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WELSH STATUTORY INSTRUMENTS

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**2013 No. 1723 (W. 167)**

**MOBILE HOMES, WALES**

**The Mobile Homes Act 1983 (Amendment of Schedule 1  
and Consequential Amendments) (Wales) Order 2013**

*Made* - - - - *10 July 2013*

*Coming into force* - - *10 July 2013*

This Order is made by the Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by section 2A of the Mobile Homes Act 1983(1) and section 229(3) and (4) and 250(2) of the Housing Act 2004(2) and now exercisable by them.

In accordance with section 2A(5) of the Mobile Homes Act 1983, the Welsh Ministers have consulted such organisations as appear to them to be representative of interests substantially affected by the Order and other persons that they considered appropriate.

In accordance with section 2A(6) of the Mobile Homes Act 1983 and section 250(6) of the Housing Act 2004 a draft of this Order was laid before and approved by a resolution of the National Assembly for Wales(3).

In accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(4) the Welsh Ministers have consulted with the Administrative Justice and Tribunals Council.

**Title, commencement and application**

1.—(1) The title of this Order is the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (Wales) Order 2013 and it comes into force on 10 July 2013 (“the commencement date”).

(2) This Order applies in relation to Wales.

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- (1) [1983 c.34](#). Section 2A was inserted by section 208(1) of the Housing Act [2004 \(c.34\)](#). The powers of the National Assembly for Wales under section 2A are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30(1) and (2)(c) of Schedule 11 to, the Government of Wales Act [2006 \(c.32\)](#).
- (2) [2004 c.34](#). The powers of the National Assembly for Wales under sections 229 and 250 are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30(1) and (2)(c) of Schedule 11 to, the Government of Wales Act [2006 \(c.32\)](#). See the definition of “appropriate national authority” in section 261(1) of the 2004 Act.
- (3) The functions of the National Assembly for Wales of making an order under section 2A of the Mobile Homes Act 1983 and an order under section 229(3) of the Housing Act 2004 are substantially the same as the functions of the Secretary of State under those sections. By virtue of paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006, section 2A(6) of the 1983 Act and section 250(6) of the 2004 Act apply to the exercise by the Welsh Ministers of their functions of making orders under section 2A of the 1983 Act and section 229(3) of the 2004 Act as if any reference to either House of Parliament were a reference to the National Assembly for Wales.
- (4) [2007 c.15](#).

(3) The amendments made by this Order apply in relation to agreements made on or after the commencement date.

### **Amendments to Part 1 of Schedule 1 to the Mobile Homes Act 1983**

2.—(1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 is amended as follows.

(2) In Chapter 1—

- (a) in paragraph 1(1) omit the words “in England” in the second place they occur; and
- (b) in paragraph 1(2) and (3) after “England” insert “and Wales”.

(3) In Chapter 2—

- (a) in the heading omit the words “in England” in the second place they occur;
- (b) in paragraph 29 (interpretation)—
  - (i) for “this Schedule” substitute “this Chapter”; and
  - (ii) omit the definition of “pitch”.

(4) In the heading of Chapter 3 after “England” insert “and Wales”.

(5) In Chapter 4—

- (a) in the heading, after “England” insert “and Wales”;
- (b) after paragraph 6 (termination by owner) insert—

#### **“Assignment of agreement in Wales**

6A.—(1) This paragraph and paragraph 6B apply to an agreement that relates to a pitch in Wales.

(2) The occupier (“A”) may assign the agreement—

- (a) to a person who is a member of A’s family, or
- (b) to another person (“B”) if the conditions in sub-paragraph (3) are met.

(3) The conditions are—

- (a) A must have the approval of the owner; and
- (b) B must—
  - (i) be an occupier of a permanent pitch on a relevant site, and
  - (ii) have the approval of the owner to the assignment of B’s agreement to A or to another occupier of a permanent pitch on a relevant site.

(4) A relevant site for the purposes of sub-paragraph (3) is a local authority gypsy and traveller site in the area of the local authority where the site on which the pitch to which A’s agreement relates is located.

(5) Neither the occupier nor the owner may require any payment to be made (whether to the occupier or owner or otherwise) in connection with the assignment of the agreement under this paragraph.

#### **Application in relation to assignment in Wales**

6B.—(1) The occupier may serve on the owner a request to approve, for the purposes of paragraph 6A, an assignment to a person named in the request (“the proposed occupier”).

(2) Where the request relates to an assignment under paragraph 6A(2)(a) the request must include satisfactory evidence that the proposed occupier is a member of the occupier’s family.

