

EXPLANATORY MEMORANDUM TO
THE MOBILE HOMES (SITE RULES) (ENGLAND) (AMENDMENT) REGULATIONS
2014

2014 No. 3073

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes an amendment to the Mobile Homes (Site Rules) (England) Regulations 2014 (S.I. 2014/5) (“the Site Rules Regulations”), to alter the requirements to be met in order to bring an appeal under regulation 10 of these Regulations. It has become apparent that there is a discrepancy between the wording in regulation 10 and the wording contained within the prescribed form in Schedule 2 to the Regulations, which also sets out the requirements in order to bring an appeal. This instrument therefore amends regulation 10 to make it consistent with the prescribed form and prevent any confusion arising regarding the requirements for a valid appeal.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Site Rules Regulations came into force in February 2014 and are one of a number of statutory instruments implementing the requirements of the Mobile Homes Act 2013. The Regulations set out the procedure for making site rules and the new requirements with which site rules must comply, under the provisions inserted into the Mobile Homes Act 1983 by the Mobile Homes Act 2013. Regulation 10 of these Regulations sets out the right of appeal that a person consulted on a site rule proposal under regulation 7 has in relation to a site owner’s response to that consultation, which must be provided in accordance with regulation 9.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 There are approximately 2000 park home sites in England accommodating about 85,000 owner occupied homes. Although some sites do not have rules, many do, often relating to the permitted age of home owners, and the keeping of pets as well as other matters.

7.2 Rules can be an important aid in maintaining good estate management and community cohesion. However, there is evidence that rules, usually unilaterally imposed by site owners, have been used to oppress home owners' rights and sometimes to give site owners unfair advantages or economic benefits. Most of these rules had little to do with estate management or community cohesion.

7.3 The procedure in the Site Rules Regulations was, therefore, made to ensure that going forward only rules that related to estate management or community cohesion could be made. Certain types of rules were banned altogether- as set out in Schedule 5 to the Regulations. Existing site rules, made prior to the commencement of the Mobile Homes Act 2013, cease to have effect after 3rd February 2015, or earlier if new site rules are made in accordance with the procedure set out in the Regulations, as set out in regulation 15.

7.4 The Site Rules Regulations set out a statutory scheme which site owners must follow if they wish to make rules to replace the existing ones (or any new rules). This includes a requirement to consult home owners using the prescribed form in Schedule 1 and to publish the proposed site rules following consultation, using the form in Schedule 2. Home owners who object to the proposed rules have a right to appeal on certain grounds to the First Tier Tribunal within 21 days of receiving the proposed new rules.

7.5 Regulation 10 (3) requires the home owner to inform the site owner within 21 days that the application to the tribunal has been made "and provide the owner with a copy of the application made". The form in Schedule 2 tells- at paragraph 6- the home owner of the right of appeal and that the site owner must be informed of the application. However, the form does not specify that a copy of the application to the tribunal must be given to the site owner. The fact the form and regulation 10 do not marry up has caused some uncertainty as to the validity of appeals to the First Tier Tribunal.

7.6 The original intention had been that the home owner would need to give the site owner a copy of the application made to the tribunal. The reason was so that the site owner would know with certainty that an appeal was outstanding and, therefore, the site owner could not proceed to the next step of depositing the proposed rules with the local authority. Merely telling the site owner that an appeal had been lodged could be more uncertain because of the risk that the home owner had not pursued the appeal.

7.7 One option would therefore have been to re-instate the original policy intention and change the form in Schedule 2 of the Site Rules Regulations so as to add the requirement to give a copy of the appeal application to the site owner. However, this is not at all practical at this stage. In many cases the consultation process would have already begun

and changing statutory forms during that process is likely to cause further problems, with wrong versions of the forms being used. Even if we were confident (which we are not) that site owners would use the amended form, changing it at this late stage would be disruptive to the on-going consultation process.

7.8 The preferred option, which these amending regulations implement, is to remove the requirement in regulation 10 that a copy of the application must be given to the site owner. This will, therefore, ensure the form in Schedule 2 meets the requirements as set out in the Regulations. Although the original intention had been to remove uncertainty as to whether an appeal had been made, the Department's view is that making this change to regulation 10 will not prejudice the site owner because (a) the site owner would be served with a copy of the application by the tribunal (if one is made) and (b) as the time limit for appealing to the tribunal is strict, the site owner would be able to make enquiries of the tribunal whether appeals had been made by those who advised of their intention to do so, shortly after the end of the 21 day period.

Consolidation

7.9 None.

8. Consultation outcome

8.1 There has been no consultation on this amendment, because it simply corrects an error in the existing legislation.

9. Guidance

9.1 The Secretary of State does not consider that there is a need for guidance on these Regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 No separate Impact Assessment has been prepared for this instrument because an Impact Assessment has been prepared for the changes introduced by the 2013 Act. This envisages an overall net benefit of £1.87 million per annum and cost to business by measures directly impacting of £0.2 million. A copy of the Impact Assessment can be downloaded from:

<https://www.gov.uk/government/consultations/a-better-deal-for-mobile-home-owners> .

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There is no impact upon small business.

12. Monitoring & review

12.1 A review of all the amendments brought in by the Mobile Homes Act 2013 will be carried out in 2017.

13. Contact

Robert Skeoch at the Department for Communities and Local Government Tel: 0303 444 3701 or email: Robert.Skeoch@communities.gsi.gov.uk can answer any queries regarding the instrument.