of each mobile home may be a member of the association; and, where there is more than 1 occupier of a mobile home, the one who is to be the member of the association is whichever of them the occupiers agree or, in default of agreement, the one whose name appears first on the agreement to station the mobile home on the site.
- (3) An association is not a qualifying residents' association in relation to a site unless an up to date list of members has been lodged with the local authority in whose area the site is situated.
- (4) When a copy of the list of members of an association is lodged with a local authority, the local authority—
  - (a) must take reasonable steps to ascertain whether occupiers of at least 50 per cent of the mobile homes on the site are members of the association, and

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- (b) must give notice in writing to the association and the owner stating whether or not it is satisfied that occupiers of at least 50 per cent of the mobile homes on the site are members of the association.
- (5) Where an association is given notice that the local authority is satisfied that occupiers of at least 50 per cent of the mobile homes on the site are members of the association, the duty to lodge an up to date copy of its list of members requires it to do so as soon as is reasonably practicable after any changes in its membership.
- (6) If it appears to the local authority at any time that the membership of a qualifying residents' association no longer includes occupiers of at least 50 per cent of the mobile homes on the site, the local authority must immediately give notice in writing to the association and the owner of the site that the association is no longer a qualifying residents' association.
- (7) In this section—
- “arbitration agreement” (“*cytundeb cymrodeddu*”) means an agreement in writing to submit to arbitration a question as to whether an association is a qualifying residents' association;
- “occupier” (“*meddiannydd*”), in relation to a mobile home and a site, means a person who is entitled—
- (a) to station the mobile home on the site, and
- (b) to occupy the mobile home as the person's only or main residence; and
- “tribunal” (“*tribiwnlys*”), in relation to the owner of a site and an association representing the occupiers of mobile homes on the site, means a residential property tribunal or, where the owner and the association have entered into an arbitration agreement that applies to any question whether the association is a qualifying residents' association arising before the arbitration agreement was made, the arbitrator.
- (8) The disclosure by a local authority to the public of a list of members of a qualifying residents' association which has been lodged with the local authority is to be treated for the purposes of section 41(1) of the Freedom of Information Act 2000 as a breach of confidence actionable by the members of the association; but nothing in this subsection applies to the disclosure of details of the chairman, secretary or treasurer.

## 62 Other interpretation

In this Act, unless the context otherwise requires—

“Gypsies and Travellers” (“*Sipsiwn a Theithwyr*”) means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showpeople, or persons engaged in travelling circuses, travelling together as such;

“local authority” (“*awdurdod lleol*”) means the council of a Welsh county or county borough;

“local authority Gypsy and Traveller site” (“*safle Sipsiwn a Theithwyr awdurdod lleol*”) has the meaning given by section 2(5);

“owner” (“*perchennog*”) is to be construed in accordance with section 3 (but see also sections 39(2), 42 and 55(2)) and related expressions are to be construed accordingly;

“pitch fee” (“*ffi am y llain*”) means the amount which the occupier of a mobile home is required by an agreement to pay for the right to station the

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mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;

“planning permission” (“*caniatâd cynllunio*”) means permission under Part 3 of the Town and Country Planning Act 1990;

“protected site” (“*safle gwarchoddedig*”) has the meaning given by section 2(2);

“regulated site” (“*safle rheoleiddiedig*”) has the meaning given by section 2(1);

“site licence” (“*trwydded safle*”) has the meaning given by section 5(1).

