

Darren Millar AM

**North Wales Business Park
Abergele
LL22 8LJ**

Email: Darren.Millar@wales.gov.uk
Tel: 01745 839117

11 December 2013

Dear Colleague

Holiday Caravan Sites (Wales) Bill

Following a ballot conducted by the Presiding Officer, the National Assembly for Wales has agreed that I can introduce proposals for a new law in Wales, which I now propose to call the Holiday Caravan Sites (Wales) Bill.

Earlier in the year I undertook an extensive public consultation and engagement exercise to assist me in developing my proposals and gave a commitment to allow for further consultation once a draft Bill had been prepared. This work has now been completed and I am pleased to attach a copy of the draft Bill for your information.

The draft Bill takes as its starting point the Mobile Homes (Wales) Act 2013 and applies it with specified modifications to Holiday Caravan Sites. I am advised that this is the best way to ensure that the legislation is as concise as possible, consistent with other Welsh law. Although there are clear differences between the park homes sector and the holiday caravans industry, there are also very many common issues that lend themselves to the approach I am taking.

The draft Bill has been designed to address concerns regarding the management and regulation of holiday caravan parks in Wales including:

- the powers available to local authorities to address unlawful occupation of caravans;
- the resources available to enforce operating conditions on holiday caravan park licences;
- the fitness of persons owning holiday caravan parks;
- abuses by some holiday caravan park owners of holiday caravan owners on their sites; and
- the cost of providing public services to those who use holiday caravans as their main home



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Depending on the outcome of this additional consultation, the Bill may be subject to further drafting and technical changes before I formally introduce it in the National Assembly. Upon formal introduction I will also publish a detailed Explanatory Memorandum and a rigorous Regulatory Impact Assessment to support the detailed scrutiny process which is required before a final decision on whether it should become law.

I am particularly seeking the views of bodies representative of the Holiday Caravan Industry, their customers and those that will need to administer my proposals, primarily in local government. The draft Bill has also been published on the Assembly's website to allow for as many people as possible to send in their views.

The Bill must be introduced by mid-March 2014 and in order to meet this deadline the closing date for this consultation is Friday, January 17, 2014.

I look forward to receiving your views.

Yours sincerely



Darren Millar

Assembly Member for Clwyd West



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Holiday Caravan Sites (Wales) Bill

An Act to make provision about holiday caravan sites in Wales.

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:—

Introduction

1 Purpose

The purpose of this Act is to make provision about the licensing and regulation of holiday caravan sites in Wales.

2 Overview

- (1) This Act applies the Mobile Homes (Wales) Act 2013 to holiday caravan sites, with specified modifications.
- (2) The Table shows provisions of the 2013 Act that are modified by this Act in their application to holiday caravan sites.

<i>Provision of 2013 Act</i>	<i>Topic</i>	<i>General nature of modification</i>	<i>Provision of this Act</i>
Section 8	Duration of site licences	Licence to last indefinitely	Section 7
Section 9	Licence conditions	Consulting on flood risk management	Section 8(1)
Section 9	Licence conditions	Local authority to monitor compliance with licence conditions on an annual basis	Section 8(2)
Section 9	Licence conditions	Review of licence conditions every 5 years	Section 8(3)
Section 9	Licence conditions	Prohibition on using holiday caravan as an only or main residence, and site owners to conduct a residence test	Section 9
Section 15	Breach of condition	Duty on local authority to give compliance notice if occupier fails residence test, and occupier's right to appeal	Sections 10(1) to 10(4)
Section 16	Breach of condition	Increase in fixed penalty notice maximum for breach of licence condition	Section 10(5)
Section 16	Breach of condition	Welsh Ministers to issue guidance on use of fixed penalty notices	Section 10(6)
Section 28	Requirement for manager of site to be fit and proper person	Inclusion of any person responsible for giving instructions to manager	Section 11(1)
Section 29	Decision whether person is fit and proper	Evidence of breach of trading standards to be considered	Section 11(2)
Section 30	Interim manager	No right for occupiers' association to require consideration of appointment of interim manager	Section 12
Section 41	Protection from eviction	Removal of minimum length of notice	Section 13
Section 42(3)	Protection from eviction	Removal of certain protections against eviction	Section 14
Section 48	Holiday caravan agreements	Clarification that Part 4 of the 2013 Act applies to holiday caravan agreements	Section 15

