WELSH STATUTORY INSTRUMENTS

2012 No. 899 (W.119)

MOBILE HOMES, WALES

The Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012

Made - - - -	*20 March 2012*
Coming into force - -	*21 March 2012*

The Welsh Ministers, in exercise of the powers conferred on them by sections 229(3) and (4) and 250(2) of the Housing Act 2004(**1**) make the following Order.

A draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales in accordance with section 250(6) of the Housing Act 2004 and paragraph 34 of Schedule 11 to the Government of Wales Act 2006.

Title, commencement and interpretation

1.—(1) The title of this Order is the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012 and it comes into force on 21 March 2012.

(2) In this Order—

"the 1983 Act" ("*y Ddeddf 1983*") means the Mobile Homes Act 1983(**2**); and

"the commencement date" ("*y dyddiad cychwyn*") means the day on which this Order comes into force.

Jurisdiction of residential property tribunals in relation to mobile homes

2. A residential property tribunal has conferred on it such jurisdiction under the 1983 Act as is specified by virtue of the amendments made to that Act and to the Housing Act 2004 by this Order.

Amendments to the 1983 Act

3.—(1) The 1983 Act is amended in accordance with the following paragraphs.

(**1**) 2004 c. 34. The powers conferred by section 229(3) and (4) of the Housing Act 2004 are exercisable, by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 by the Welsh Ministers. *See* the definition of the "appropriate national authority" in section 261(1) of the 2004 Act.

(**2**) 1983 c. 34. The 1983 Act extends to England and Wales and Scotland. It has been substantially amended, in relation to England and Wales, by sections 206 to 208 of the Housing Act 2004 and by the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I. 2007/3151 (W. 268)) in relation to Wales.

(2) In section 1(5) and (6) (particulars of agreements) for "court" substitute "appropriate judicial body".

(3) In section 2 (terms of agreements) in subsections (2), (3) and (4) for "court", wherever it appears, substitute "appropriate judicial body".

(4) In section 2A (power to amend implied terms) in subsection (3)(a) after "the court", in both places, insert "or a tribunal".

(5) In section 4 (jurisdiction of a tribunal or the court: England and Wales)—

(a) in subsections (1) and (3), after "England" insert "or in Wales";

(b) omit subsection (7).

(6) In subsection (1) of section 5 (interpretation)—

(a) before the definition of "the appropriate national authority" insert—

> ""the appropriate judicial body" means whichever of the court or a tribunal has jurisdiction under section 4;",

(b) after the definition of "the appropriate national authority" insert—

> ""arbitration agreement" means an agreement in writing to submit to arbitration any question arising under this Act or any agreement to which it applies;",

(c) in the definition of "the court" in paragraph (a) for the words from "agreed" to "arbitration" substitute "entered into an arbitration agreement that applies to the question to be determined", and

(d) after the definition of "protected site" insert—

> ""a tribunal" means a residential property tribunal(**3**) 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."

(7) In Chapter 2 of Part 1 of Schedule 1 (agreements relating to pitches in England and Wales except pitches in England on local authority gypsy and traveller sites and county council gypsy and traveller sites)—

(a) in paragraph 1 (duration of agreement) for "or 6" substitute "or 5A",

(b) in paragraph 4 (termination by owner) for "court" substitute "appropriate judicial body",

(c) in paragraph 5 (termination by owner) for "court" substitute "appropriate judicial body",

(d) in paragraph 5A, omit sub-paragraph (1),

(e) omit paragraph 6,

(f) in paragraph 8 (sale of mobile home to a person approved by the owner)—

(i) in sub-paragraph (1E), for "court", wherever it appears, substitute "appropriate judicial body", and

(ii) after sub-paragraph (1G), insert—

> "(1H) Subject to sub-paragraph (1I), an application to a tribunal under sub-paragraph (1E) by an occupier must be made—
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> (a) within the period of three months beginning with the day after the date on which the occupier receives notice of the owner's decision under sub-paragraph (1B); or
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> (b) where the occupier receives no notice from the owner as required by sub-paragraph (1B), within the period of three months beginning with the date

(**3**) By section 229 of the Housing Act 2004 (c. 34) any jurisdiction of a residential property tribunal by or under an enactment may be exercised by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).

which is 29 days after the date upon which the occupier served the request under sub-paragraph (1A).

(1I) A tribunal may permit an application under sub-paragraph (1E) to be made to the tribunal after the applicable period specified in sub-paragraph (1H) 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."

(g) in paragraph 9 (gift of mobile home), in sub-paragraph (2) for "(1G)" substitute "(1I)",

(h) in paragraph 10 (re-siting of mobile home), in sub-paragraphs (1)(a) and (2), for "court" substitute "appropriate judicial body",

(i) in paragraph 16 (the pitch fee), in paragraph (b), for "court" substitute "appropriate judicial body",

(j) in paragraph 17 (pitch fee review)—

(i) for "court", wherever it appears, substitute "appropriate judicial body",

(ii) in sub-paragraph (5) omit the words ", in the case of an application in relation to a protected site in England,",

(iii) in sub-paragraph (9) omit the words ", in the case of an application in relation to a protected site in England,", and

(iv) in sub-paragraph (9A) omit the words "in relation to a protected site in England",

(k) in paragraph 18 (pitch fee determination), in sub-paragraph (1)(a)(iii), for "court" substitute "appropriate judicial body",

(l) in paragraph 19 (pitch fee determination), in sub-paragraph (2) omit the words "In the case of a protected site in England,", and

(m) in paragraph 28 (qualifying residents' association), in sub-paragraph (1)(h), for "court" substitute "appropriate judicial body".

(8) In the heading of Part 2 of Schedule 1 (matters concerning which terms can be implied by court) for "court" substitute "appropriate judicial body".

Amendments to the Housing Act 2004

4.—(1) The Housing Act 2004 is amended in accordance with the following paragraphs.

(2) In section 230 (powers and procedure of residential property tribunals) after subsection (5) insert—

"(5A) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by a tribunal under its general power include (where appropriate)—

(a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;

(b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as can be specified in the directions;

(c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or the protected site in such manner as may be specified in the directions;

(d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.