### **63 Orders and regulations etc.**

- (1) Any power of the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Subsection (1) does not apply to the power in paragraph 14 of Schedule 1.
- (3) No order may be made under section 51 unless the Welsh Ministers have consulted—
  - (a) such organisations as appear to them to be representative of interests substantially affected by the order, and
  - (b) such other persons as they consider appropriate.
- (4) No order may be made under section 60(4) unless the Welsh Ministers have consulted such persons or bodies as appear to them to be concerned.
- (5) None of the following may be made unless a draft of the statutory instrument containing it or them has been laid before, and approved by a resolution of, the National Assembly for Wales—
  - (a) regulations under section 29(5),
  - (b) an order under section 51, or
  - (c) any order or regulations under this Act, other than an order under section 60(4), containing an amendment of an enactment.
- (6) A statutory instrument containing—
  - (a) regulations under section 49 or 52 or paragraph 9, 10, 12 or 13 of Schedule 2,
  - (b) the first regulations to be made under paragraph 11 or 23 of that Schedule,
  - (c) an order under section 58(3)(a), or
  - (d) an order under section 60(4),
 is subject to annulment in pursuance of a resolution of the National Assembly for Wales unless a draft of the statutory instrument has been approved in accordance with subsection (5).
- (7) A statutory instrument containing regulations under any provision of this Act other than paragraph 11 or 23 of Schedule 2 which is subject to annulment in pursuance of a resolution of the National Assembly for Wales may also contain regulations made under paragraph 11 or 23 of Schedule 2.
- (8) Any order or regulations under this Act may make different provision with respect to different cases or descriptions of case, including different provision for different areas or (in the case of regulations under paragraph 9 or 10 of Schedule 2) sales at different prices.

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- (9) Any order or regulations under this Act may contain such incidental, supplementary, consequential, transitional or saving provisions as the Welsh Ministers consider appropriate.
- (10) Any guidance issued under this Act by the Welsh Ministers may be varied or withdrawn by them.

#### **64 Commencement**

- (1) This Part comes into force on the day after the day on which this Act receives Royal Assent.
- (2) The other provisions of this Act come into force on a day appointed by order made by the Welsh Ministers.
- (3) An order under subsection (2) may appoint different days for different purposes.

#### **65 Short title**

The short title of this Act is the Mobile Homes (Wales) Act 2013.

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VALID FROM 01/10/2014

SCHEDULE 1 (introduced by section 2)

SITES WHICH ARE NOT REGULATED SITES

.....

VALID FROM 07/01/2014

SCHEDULE 2 (introduced by section 50)

TERMS OF MOBILE HOME AGREEMENTS

.....

VALID FROM 01/10/2014

SCHEDULE 3 (introduced by section 57)

FURTHER PROVISIONS ABOUT ORDERS RELATING TO COMMONS

*Duty to consult conservators*

- 1        Before making an order under section 57(2) with respect to land which is or forms part of a common of which conservators have been appointed under any local Act, or under any order made under an Act of Parliament, the local authority must consult the conservators.

*Procedure for making orders imposing prohibitions*

- 2        Before making any order under section 57(2), other than an order the sole effect of which is to revoke or vary a previous order, the local authority must publish in 1 or more local newspapers circulating in the locality in which the land is situated a notice—
- (a) stating the general effect of the order,
  - (b) specifying a place in that locality where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice, and
  - (c) stating that, within that period, any person may by notice to the local authority object to the making of the order.

- 3        (1) Not later than the date on which notice under paragraph 2 is first published, the local authority must serve a copy of it on every person entitled as lord of the manor



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or otherwise to the soil of the land unless the local authority is satisfied that the persons entitled to the soil of the land are numerous or cannot after diligent inquiry be ascertained.

- (2) A notice under sub-paragraph (1) may be served on any person by sending it in a registered letter addressed to the person at the person's usual or last known address.
- 4 (1) If, before the end of the period of 28 days beginning with the date of the first publication of a notice under paragraph 2, an objection to the making of the order to which the notice relates is duly made to the local authority by any person entitled to the soil of the land, and the notice is not subsequently withdrawn, the local authority must not proceed with the making of the order.
- (2) Subject to that, the local authority may, at any time within 1 year after the end of that period, make an order in the terms of the draft order.
- (3) But if any objection to the making of the order was duly made within that period by a person who was not entitled to the soil of the land, and the objection has not been withdrawn at the date on which the order is made, the order does not take effect until it is confirmed by the Welsh Ministers.
- (4) Where the local authority submits an order to the Welsh Ministers for confirmation, it must send to the Welsh Ministers a copy of every such objection as is referred to in the sub-paragraph (3).
- (5) The Welsh Ministers, after considering every such objection and (if they think fit) causing a local inquiry to be held, may confirm or refuse to confirm the order and, if they confirm it, may do so subject to such modifications (if any) as they think desirable.

