WELSH STATUTORY INSTRUMENTS

2007 No. 3151 (W.268)

HOUSING, WALES

The Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007

Made - - - -	*27 November 2007*
Coming into force - -	*30 November 2007*

The Welsh Ministers(**1**) are, in relation to Wales, the appropriate national authority for the purposes of exerting the powers conferred by section 2A of the Mobile Homes Act 1983(**2**) and make the following Order in exercise of those powers;

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

A draft of this Order was laid before the National Assembly for Wales in accordance with section 2A(6) of that Act and has been approved by a resolution of the National Assembly for Wales(**3**);

The Welsh Ministers make the following Order:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 and it comes into force on 30 November 2007.

(2) The amendments made by this Order(**4**) to Schedule 1 to the 1983 Act apply in relation to any agreement to which that Act applies and which relates to the stationing of a mobile home in Wales.

(3) Subject to article 4, those amendments apply in relation to any such agreement made at any time before 30 November 2007 as well as in relation to such agreements made on or after that date.

(4) In this Order "the 1983 Act" ("*Deddf 1983*") means the Mobile Homes Act 1983.

(**1**) The functions of the National Assembly for Wales are vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) 1983 c. 34. Section 2A was inserted by section 208(1) of the Housing Act 2004 (c. 34). For Wales, the appropriate national authority is the National Assembly for Wales; see the definition of "the appropriate national authority" in section 5(1) of the 1983 Act, as amended by section 206(3) of the 2004 Act.

(**3**) Paragraph 34 of Schedule 11 of the Government of Wales Act 2006 (c. 32) sets out that any reference to Parliament should be read as a reference to the Assembly.

(**4**) These amendments are additional to those made by section 207(1) of the Housing Act 2004.

Amendment of Part 1 of Schedule 1 to the 1983 Act

2.—(1) Part 1 of Schedule 1 to the 1983 Act (terms implied in site agreements) is amended as follows.

(2) In paragraph 5 (termination by the owner because mobile home is not being occupied as only or main residence), for the words from "the court" to the end, substitute—

"the court—

(a) is satisfied that the occupier is not occupying the mobile home as his only or main residence; and

(b) considers it reasonable for the agreement to be terminated.".(**5**)

(3) In paragraph 6 (termination by the owner because of mobile home's detrimental effect on amenity of the site due to its condition)—

(a) in sub-paragraph (1)—

(i) for "at the end of the relevant period" substitute "forthwith";

(ii) at the end of paragraph (a) for "; or" substitute "; and"; and

(iii) for paragraph (b) substitute—

"(b) the court considers it reasonable for the agreement to be terminated.";

(b) omit sub-paragraph (2); and

(c) in sub-paragraph (3)—

(i) in paragraph (a) omit "or (b)"; and

(ii) in paragraph (b) for "would result in neither of those paragraphs applying to it" substitute "would result in sub-paragraph (1)(a) not applying to it".

(4) In paragraph 8 (sale of mobile home to person approved by owner)—

(a) for sub-paragraph (1C) substitute—

"(1C) The owner may not give his approval subject to conditions.";

(b) for sub-paragraph (1D) substitute—

"(1D) If the approval is withheld, the notice under sub-paragraph (1B) above must specify the reasons for withholding it.";

(c) in sub-paragraph (1E) for "sub-paragraphs (1B) and (1C)" substitute "sub-paragraph (1B) (and, if applicable, sub-paragraph (1D))";

(d) in sub-paragraph (1F)—

(i) for "sub-paragraphs (1B) and (1C)" substitute "sub-paragraph (1B) (and, if applicable, sub-paragraph (1D)"; and

(ii) omit paragraph (b); and

(e) after sub-paragraph (2) insert—

"(2A) Except to the extent mentioned in sub-paragraph (2) above, the owner may not require any payment to be made (whether to himself or otherwise) in connection with the sale of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (1) above .".

(5) In paragraph 9 (gift of mobile home to person approved by owner) after sub-paragraph (2) add-

(**5**) For the meaning of "the court" and "the owner", *see* section 5(1) of the Mobile Homes Act 1983 and for the meaning of "the occupier" *see* section 1 of the 1983 Act.

"(3) The owner may not require any payment to be made (whether to himself or otherwise) in connection with the gift of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (1) above.".

