

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

# Holiday Caravan Sites (Wales) Bill

[AS INTRODUCED]

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# Holiday Caravan Sites (Wales) Bill

## [AS INTRODUCED]

An Act of the National Assembly for Wales to reform and restate the law relating to 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:**

### PART 1

#### INTRODUCTION

##### 1 Overview of Act

(1) This Act makes provision about holiday caravan sites in Wales.

(2) In this Act—

(a) Part 2 makes provision for and in connection with the licensing of holiday caravan sites etc.,

(b) Part 3 makes provision for a residence test,

(c) Part 4 makes provision about the terms of agreements for stationing and occupying holiday caravans on holiday caravan sites,

(d) Part 5 makes provision for protection from harassment, and

(e) Part 6 makes supplemental and general provision.

##### 2 Meaning of “holiday caravan”

(1) In this Act “holiday caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle designed or adapted for human habitation, but does not include—

(a) railway rolling stock which is for the time being on rails forming part of a railway system, or

(b) a tent.

(2) A structure designed or adapted for human habitation which—

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices, and

(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),

is not to be regarded as not being (or as not having been) a holiday caravan for the purposes of this Act by reason only that it cannot lawfully be moved on a highway when assembled.

- 5 (3) For the purposes of this Act “holiday caravan” does not include a structure designed or adapted for human habitation which falls within subsection (2)(a) and (b) if its dimensions when assembled exceed any of the following limits, namely –
- (a) length (exclusive of any drawbar): 20 metres,
  - (b) width: 6.8 metres, and
  - 10 (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres.
- (4) The Welsh Ministers may by order substitute a figure for any figure mentioned in subsection (3).

### 3 **Meaning of “holiday caravan site”**

- 15 (1) In this Act “holiday caravan site” means any land in Wales on which one or more holiday 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 offered, or designed to be 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) 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.
- 25 (4) Schedule 1 provides for certain sites not to be holiday caravan sites for the purposes of this Act.
- (5) Land forming part of a regulated site within the meaning of the Mobile Homes (Wales) Act 2013 does not form part of a holiday caravan site.
- 30 (6) For the purposes of subsection (5) land which is used in conjunction with land to which subsection (1) applies and in conjunction with land to which section 2(1) of the 2013 Act applies, is to be treated as being used only in conjunction with the land to which section 2(1) of that Act applies.

### 4 **Meaning of “local authority holiday caravan site”**

For the purposes of this Act a “local authority holiday caravan site” is a holiday caravan site owned by a local authority.

### 5 **Meaning of “owner” and “occupier”**

- 35 (1) In this Act “owner”, in relation to any land, means the person who, by virtue of an estate or interest in the land –
- (a) is entitled to possession of the land, or

- (b) would be entitled to possession of the land but for the rights of any other person under any licence or contract granted in respect of the land (including a licence or contract to station or occupy a holiday caravan there),

but see also sections 43(2) and 60(6).

5 (2) In this Act, a person is an occupier of a holiday caravan if –

- (a) the person owns the holiday caravan and enters into an agreement under Part 4 in respect of it, or

- (b) the person is entitled to occupy the holiday caravan for a period of more than six consecutive weeks (whether by virtue of one or more agreements under Part 4 or otherwise).

10 (3) But for the purposes of Part 5 (protection from harassment) a person is also an occupier of a holiday caravan by virtue of entitlement to occupy for a period of six weeks or less.

## PART 2

### LICENSING

#### *Introduction*

#### 6 **Overview of Part**

(1) This Part makes provision about the licensing of holiday caravan sites and related matters (and see also Part 3).

(2) In this Part –

- (a) sections 7 to 11 make provision for site licences,

- (b) sections 12 to 30 make provision about conditions of site licences,

- (c) sections 31 and 32 make provision about transferring and altering site licences,

- (d) sections 33 and 34 require site managers to be fit and proper persons,

- (e) sections 35 and 36 make provision for the appointment of interim managers,

- (f) sections 37 and 38 contain other enforcement provisions,

- (g) sections 39 and 40 make provision for fees, and

- (h) sections 41 to 43 contain miscellaneous and supplementary provisions.

#### *Site licences*

#### 7 **Prohibition on use of land as holiday caravan site without site licence**

30 (1) The owner of a holiday caravan site must not cause or permit the site to be used as a holiday caravan site unless the owner holds a licence under this Part in relation to the land (a “site licence”).

(2) A person who contravenes subsection (1) commits an offence.

- (3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine.
- (4) This section does not apply to a local authority holiday caravan site.