- (3) Where the owner receives a request under sub-paragraph (1), the owner must, within 28 days beginning with the date on which the request is received—
- (a) approve the assignment, unless it is reasonable for the owner not to do so, and
  - (b) serve on the occupier notice of the owner’s decision (“a decision notice”).
- (4) If the approval is withheld, the decision notice must specify the reasons for withholding it.
- (5) Where a fee lawfully due from the occupier has not been paid or any term of the agreement has been broken or not performed, the approval required for the purpose of paragraph 6A may be given subject to a condition requiring the occupier to pay the outstanding fee, remedy the breach or perform the obligation.
- (6) Except as provided by sub-paragraph (5), the approval required for the purpose of paragraph 6A cannot be given subject to a condition and a condition imposed otherwise than as so provided is to be disregarded.
- (7) If the owner fails to serve the notice or withholds approval to the assignment the occupier may apply to the tribunal for an order declaring that the assignment is approved for the purposes of paragraph 6A and the tribunal may make such an order if it thinks fit.
- (8) If the question arises as to whether the notice required by sub-paragraph (3)(b) was served within the required period of 28 days, it is for an owner to show that the notice was so served.
- (9) If the owner did not approve the assignment and the question arises whether it was reasonable for the owner not to do so, it is for the owner to show that it was reasonable.
- (10) A request or notice under this paragraph—
- (a) must be in writing, and
  - (b) may be served by post.
- (11) Subject to sub-paragraph (12), an application to the tribunal under sub-paragraph (7) by an occupier must be made—
- (a) within the period of three months beginning with the day after the date on which the occupier receives the decision notice, or
  - (b) where the occupier receives no decision notice, within the period of three months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1).
- (12) A tribunal may permit an application under sub-paragraph (7) to be made to the tribunal after the applicable period specified in sub-paragraph (11) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply before the end of that period and for any delay since then in applying for permission to make the application out of time.”;
- (c) after paragraph 8(1) (re-siting of mobile home) insert—
- “(1A) In the case of a protected site in Wales, a pitch forming part of another protected site is, for the purposes of sub-paragraph (1)(a), broadly comparable to the occupier’s original pitch only if it provides access to health and education services required by the occupier which is, as far as reasonably practicable, broadly comparable to the access provided by the occupier’s original pitch.”;
- (d) in paragraph 16(2) (new pitch fee), at the beginning, insert “In the case of a protected site in England,”;
- (e) after paragraph 16(2) insert—

“(2A) In the case of a protected site in Wales, when calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(a)(iii) each pitch is to be taken to have only one occupier and, in the event of there being more than one occupier of a pitch, its occupier is to be taken to be whichever of them the occupiers agree or, in default of agreement, the one whose name first appears on the agreement.”;

(f) in paragraph 18(1), at the beginning, insert “In the case of a protected site in England,”;

(g) after paragraph 18(1) insert—

“(1A) In the case of a protected site in Wales, unless it would be unreasonable having regard to paragraph 16(1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than any percentage increase or decrease in the consumer prices index calculated by reference only to—

(a) the latest index, and

(b) the index published for the month which was 12 months before that to which the latest index relates.

(1B) In sub-paragraph (1A) the “latest index” means—

(a) in the case where the owner serves a notice under paragraph 15(2), the latest index published before the day on which that notice is served, and

(b) in the case where the owner serves a notice under paragraph 15(6)(b), the latest index published before the day by which the owner was required to serve a notice under paragraph 15(2).”

(h) in paragraph 26(2) (qualifying residents’ association), at the beginning, insert “In the case of a protected site in England,”;

(i) after paragraph 26(2) insert—

“(2A) In the case of a protected site in Wales, when calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) each pitch is to be taken to have only one occupier and, in the event of there being more than one occupier of a pitch, its occupier is to be taken to be whichever of them the occupiers agree or, in default of agreement, the one whose name first appears on the agreement.”;

(j) in paragraph 27—

(i) before the definition of “pitch fee” insert—

““consumer prices index” means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board;”.

### **Residential property tribunals**

**3.** Section 4 of the Mobile Homes Act 1983 (jurisdiction of a tribunal or the court) has effect as if references in that section to the Mobile Homes Act 1983 were references to that Act as amended by the Housing and Regeneration Act 2008(5) and this Order.

### **Consequential amendments to the Mobile Homes Act 1983**

**4.—(1)** The Mobile Homes Act 1983 is amended as follows.

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(5) Section 318 of the Housing and Regeneration Act 2008 amends section 5(1) of the 1983 Act to remove the exclusion of “land occupied by a caravan site providing accommodation for gypsies” from the meaning of “protected site” for the purposes of the 1983 Act.

