

# MOBILE HOMES (WALES) ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4 - Mobile Home Agreements**

##### *Section 48 – Agreements to which Part applies*

104. **Section 48** restates section 1(1) of the Mobile Homes Act 1983 ("the 1983 Act") and states that Part 4 relates to agreements under which a person is entitled to station a mobile home on a protected site and to occupy the mobile home as the person's only or main residence. It defines who an "occupier" is under Part 4.

##### *Sections 49 – Particulars of agreements*

105. **Section 49** sets out requirements for agreements. Subsection (1) provides that before making an agreement, the owner of a protected site must give a written statement to the proposed occupier under the agreement setting out those matters listed in paragraphs (a) to (e), such as the express and implied terms of the agreement. The Welsh Ministers may make regulations which specify further information that must be included in this statement.
106. Subsection (2) sets out when the written statement must be given.
107. Subsection (4) states that if an agreement includes an express term, other than a site rule, which was not set out in the written statement, the term is unenforceable by the owner (see also section 50(3)). Express terms are the terms of the agreement that a site owner has included in the agreement with an occupier. Implied terms are those under Part 1 of Schedule 2 which are implied into all agreements between occupiers and site owners.
108. Subsection (5) sets out what happens if the owner fails to give an occupier a written statement.
109. Subsections (2), (3) and (5) do not apply to a person occupying or proposing to occupy a transit pitch on a local authority Gypsy and Traveller site.

##### *Section 50 – Terms of agreements*

110. **Section 50** introduces Schedule 2 (Terms of Mobile Home Agreements) which set out the terms to be implied in any agreement to which Part 4 applies. It also sets out in subsections (2) to (4) that a tribunal or court (see section 54) may make an order to amend or delete any express term other than a site rule (see section 52).
111. 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.

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

112. **Section 51** states that the Welsh Ministers may by order amend Schedule 2 - apart from paragraph 11 - as they consider appropriate.

### ***Section 52 - Site rules***

113. **Section 52** makes provision about “site rules” (as defined in subsection (2)). Under the provisions (which do not apply to local authority Gypsy and Traveller sites) every site rule will be an express term of the pitch agreement between the site owner and the mobile home occupier creating certainty for both parties. These provisions will apply to existing pitch agreements as well as to those made after the provisions come into force.
114. The provisions confer a power on the Welsh Ministers to make regulations about the procedure to be followed by a site owner who is proposing to make new site rules or to vary or delete existing site rules, for example, requiring prior consultation with occupiers. The Welsh Ministers may also make regulations which:-
- Render existing site rules (i.e. ones pre-dating the commencement of section 52) of no effect by such date as set out in the regulations;
  - Prescribe matters in relation to which site rules may not be made;
  - Establish a process for the resolution of disputes arising between site owners and mobile home occupiers regarding the making, varying or deleting site rules;
  - Require a local authority to keep and publish an up-to-date register of site rules for protected sites in its area.

### ***Section 53 - Successors in title***

115. **Section 53** restates section 3 of the 1983 Act with some amendments, and provides for a mobile home agreement to be passed to another on the death of a party to the agreement. Subsection (3)(a) defines those persons entitled to succeed to an agreement to which Part 4 applies. Under subsection (3)(b), in default of any such persons, the person entitled to the mobile home is established by virtue of the deceased’s will or under the law of intestacy (subject to subsection (4)).