

HOUSING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Gypsies and Travellers

Section 101 – Assessment of accommodation needs

191. A local housing authority must carry out periodical assessments of the accommodation needs of Gypsies and Travellers residing in (i.e. who live there) or resorting to (i.e. stay in the area from time to time) its area. An assessment must be carried out within each “review period” (see subsection (3)). Subject to this requirement it will be for each local housing authority to decide when these assessments occur. The first assessment under this section will be carried out within one year of this section coming into force. In carrying out an assessment, a local housing authority must consult such persons it considers appropriate, with reference to guidance produced under this Part.
192. The duty to carry out assessments in this section will, once in force, replace the requirement imposed on Welsh local housing authorities by section 225 of the Housing Act 2004 to assess Gypsies and Travellers’ accommodation needs. Assessments under section 225 currently occur as part of authorities’ wider review of the accommodation needs of their areas under section 8 of the Housing Act 1985. Assessments of Gypsies and Travellers’ needs under the new system could still be carried out at the same time as reviews under section 8 of the 1985 Act; but this will be a matter for each local housing authority to consider in light of the requirement to carry out an assessment of accommodation needs under this section within each “review period”.

Section 102 – Report following assessment

193. After carrying out an assessment, a local housing authority must prepare a report. The report must detail how the assessment was carried out and summarise the consultation and any responses received. The report must also detail the accommodation needs of Gypsies and Travellers residing or resorting to the area. An authority must submit its report to the Welsh Ministers for approval.
194. The Welsh Ministers may approve an authority’s assessment, with or without modifications, or reject it. If the assessment is rejected, the authority must revise and resubmit it or carry out another assessment. An authority’s decision on how to proceed in this respect will be informed by the reasons the Welsh Ministers give for refusing to approve the assessment. Possible grounds for refusing to approve an assessment could be inadequate consultation or a failure to provide adequate evidence in support of an assessment of need. If another assessment is undertaken, the authority must, as required by section 101(2), consult such persons it considers appropriate and submit a new report to Ministers for their approval. A local housing authority must publish an assessment after it has been approved by the Welsh Ministers.

Section 103 – Duty to meet assessed needs

195. The duty in this section applies to a local housing authority only if the authority's assessment of accommodation needs is approved by the Welsh Ministers under section 102, and identifies unmet need in the authority's area in respect of sites on which Gypsies and Travellers may station mobile homes.
196. "Unmet need" in this context could be the absence of sites altogether or inadequate existing provision.
197. If the duty applies, a local housing authority is required to exercise its power to provide sites for mobile homes in section 56 of the Mobile Homes (Wales) Act 2013 so far as necessary to meet the identified need. But a local housing authority is not required to provide, in or in connection with any sites, working space and facilities for activities that Gypsies and Travellers normally carry out.
198. The duty to meet need under this section relates only to the provision of sites on which mobile homes may be stationed. However, any information collected as part of an assessment conducted under section 101 which relates to other accommodation needs of Gypsies and Travellers should inform a local housing authority's periodical reviews of the wider housing needs of its area under section 8 of the Housing Act 1985.

Section 104 – Failure to comply with duty under section 103

199. If the Welsh Ministers are satisfied that a local housing authority has failed to comply with its duty to meet assessed needs, they may direct the authority to exercise its powers under section 56 of the Mobile Homes (Wales) Act 2013 to meet the needs identified in its approved assessment. The Welsh Ministers must consult with the authority before issuing such a direction. The direction must be given in writing and may be varied or revoked by a subsequent direction. The authority must comply with the direction, which is enforceable by mandatory order on application by, or on behalf of, the Welsh Ministers.

Section 105 – Provision of information upon request

200. A local housing authority must, in connection with the exercise of its functions, provide the Welsh Ministers with information they require and at any times required. This information may be general or specific to a particular case.
201. Information provided to Ministers by virtue of this section will assist Ministers when they make decisions about how to exercise their other functions under this Part; for example, when considering whether to approve an assessment. Information that could assist Ministers could be information gathered by local authorities about the frequency and number of unauthorised Gypsy and Traveller encampments in their areas (which could indicate insufficient site provision) or information about the steps a local housing authority is taking to provide Gypsy and Traveller sites where there is an identified need (which could inform a decision whether or not to direct an authority to exercise its powers under section 56 of the Mobile Homes (Wales) Act 2013 in a particular way).

Section 106 – Guidance

202. In exercising its functions under Part 3 of this Act, a local housing authority must have regard to any guidance issued by the Welsh Ministers. The guidance may be given generally to local housing authorities or to a specific description of authorities. It may be revised by further guidance, or withdrawn by way of further guidance or by notice. The Welsh Ministers must publish any guidance or notice.

Section 107 – Duties in relation to housing strategies

203. Where a local housing authority is required to have a strategy under section 87 of the Local Government Act 2003 in respect of meeting the accommodation needs of

*These notes refer to the Housing (Wales) Act 2014 (c.7)
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Gypsies and Travellers residing or resorting to its area, it must have regard to guidance issued by the Welsh Ministers when preparing the strategy. It must take the strategy into account in exercising its functions. “Functions” for this purpose includes any functions conferred upon it other than in its capacity as a local housing authority (local housing authorities in Wales are county or county borough councils which exercise a range of functions dealing with a variety of matters).

204. This section restates requirements currently imposed upon Welsh local housing authorities by section 225 of the Housing Act 2004. The relevant requirements in the 2004 Act will be repealed in so far as they relate to Welsh local housing authorities on the coming into force of this section (see the amendments contained in Part 2 of Schedule 3 to this Act).

Section 108 - Interpretation

205. This defines the terms “accommodation needs”, “Gypsy and Travellers”, and “mobile Homes”, which are used in this Part of the Act.

Section 109 – Power to amend definition of Gypsies and Travellers

206. The Welsh Ministers may, by order, change the definition of Gypsies and Travellers by adding, removing, or modifying a description of any persons. Amendments to the Mobile Homes (Wales) Act 2013 (which currently contains an identical definition of “Gypsies and Travellers”)) may also be made by order in consequence of any amendment to the definition.