- (2) In section 2 (terms of agreements)—
  - (a) in subsection (1) after “implied the” insert “applicable”; and
  - (b) in subsection (5) after “paragraphs 8 and 9” insert “of Chapter 2”.
- (3) In section 3 (successors in title)—
  - (a) in subsection (4) at the beginning of paragraph (b) insert “in relation to a protected site in England,”;
  - (b) after subsection (4)(b) insert—
    - “; or
    - (c) in relation to a protected site in Wales, it includes terms implied by virtue of paragraph 5 or 9 of Chapter 2, or paragraph 5 or 6A of Chapter 4 of Part 1 of Schedule 1 to this Act.”
- (4) In Part 3 of Schedule 1 (supplementary provisions)—
  - (a) in the heading before paragraph 1, after “9” insert “of Chapter 2 and (in relation to a protected site in Wales) paragraph 6A(3)(b) of Chapter 4”;
  - (b) in paragraph 1(1)—
    - (i) in paragraph (a) after “paragraph 8(1)” insert “of Chapter 2”;
    - (ii) at the end of paragraph (a) omit “or”;
    - (iii) in subparagraph (b), after “paragraph 9(1)” insert “of Chapter 2”;
    - (iv) at the end of subparagraph (b) insert—
      - “, or
      - (c) a request by the occupier for the owner to approve the assignment of an agreement relating to a pitch in Wales for the purpose of paragraph 6A of Chapter 4 (see paragraph 6B).”;
  - (c) in paragraph 1(3) after “paragraph 8(1B)” insert “of Chapter 2 or paragraph 6B(3) of Chapter 4”;
  - (d) in paragraph 2(2) after “paragraph 8 or 9” insert “of Chapter 2 or paragraph 6A of Chapter 4”.

## **Amendments to the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012**

**5.—(1)** The Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012(6) are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) In the definition of “interested person” at the end of paragraph (e), omit the word “and”;
  - (b) after paragraph (e) insert—
    - “(f) the person to whom the occupier wants to assign a pitch under paragraph 6A(2)(a) or 6A(2)(b) of Chapter 4 of Part 1 of Schedule 1 to the 1983 Act;”
  - (c) renumber paragraph (f) as paragraph (g).
- (3) In regulation 12 (applications under the 1983 Act relating to detrimental effect of mobile homes on the amenity of the site)—
  - (a) in paragraph (1) and (3)(a) after “Chapter 2” insert “, or paragraph 6(1)(a) of Chapter 4;”;

- (b) in paragraph (3)(b) after “Chapter 2” insert “, or paragraph 6(2) of Chapter 4,”;
- (c) in paragraph (6)(c) after “Chapter 2” insert “, or paragraph 6(1)(a) of Chapter 4,”.
- (4) In regulation 21(5) (determination without a hearing) after “Chapter 2” insert “, or paragraphs 4, 5, 6 or 8 of Chapter 4,”.
- (5) In regulation 47 (fees for applications made under the 1983 Act)—
  - (a) in paragraph (1) after “Chapter 2” insert “, or paragraph 26(1)(h) of Chapter 4,”;
  - (b) in paragraph (2)(d) after “Chapter 2” insert “, or paragraphs 4, 5 or 6(1) of Chapter 4,”;
  - (c) in paragraph (2)(e) after “Chapter 2” insert “, or paragraph 8(1) of Chapter 4,”.
- (6) In the Schedule (additional details with regard to certain applications)—
  - (a) in paragraph 54 (applications relating to detrimental effect of mobile homes on the amenity of the site)—
    - (i) in subparagraph (1) after “Chapter 2,” insert “, or paragraph 6(1)(a) of Chapter 4,”;
    - (ii) in subparagraph (2)(a) after “Chapter 2” insert “, or paragraph 6(1) of Chapter 4,”;
  - (b) in paragraph 55 (applications relating to termination by the site owner)—
    - (i) in subparagraph (1) and (2)(b) after “Chapter 2” insert “, or paragraphs 4, 5 or 6(1)(b) of Chapter 4,”;
    - (ii) in subparagraph (2)(c) after “Chapter 2” insert “, or paragraph 4 of Chapter 4,”;
    - (iii) in subparagraph (2)(e) after “Chapter 2” insert “, or paragraph 6(1) of Chapter 4,”;
  - (c) in paragraph 56 (applications relating to approval of person on sale or gift of mobile home) —
    - (i) in the heading, after “homes” insert “or approval of assignment of a pitch”;
    - (ii) in subparagraph (1) after “Chapter 2” insert “and paragraph 6B(7) of Chapter 4”;
    - (iii) in subparagraph (2)(a) after “Chapter 2” insert “, or paragraph 6B(1) of Chapter 4,”;
    - (iv) in subparagraph (2)(b) after “gift” insert “or to the assignment”;
  - (d) in paragraph 57 (applications relating to re-siting of mobile homes) in subparagraph (1) and (2)(c) after “Chapter 2,” insert “or paragraph 8(1) of Chapter 4,”;
  - (e) in paragraph 58 (applications relating the return of re-sited mobile homes) in subparagraph (1) and (2) after “Chapter 2” insert “, or paragraph 8(2) of Chapter 4,”;
  - (f) in paragraph 59 (applications relating to the pitch fee)—
    - (i) in subparagraph (1) after “Chapter 2,” insert “or paragraphs 14(b), 15(4) or 15(8) of Chapter 4,”;
    - (ii) in subparagraph (2) after “Chapter 2” insert “, or paragraph 15(2) of Chapter 4,”;
  - (g) in paragraph 60 (applications in relation to improvements to be taken into account in the pitch fee) —
    - (i) in subparagraph (1) after “Chapter 2” insert “, or paragraph 16(1)(a)(iii) of Chapter 4,”;
    - (ii) in subparagraph (2)(d) after “Chapter 2” insert “, or paragraph 20(f) and (g) of Chapter 4,”;
  - (h) in paragraph 61(1) after “Chapter 2,” insert “or paragraph 26(1)(h) of Chapter 4,”.