<i>Provision of 2013 Act</i>	<i>Topic</i>	<i>General nature of modification</i>	<i>Provision of this Act</i>
Section 50 and Schedule 2	Terms of holiday caravan agreements	Incorporation of new implied terms, and power for Welsh Ministers to amend terms	Section 16
Section 53	Successors in title	Requirement for owner consent	Section 17
Section 61	Residents' association	Removal of definition of "qualifying residents' association"	Section 18
Various	Appeal to residential property tribunal	Appeal to magistrates' court instead	Section 19

Interpretation of key expressions

3 Meaning of "caravan"

- (1) In this Act "caravan" has the same meaning as "mobile home" under section 60 of the Mobile Homes (Wales) Act 2013.
- (2) An order under section 60(4) of that Act may include, exclude, or make different provision in respect of, the application of that section for the purposes of this Act.

4 Meaning of "holiday caravan site"

- (1) In this Act "holiday caravan site" means land in Wales on which one or more caravans are stationed for the purposes of human habitation where—
 - (a) the relevant planning permission is expressed to be granted for holiday use only, or
 - (b) the land is designed or offered for use as holiday accommodation.
- (2) Land in Wales used in conjunction with land to which subsection (1) applies is included in the definition of "holiday caravan site".
- (3) In particular, the fact that part of a site is reserved, or permitted to be reserved, for permanent occupation by an owner or manager of the site does not prevent the entire site from being a holiday caravan site for the purposes of this Act.
- (4) Schedule 1 to the Mobile Homes (Wales) Act 2013 (sites which are not regulated sites) applies for the purposes of this Act as it applies for the purposes of that Act.
- (5) An order under that Schedule applies in relation to this Act only if it provides expressly to that effect; and an order—
 - (a) may provide that it applies only in relation to this Act;
 - (b) may include specific provision in its application in relation to this Act.
- (6) A certificate of exemption under paragraph 13 of that Schedule (organisations encouraging or promoting recreational activities) applies in relation to this Act only if it provides expressly to that effect; and a certificate—
 - (a) may provide that it applies only in relation to this Act;
 - (b) may include specific provision in its application in relation to this Act.

Application of 2013 Act

5 Application to holiday caravan sites

- (1) The Mobile Homes (Wales) Act 2013 applies to holiday caravan sites.
- (2) In its application to holiday caravan sites, the 2013 Act is modified as specified in this Act.

6 General modifications

In addition to the specific modifications set out later in this Act, in the application of the Mobile Homes (Wales) Act 2013 by virtue of section 5 above—

- (a) references to mobile home sites are to be treated as references to holiday caravan sites;
- (b) references to regulated sites are to be treated as references to holiday caravan sites;
- (c) references to the use of land as a mobile home site are to be treated as references to the use of land as a holiday caravan site;
- (d) references to mobile homes are to be treated as references to caravans; and
- (e) a reference to occupation as an only or main residence is to be treated as a reference to occupation as holiday accommodation (subject to sections 9 and 10 below).

Duration of site licences

7 Duration of site licences

A site licence continues in force until terminated.

Conditions of site licences

8 Conditions: general

- (1) In considering what conditions to include in a holiday caravan site licence a local authority must consult any public authority in Wales with general responsibility for flood risk management; and before varying a condition (under section 13 of the Mobile Homes (Wales) Act 2013) imposed for the purpose of flood risk management, a local authority must consult any such public authority.
- (2) The local authority which issues a site licence for a holiday caravan site must inspect the site at least once in each calendar year to monitor compliance with conditions of the site licence; but—
 - (a) the duty to carry out inspections under this subsection does not commence until such time as the Welsh Ministers appoint by regulations,
 - (b) before making regulations the Welsh Ministers must consult organisations that appear to them to be representative of interests substantially affected by the regulations and such other persons as they consider appropriate, and
 - (c) the regulations may make different provision for different areas or purposes.

- (3) The local authority which issues a licence for a holiday caravan site must review the site licence conditions at intervals of not more than 5 years, beginning with the date on which the licence comes into operation.