#### *Notice to lord of manor of other orders*

- 5 Where the sole effect of an order under section 57(2) is to revoke or vary a previous order (so that paragraphs 2 to 4 do not apply with respect to the making of the order) the local authority must serve such notices, and take such other steps, as appear to it to be appropriate for informing the persons entitled to the soil of the land of the effect of the order.

#### *Crown land*

- 6 (1) Where it is proposed to make an order of the kind described in paragraph 2 with respect to land in which there is a Crown or Duchy interest, and the nature of that interest is such that, but for this paragraph, the person to whom the interest belongs would be entitled under paragraph 3 to a copy of the notice referred to in that paragraph—
- (a) paragraph 3 has effect as if it required the copy to be served instead on the appropriate authority, and
  - (b) paragraph 4(1) does not apply in relation to the order but the local authority must not make the order unless and until it has obtained the consent in writing of the appropriate authority.
- (2) In this paragraph “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

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- (3) In this paragraph “the appropriate authority”—
- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land,
  - (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy,
  - (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, and
  - (d) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- (4) If any question arises as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.

## SCHEDULE 4

(introduced by section 58)

### CONSEQUENTIAL AMENDMENTS

#### **Modifications etc. (not altering text)**

- C3** [Sch. 4](#) having effect as specified (6.1.2014) by [The Mobile Homes \(Wales\) Act 2013 \(Commencement, Transitional and Saving Provisions\) Order 2014 \(No. 11\)](#), [art. 3\(2\)](#)

#### *Caravan Sites and Control of Development Act 1960 (c. 62)*

- 1 (1) The Caravan Sites and Control of Development Act 1960 is amended as follows.
- (2) In section 1, after subsection (1) insert—
- “(1A) Subsection (1) does not apply in relation to a regulated site within the meaning of the Mobile Homes (Wales) Act 2013.”
- (3) In section 23—
- (a) in subsection (1), after “any land” insert “ in England ”, and
  - (b) omit subsection (9).
- (4) In section 24—
- (a) in subsection (1), after “local authority” insert “ in England ”, and
  - (b) in subsection (8), omit “in England”.

#### *Caravan Sites Act 1968 (c. 52)*

- 2 (1) The Caravan Sites Act 1968 is amended as follows.
- (2) In section 1(2), after “any land” insert “ in England ”.

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- (3) In section 3—
  - (a) in subsections (1)(c) and (1A)(b), omit “or, if the site concerned is in Wales, persistently withdraws or withholds”,
  - (b) in subsection (1AA), omit “in England”.
- (4) In section 13(3), for “Minister” substitute “ Secretary of State ”.
- (5) In section 16, omit the definition of “the Minister”.

*Rating (Caravan Sites) Act 1976 (c. 15)*

- 3 In section 6 of the Rating (Caravan Sites) Act 1976—
  - (a) in paragraph (b)—
    - (i) for “that Act” substitute “ the Caravan Sites and Control of Development Act 1960 or Part 2 of the Mobile Homes (Wales) Act 2013 ”, and
    - (ii) for “the Act” substitute “ the Caravan Sites and Control of Development Act 1960 or paragraph 4 and paragraph 11 of Schedule 1 to the Mobile Homes (Wales) Act 2013 ”, and
  - (b) in paragraph (d)—
    - (i) for “that Act” substitute “ the Caravan Sites and Control of Development Act 1960 ”, and
    - (ii) insert at the end “ or is for purposes of the Mobile Homes (Wales) Act 2013 the owner of the caravan site ”.