### **Amendment of the Mobile Homes (Written Statement) (Wales) Regulations 2012**

**6.—(1)** The amendments made by this paragraph apply to any written statement given on or after the commencement date.

(2) The Mobile Homes (Written Statement) (Wales) Regulations 2012<sup>(7)</sup> are amended as follows.

(3) In the Schedule—

(a) in paragraph 2 omit the words “in England” in both places they occur.

(b) after the heading to paragraph 4 (additional terms) insert—

“(The following paragraph does not apply to an agreement that relates to a transit pitch on a local authority Gypsy and Traveller site)”;

(c) after the heading in paragraph 5 (right to challenge express terms) insert—

“(The following paragraph does not apply to an agreement that relates to a transit pitch on a local authority Gypsy and Traveller site)”;

(d) after the heading in paragraph 9 (six months time limit for challenging the terms) insert—

“(The following paragraph does not apply to an agreement that relates to a transit pitch on a local authority Gypsy and Traveller site)”.

#### **Amendment to the Mobile Homes (Commissions) Order 1983**

7. Article 2 of the Mobile Homes (Commissions) Order 1983<sup>(8)</sup> is amended by inserting “of Chapter 2” after “paragraph 8”.

10 July 2013

*Jeff Cuthbert*  
Minister for Communities and Tackling Poverty,  
one of the Welsh Ministers

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<sup>(7)</sup> S.I. 2012/2675 (W. 289).

<sup>(8)</sup> S.I. 1983/748.

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## EXPLANATORY NOTE

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

This Order is made under section 2A of the Mobile Homes Act 1983 (“the 1983 Act”). It amends Schedule 1 to the 1983 Act and makes a number of consequential amendments.

On commencement of section 318 of the Housing and Regeneration Act 2008 the exclusion of local authority gypsy and traveller sites from the provisions of the 1983 Act is removed.

From the commencement date agreements on such sites will, by virtue of section 2 of the 1983 Act, include the implied terms contained in Schedule 1 to that Act. This Order amends Part 1 of Schedule 1 so that the sets of implied terms for local authority Gypsy and Traveller sites inserted by the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 in relation to England, are applied in relation to Wales. Those implied terms relate to transit and permanent pitches on local authority Gypsy and Traveller sites. The Order (at article 2(5) (b), (d), (f) and (g)) also sets out some terms in relation to permanent pitches that differ from those that apply in England.

The implied terms for transit pitches are more limited than for permanent pitches. On transit pitches the main implied terms relate to—

- (a) the fixed duration of the agreement and its early termination (where it is not left to expire at the end of the fixed period specified in the agreement);
- (b) the limitation of the right to station where the owner’s estate or interest or the planning permission relating to the site prevents occupation for the entirety of the fixed period specified in the agreement;
- (c) the recovery of overpayments made by the occupier;
- (d) the quiet enjoyment of the mobile home;
- (e) the owner’s right to enter the pitch (but not the mobile home) in specified circumstances, in some cases without giving notice;
- (f) the requirement to supply the occupier with the owner’s name and address.

The implied terms for permanent pitches provided by virtue of the Order are similar to those for occupiers of mobile homes on park home sites. One of the main differences are the provisions relating to assignment. Occupiers of permanent pitches on local authority Gypsy and Traveller sites may, with the agreement of the local authority, assign their agreement to a member of their family or exchange their agreement with another occupier.

The consequential amendments made by the Order to the 1983 Act ensure that all references to Schedule 1 to the Act refer to the appropriate Chapter of that Schedule.

The implied terms under the 1983 Act for agreements in relation to mobile homes on park home sites are not affected by this Order.

Article 3 of the Order is concerned with the jurisdiction of residential property tribunals. The effect of that article is that the tribunals’ jurisdiction extends to matters arising as a result of amendments made to the 1983 Act by this Order.

A regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Department for Local Government and Communities, Welsh Government, Cathays Park, Cardiff CF10 3NQ.



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