9 Conditions: residence

- (1) A site licence for a holiday caravan site must contain a condition that no person may occupy a caravan on the site as his or her only or main residence.
- (2) A site licence for a holiday caravan site must contain a condition requiring the owner to conduct tests to establish whether occupiers are complying with the condition implied under subsection (1) (“the residence test”).
- (3) An owner must—
 - (a) maintain evidence of how occupiers have passed the residence test, and
 - (b) make the evidence available for inspection by the local authority at all reasonable times.
- (4) If an occupier fails the residence test, the owner must notify the local authority of the failure as soon as possible.
- (5) The Welsh Ministers must make regulations about the application of the residence test, including the criteria to be applied and the evidence to be maintained under subsection (3)(a).
- (6) Regulations may not be made under subsection (5) unless the Welsh Ministers have consulted organisations that appear to them to be representative of interests substantially affected by the regulations and such other persons as they consider appropriate.
- (7) Section 34 of the Mobile Homes (Wales) Act 2013 (offence of giving false or misleading information) applies to the provision of information for the purposes of the residence test.
- (8) Section 35 of the 2013 Act (guidance by Welsh Ministers) applies to the residence test.
- (9) For the purposes of this section, “occupier” means a person who occupies a holiday caravan on the same holiday caravan site for a period of 28 days or more in any period of three consecutive months.

10 Breach of condition

- (1) A local authority must give a compliance notice under section 15 of the Mobile Homes (Wales) Act 2013 if there appears to be a breach of the condition prohibiting occupation of a holiday caravan as a person’s only or main residence.
- (2) At the same time as giving a compliance notice by virtue of subsection (1), a local authority must notify the occupier whose breach gave rise to the compliance notice of—
 - (a) the details of the compliance notice, and
 - (b) the occupier’s right of appeal under subsection (3).
- (3) The occupier may appeal to a magistrates’ court against the compliance notice.

(4) Section 23(1) of the 2013 Act applies to appeals under this section (for which purpose the “relevant document” is the compliance notice).

(5) In its application to this Act, section 16(2) of the 2013 Act (breach of condition: fixed penalty notice) applies with the substitution of a reference to level 2 on the standard scale for the reference to level 1.

(6) The Welsh Ministers may—

(a) issue guidance to local authorities on when breaches in respect of caravan holiday sites are to be regarded as sufficiently serious to justify issue of a fixed penalty notice (and local authorities must have regard to the guidance);

(b) by regulations restrict the circumstances in which fixed penalty notices may be issued in respect of holiday caravan sites.

Site managers

11 Fit and proper persons

(1) In its application to holiday caravan sites, the reference in section 28(1) of the Mobile Homes (Wales) Act 2013 (requirement for manager of site to be fit and proper person) to a person appointed by the owner to manage the site includes a reference to any person (including the owner) who is responsible for giving instructions about the management of the site.

(2) In its application to holiday caravan sites, section 29(3) of the 2013 Act (evidence to which local authority must have regard in deciding whether person is fit and proper to manage site) includes a reference to contravention of any provision of the law relating to trading standards.

12 Interim manager

Section 30(3) of the Mobile Homes (Wales) Act 2013 (right of qualifying residents’ association to require consideration of appointment of interim manager) does not apply to holiday caravan sites.

Protection from eviction

13 Minimum length of notice

Section 41 of the Mobile Homes (Wales) Act 2013 (minimum length of notice) does not apply to holiday caravan sites.

14 Exclusion of occupier

Section 42(3) of the Mobile Homes (Wales) Act 2013 (prohibition of enforcement of right to exclude occupiers from sites otherwise than by court proceedings) does not apply to holiday caravan sites.

Holiday caravan agreements

15 Holiday caravan agreements

In the application of the Mobile Homes (Wales) Act 2013 to holiday caravan sites, section 48 (agreements) has effect as if it read as follows—

“(1) This Part applies to any agreement under which a person is entitled—

- (a) to station or occupy a holiday caravan on a protected site, and
- (b) to occupy the caravan as holiday accommodation.

(2) In this Part “occupier”, in relation to a holiday caravan and a protected site, means the person entitled as mentioned in subsection (1) in relation to a holiday caravan and the protected site (but see also section 55(2)(b)).”