(6) For paragraph 10 (re-siting of mobile home) substitute—

"Re-siting of mobile home

10.—(1) The owner shall be entitled to require that the occupier's right to station the mobile home is exercisable for any period in relation to another pitch forming part of the protected site ("the other pitch") if (and only if)—

(a) on the application of the owner, the court is satisfied that the other pitch is broadly comparable to the occupier's original pitch and that it is reasonable for the mobile home to be stationed on the other pitch for that period; or

(b) the owner needs to carry out essential repair or emergency works that can only be carried out if the mobile home is moved to the other pitch for that period, and the other pitch is broadly comparable to the occupier's original pitch.

(2) If the owner requires the occupier to station the mobile home on the other pitch so that he can replace, or carry out repairs to, the base on which the mobile home is stationed, he must if the occupier so requires, or the court on the application of the occupier so orders, secure that the mobile home is returned to the original pitch on the completion of the replacement or repairs.

(3) The owner shall pay all the costs and expenses incurred by the occupier in connection with his mobile home being moved to and from the other pitch.

(4) In this paragraph and in paragraph 13 below, "essential repair or emergency works" means—

(a) repairs to the base on which the mobile home is stationed;

(b) works or repairs needed to comply with any relevant legal requirements; or

(c) works or repairs in connection with restoration following flood, landslide or other natural disaster.

Quiet enjoyment of the mobile home

11. The occupier shall be entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 10, 12, 13 and 14.

Owner's right of entry to the pitch

12. The owner may enter the pitch without prior notice between the hours of 9 a.m. and 6 p.m.—

(a) to deliver written communications, including post and notices, to the occupier; and

(b) to read any meter for gas, electricity, water, sewerage or other services supplied by the owner.

13. The owner may enter the pitch to carry out essential repair or emergency works on giving as much notice to the occupier (whether in writing or otherwise) as is reasonably practicable in the circumstances.

14. Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in paragraph 12 or 13 only if he has given the occupier at least 14 clear days' written notice of the date, time and reason for his visit.

15. The rights conferred by paragraphs 12 to 14 above do not extend to the mobile home.

The pitch fee

16. The pitch fee can only be changed in accordance with paragraph 17, either—

(a) with the agreement of the occupier, or

(b) if the court, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.

17.—(1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

(a) the owner may apply to the court for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the court under paragraph 16(b); and

(c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the court order determining the amount of the new pitch fee.

(5) An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date.

(6) Sub-paragraphs (7) to (10) apply if the owner—

(a) has not served the notice required by sub-paragraph (2) by the time by which it was required to be served, but

(b) at any time thereafter serves on the occupier a written notice setting out his proposals in respect of a new pitch fee.

(7) If (at any time) the occupier agrees to the proposed pitch fee, it shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(8) If the occupier has not agreed to the proposed pitch fee—

(a) the owner may apply to the court for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the court under paragraph 16(b); and

(c) if the court makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(9) An application under sub-paragraph (8) may be made at any time after the end of the period of 56 days beginning with the date on which the owner serves the notice under sub-paragraph (6)(b).

(10) The occupier shall not be treated as being in arrears—

(a) where sub-paragraph (7) applies, until the 28th day after the date on which the new pitch fee is agreed; or

(b) where sub-paragraph (8)(b) applies, until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the court order determining the amount of the new pitch fee.

18.—(1) When determining the amount of the new pitch fee particular regard shall be had to—

(a) any sums expended by the owner since the last review date on improvements—

(i) which are for the benefit of the occupiers of mobile homes on the protected site;

(ii) which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and

(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the court, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;

(b) any decrease in the amenity of the protected site since the last review date; and

(c) the effect of any enactment, other than an order made under paragraph 8(2) above, which has come into force since the last review date.

(2) When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(a)(iii) each mobile home is to be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be the occupier whose name first appears on the agreement.

(3) In a case where the pitch fee has not been previously reviewed, references in this paragraph to the last review date are to be read as references to the date when the agreement commenced.

19. When determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site shall not be taken into account.

20.—(1) There is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index since the last review date, unless this would be unreasonable having regard to paragraph 18(1) above.

(2) Paragraph 18(3) above applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.

Occupier's obligations

21. The occupier shall—

(a) pay the pitch fee to the owner;

(b) pay to the owner all sums due under the agreement in respect of gas, electricity, water, sewerage or other services supplied by the owner;

(c) keep the mobile home in a sound state of repair;

(d) maintain—

(i) the outside of the mobile home, and

(ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home,

in a clean and tidy condition; and