*Mobile Homes Act 1983 (c. 34)*

- 4 (1) The Mobile Homes Act 1983 is amended as follows.
- (2) In section 1—
  - (a) in subsection (2)(e), for “appropriate national authority” substitute “ Secretary of State ”,
  - (b) in subsection (8A), omit “in England and Wales”, and
  - (c) in subsection (9)(b), omit “if made by the Secretary of State”.
- (3) In section 2(6), omit “in England and Wales”.
- (4) In section 2A—
  - (a) in subsection (1), for—
    - (i) “appropriate national authority” and
    - (ii) “authority” (in the second place),substitute “Secretary of State”,
  - (b) in subsection (5)—
    - (i) omit “by the appropriate national authority”, and
    - (ii) for “the authority” and for “it” (in both places) substitute “ the Secretary of State ”, and
  - (c) in subsection (6), omit “by the Secretary of State”.
- (5) In section 2C(1), for “in England (other than a gypsy and traveller site)” substitute “ , other than a gypsy and traveller site, ”.

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- (6) In section 3(4)—
  - (a) in paragraph (b), omit “in relation to a protected site in England; or”, and
  - (b) omit paragraph (c).
- (7) In section 4—
  - (a) in the heading omit “: England and Wales”, and
  - (b) in subsections (1) and (3), omit “in England or in Wales”.
- (8) In section 5—
  - (a) omit the definition of “the appropriate national authority”, and
  - (b) in the definition of “the court”, omit “and Wales”.
- (9) In Part 1 of Schedule 1—
  - (a) in Chapter 1, in paragraph 1(1), (2) and (3), omit “in England and Wales”,
  - (b) in the heading of Chapter 2 omit “IN ENGLAND AND WALES”,
  - (c) in Chapter 2, in paragraph 7A, omit sub-paragraph (1),
  - (d) in Chapter 2, omit paragraph 8,
  - (e) in Chapter 2, in paragraph 8A, omit sub-paragraph (1),
  - (f) in Chapter 2, omit paragraph 9,
  - (g) in Chapter 2, in paragraph 17—
    - (i) in sub-paragraph (2A), for “In the case of a protected site in England, a” substitute “ A ”,
    - (ii) in sub-paragraph (4)(a), omit “or (in the case of a protected site in England)”,
    - (iii) in sub-paragraph (6A), for “In the case of a protected site in England, a” substitute “ A ”,
    - (iv) in sub-paragraph (8)(a), omit “(in the case of a protected site in England)”, and
    - (v) in sub-paragraph (11), omit “in England”,
  - (h) in Chapter 2, in paragraph 18—
    - (i) in paragraphs (aa) and (ab) of sub-paragraph (1), omit “in the case of a protected site in England,”,
    - (ii) omit paragraph (b) of that sub-paragraph,
    - (iii) in sub-paragraph (ba) of that sub-paragraph, omit “in the case of a protected site in England,”,
    - (iv) omit paragraph (c) of that sub-paragraph,
    - (v) in sub-paragraph (1A), omit “, in the case of a pitch in England,”,
  - (i) in Chapter 2, in paragraph 19(3) and (4), for “In the case of a protected site in England, when” substitute “ When ”,
  - (j) in Chapter 2, in paragraph 20—
    - (i) in sub-paragraph (A1), for “In the case of a protected site in England, unless” substitute “ Unless ”, and
    - (ii) omit sub-paragraphs (1) and (2),
  - (k) in the headings of Chapters 3 and 4, omit “IN ENGLAND AND WALES”,
  - (l) in Chapter 4, omit paragraphs 6A and 6B,
  - (m) in Chapter 4, in paragraph 8, omit sub-paragraph (1A),
  - (n) in Chapter 4, in paragraph 16—

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- (i) in sub-paragraph (2), for “In the case of a protected site in England, when” substitute “ When ”, and
  - (ii) omit sub-paragraph (2A),
  - (o) in Chapter 4, in paragraph 18—
    - (i) in sub-paragraph (2), for “In the case of a protected site in England, there” substitute “ There ”, and
    - (ii) omit sub-paragraphs (1A) and (1B),
  - (p) in Chapter 4, in paragraph 26—
    - (i) in sub-paragraph (2), for “In the case of a protected site in England, when” substitute “ When ”, and
    - (ii) omit sub-paragraph (2A), and
  - (q) in Chapter 4, paragraph 27, omit the definition of “consumer prices index”.
- (10) Omit Part 3 of Schedule 1.