16 Terms of agreements

- (1) In the application of the Mobile Homes (Wales) Act 2013 to holiday caravan sites, this section has effect in place of section 50 and Schedule 2 (terms of agreements).
- (2) An agreement to which Part 1 of the 2013 Act applies by virtue of this Act includes by implication the terms of any Model Licence Agreement for Holiday Caravans set out in regulations made by the Welsh Ministers.
- (3) Before settling a Model Licence Agreement the Welsh Ministers must consult bodies appearing to them to represent relevant commercial and private interests.
- (4) An agreement to which Part 1 of the 2013 Act applies by virtue of this Act includes by implication a term requiring the site owner to consult occupiers of holiday caravans stationed on the site about any matter which—
 - (a) relates to the operation or management of the site, or to proposals to change or improve the site, and
 - (b) is likely to affect occupiers significantly (whether directly or indirectly).
- (5) Consultation under subsection (4) must—
 - (a) allow at least 28 clear days’ for responses; and
 - (b) adequately describe the matter to which the consultation relates and the manner in which it may affect occupiers.
- (6) Section 51(1) of the 2013 Act (power to amend implied terms) applies to this section as it applies to Schedule 2 to that Act.
- (7) The court (within the meaning of section 55(1) of the 2013 Act) has jurisdiction to determine any question arising under terms implied into an agreement by virtue of this section; and this subsection has effect in place of section 54(3) to (6) (jurisdiction of tribunal or court).

17 Successors in title

- (1) Section 53(2) of the Mobile Homes (Wales) Act 2013 (binding effect of an assigned agreement) applies only to an assignment with the site owner’s written consent in advance.
- (2) Where a person entitled to the benefit of and bound by a holiday caravan agreement dies, the agreement has effect for the benefit of, and is binding on, the person entitled to the caravan by virtue of the deceased’s will or under the law relating to intestacy, but subject to subsection (3).

- (3) Subsection (2) applies only if the site owner gives written consent.
- (4) A magistrates' court may disapply the requirement for consent if satisfied that it was unreasonably withheld.

Supplementary and general

18 Residents' association

Section 61 of the Mobile Homes (Wales) Act 2013 (meaning of "qualifying residents' association") does not apply to holiday caravan sites.

19 Appeals

- (1) An appeal or application which could be made to a residential property tribunal under the Mobile Homes (Wales) Act 2013 must, in the application of that Act to holiday caravan sites by virtue of this Act, be made instead to a magistrates' court (and references to the tribunal are accordingly to be treated as references to a magistrates' court).
- (2) References in the 2013 Act to appeals to the Upper Tribunal are to be treated, to the extent necessary in consequence of subsection (1), as references to an application for the statement of a case under section 111 of the Magistrates' Courts Act 1980 (and references to decisions on appeal to the Upper Tribunal are to be treated as references to the decision of a magistrates' court on an application under that section and to the decision of the High Court on any case stated in accordance with that section).

20 Consequential amendments

- (1) In the following enactments a reference to the Mobile Homes (Wales) Act 2013 includes a reference to that Act as applied (and modified) by this Act—
 - (a) the Rating (Caravan Sites) Act 1976;
 - (b) the Local Government Finance Act 1988;
 - (c) the Town and Country Planning Act 1990;
 - (d) the Housing Act 2004;
 - (e) the Regulatory Enforcement and Sanctions Act 2008;
 - (f) the Equality Act 2010.
- (2) In section 1 of the Caravan Sites and Control of Development Act 1960 after subsection (1A) insert—

“(1B) Subsection (1) does not apply in relation to a holiday caravan site within the meaning of the Holiday Caravan Sites (Wales) Act 2014.”
- (3) In section 2 of the Mobile Homes (Wales) Act 2013 (mobile home sites subject to Act)—
 - (a) for subsection (1)(b) substitute—

“(b) a holiday caravan site within the meaning of the Holiday Caravan Sites (Wales) Act 2014.”, and

(b) omit subsections (3) and (4).

21 Commencement

- (1) The provisions of this Act come into force on a day appointed by order made by the Welsh Ministers.
- (2) An order under subsection (1) may appoint different days for different purposes.

22 Short title

The short title of this Act is the Holiday Caravan Sites (Wales) Act 2014.