**Modifications etc. (not altering text)**

- C4 Sch. 4 para. 4: consequential amendments to be treated as not having effect until 1.10.2014 by virtue of [The Mobile Homes \(Wales\) Act 2013 \(Commencement, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/11\)](#), [art. 3\(2\)](#)

*Local Government Finance Act 1988 (c. 41)*

- 5 In paragraph 2B(5) of Schedule 6 to the Local Government Finance Act 1988, in the definition of “caravan site”—
- (a) for “that Act” substitute “ the Caravan Sites and Control of Development Act 1960 or Part 2 of the Mobile Homes (Wales) Act 2013 ”, and
  - (b) for “the Act” substitute “ the Caravan Sites and Control of Development Act 1960 or paragraph 4 and paragraph 11 of Schedule 1 to the Mobile Homes (Wales) Act 2013 ”.

*Town and Country Planning Act 1990 (c. 8)*

- 6 (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) In section 71(4), after “caravan site” insert “ or under Part 2 of the Mobile Homes (Wales) Act 2013 authorising the use of the land as a site for mobile homes (within the meaning of that Act) ”.
  - (3) In section 191(7)(a), after “1960” insert “ or section 7(1) of the Mobile Homes (Wales) Act 2013; ”.

*Local Government (Wales) Act 1994 (c. 19)*

- 7 In Schedule 16 to the Local Government (Wales) Act 1994, omit paragraph 16(1) and (2).

*Environment Act 1995 (c.25)*

- 8 (1) Schedule 9 to the Environment Act 1995 is amended as follows.

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(2) In paragraph 1(2)(c), after “commons)” insert “ or section 57 of and Schedule 3 to the Mobile Homes (Wales) Act 2013 (power of local authority in Wales to prohibit caravans on commons) ”.

(3) After paragraph 4 insert—

“4A In the Mobile Homes (Wales) Act 2013—

(a) section 56 (power of local authority to provide mobile home sites), and

(b) paragraph 11 of Schedule 1 (no site licence required by land owned by local authority),

shall have effect as if a National Park Authority were a local authority for the purposes of that Act and as if the relevant Park were that Authority's area.”

*Housing Act 2004 (c. 34)*

9 (1) The Housing Act 2004 is amended as follows.

(2) In section 230—

(a) in subsection (5ZA), after “the Caravan Sites and Control of Development Act 1960” insert “ or Part 2 of the Mobile Homes (Wales) Act 2013 ”,

(b) in subsection (5A), after “1983” insert “ or Part 4 of the Mobile Homes (Wales) Act 2013 ”, and

(c) in subsection (5B)—

(i) in the definition of “mobile home” and “protected site”, after “Act)” insert “ or the Mobile Homes (Wales) Act 2013 (see sections 2 and 60 of that Act) ”,

(ii) in the definition of “pitch”, for “that Act” substitute “ the Mobile Homes Act 1983 or section 55 of the Mobile Homes (Wales) Act 2013 ”, and

(iii) in the definition of “pitch fee”, for “that Act, as the case may be” substitute “ the Mobile Homes Act 1983 (as the case may be) or section 60 of the Mobile Homes (Wales) Act 2013 ”.

(3) In Schedule 13—

(a) in paragraph 3(6), for “or the Mobile Homes Act 1983” substitute “ , the Mobile Homes Act 1983 or the Mobile Homes (Wales) Act 2013 ”, and

(b) in paragraph 8(2), for “or of the Mobile Homes Act 1983” substitute “ , any provision of the Mobile Homes Act 1983 or any provision of the Mobile Homes (Wales) Act 2013 ”.

*Regulatory Enforcement and Sanctions Act 2008 (c. 13)*

10 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, after the entry relating to the Mines and Quarries (Tips) Act 1969 insert— “ Mobile Homes (Wales) Act 2013 ”.

*Equality Act 2010 (c. 15)*

11 In paragraph 30D(5) of Schedule 3 to the Equality Act 2010—

(a) in the definition of “mobile home agreement”, after “1983” insert “ or Part 4 of the Mobile Homes (Wales) Act 2013 ”, and

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- (b) in the definition of “owner”, “protected site” and “mobile home”, after “Act” insert “ or that Part of that Act ”.

## SCHEDULE 5

(introduced by section 58)

### TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

#### *Pending applications for site licences*

- 1 An application for a site licence under the Caravan Sites and Control of Development Act 1960 in respect of a regulated site which has been made to, but not determined by, a local authority before Part 2 comes into force is to be treated after the coming into force of that Part as an application to the local authority for a site licence under that Part in respect of the regulated site.

#### *Temporary continuation of existing site licences*

- 2 (1) The coming into force of Part 2 and paragraph 1(2) of Schedule 4 does not affect the continuing operation of the provisions of the Caravan Sites and Control of Development Act 1960 in relation to site licences continued in force under this paragraph.
- (2) A site licence under the Caravan Sites and Control of Development Act 1960 which is in force on the coming into force of Part 2 in respect of a regulated site continues in force until the end of the initial period unless—
- (a) it is revoked during the initial period, or
  - (b) an application for a site licence in respect of the regulated site under Part 2 has been made during the initial period.
- (3) If the site licence under the Caravan Sites and Control of Development Act 1960 is revoked during the initial period it continues in force until its revocation.
- (4) If an application for a site licence in respect of the regulated site under Part 2 is made during the initial period, the site licence under the Caravan Sites and Control of Development Act 1960 continues in force until it is determined (whether during or after the end of the initial period).
- (5) In this paragraph and paragraph 3, “the initial period” means the period of 6 months beginning with the day on which Part 2 comes into force.

#### *Time for determining site licence*

- 3 Where an application for a site licence in respect of a regulated site is made under Part 2 before the end of the initial period and at a time when a site licence under the Caravan Sites and Control of Development Act 1960 is in force in respect of the regulated site, section 7(2) has effect in relation to the application as if for “2 months” there were substituted “ 6 months ”.

#### *Continuation of existing model standards*

- 4 Any model standards made by the Welsh Ministers under section 5(6) of the Caravan Sites and Control of Development Act 1960 which are in force

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immediately before the coming into force of Part 2 have effect after that time (until they are replaced) as if made under section 10.

*Pre-commencement revocations*

- 5 The reference in section 7(5) to the revocation of a site licence under section 18 or 28 includes a revocation of a site licence under the Caravan Sites and Control of Development Act 1960 under section 9 of that Act.

*Pre-commencement offences to count for certain purposes*

- 6 The reference in subsection (4)(b) of section 18 to the offence under subsection (1) of that section includes an offence under section 9 of the Caravan Sites and Control of Development Act 1960 in relation to a site licence under that Act in relation to the same land.

*Prosecution of pre-commencement offences*

- 7 Nothing in any provision of this Act affects the operation of any enactment in relation to offences committed before that provision comes into force.

*Old transitionals and savings*

- 8 Any transitional provision or saving relating to the coming into force of any provision reenacted in this Act which is capable of having effect in relation to the provision as so reenacted has the same effect in relation to the provision as so reenacted as it had in relation to the provision that it re-enacts.

*Temporary reduction of maximum penalty for either way offence tried summarily*

- 9 In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, section 43(3)(a) has effect as if for “12 months” there were substituted “ 6 months ”.



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