**8 Applications for site licence**

- 5 (1) An application for the issue of a site licence in respect of any land is to be made by the owner of the land to the local authority in whose area the land is situated.
- (2) An application under this section –
  - (a) must specify the land in respect of which the application is made,
  - (b) must identify the applicant,
  - 10 (c) if the applicant is not to be the manager of the site, must identify the person who is to be the manager of the site (including any person responsible for giving instructions about the management of the site), and
  - (d) must comply with such other requirements as the local authority may specify.
- (3) An applicant must, either at the time of making the application or subsequently, give to 15 the local authority such other information as the local authority may reasonably require.
- (4) The application must be accompanied by a declaration by the applicant that –
  - (a) in a case in which the applicant is not to be the manager of the site, the person identified in subsection (2)(c), or
  - (b) in any other case, the applicant,
  - 20 is a fit and proper person to manage the site.
- (5) A local authority may require an application for a site licence to be accompanied by a fee fixed by the local authority (see section 40).
- (6) Section 9 makes provision for sites that are licensed under the Caravan Sites and Control of Development Act 1960 when this Act comes into force.

**25 9 Continuation of 1960 Act licences**

- (1) An owner of a holiday caravan site who when this section comes into force holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960 is treated as holding a site licence under this Part (subject to this section).
- 30 (2) The local authority must within the period of 12 months beginning with the commencement of this section assess each person who is responsible for managing the site.
- (3) If the local authority is not satisfied that each person assessed under subsection (2) is a fit and proper person for site management –
  - (a) the local authority must give a notice to the owner of the site, and
  - 35 (b) upon the giving of the notice, subsection (1) ceases to apply.
- (4) The owner of a site does not contravene section 33(1) before the local authority has carried out the assessment.



(5) The local authority –

(a) must modify a licence issued under section 3 of the 1960 Act so that the licence satisfies the requirements of this Act within 12 months of commencement of this section; and

(b) in particular, may attach conditions to a licence (and subsequently vary them) in accordance with section 18.

## **10 Issue of site licence**

(1) A local authority may issue a site licence in respect of land if the applicant, when the site licence is issued, is entitled to the benefit of planning permission for the use of the land as a holiday caravan site otherwise than by a development order.

(2) If, on the date when the applicant gives the information required by virtue of section 8, the applicant is entitled to the benefit of such planning permission, the local authority may issue a site licence in respect of the land within two months of that date or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to issue a site licence, within the period agreed.

(3) If the applicant becomes entitled to the benefit of planning permission at some time after giving the information required by virtue of section 8, the local authority may issue a site licence in respect of the land within six weeks of the date on which the applicant becomes entitled to the benefit of planning permission or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to issue a site licence, within the period agreed.

(4) Where a local authority decides not to issue a site licence under subsection (2) or (3) –

(a) the local authority must notify the applicant of the reasons for the decision and of the applicant’s right of appeal under paragraph (b),

(b) the applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a magistrates’ court against the decision, and

(c) pending the outcome of the appeal, no compensation may be claimed for loss suffered in consequence of the decision.

(5) A local authority must not at any time issue a site licence to a person whom the local authority knows has held a site licence which has been revoked under section 23 or 33 (or under the Caravan Sites and Control of Development Act 1960) less than three years before that time.

(6) Where a local authority fails to determine an application for a site licence within the period within which it is required to do so, no offence under section 7 is committed in respect of the land by the person by whom the application for the site licence was made at any time after the end of that period until the application is determined.

**11 Duration of site licences**

A site licence comes into operation at the time specified in or determined under the licence and continues in force until terminated.

*Conditions of site licences*

5 **12 Power to attach conditions to site licence**

(1) A site licence issued by a local authority in respect of any land may be subject to such conditions as the local authority may consider it necessary or desirable to impose on the owner of the land in the interests of –

- (a) persons using holiday caravans on the land,
- 10 (b) any other class of persons, or
- (c) the public at large.

(2) The conditions subject to which a site licence may be issued include (but are not limited to) conditions –

- 15 (a) for restricting the occasions on which holiday caravans are stationed on the land for the purposes of human habitation, or the total number of holiday caravans which are stationed on the land for those purposes at any one time,
- (b) for controlling (whether by reference to their size, the state of their repair or, subject to subsection (3), any other feature) the types of holiday caravans which are stationed on the land,
- 20 (c) for regulating the positions in which holiday caravans are stationed on the land for the purposes of human habitation (in particular in order to minimise risk from flooding and coastal erosion) and for prohibiting, restricting or otherwise regulating the placing or erection on the land, at any time when holiday caravans are stationed on the land for those purposes, of structures and vehicles of any description and of tents,
- 25 (d) for securing the taking of any steps for preserving or enhancing the amenity of the land, including the planting and replanting of the land with trees and bushes,
- (e) for securing that, at all times when holiday caravans are stationed on the land, appropriate measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained,
- 30 (f) for securing that, at all times when holiday caravans are stationed on the land, appropriate measures are taken for guarding against risk from flooding and coastal erosion and for communicating any known risk from flooding or coastal erosion to persons using holiday caravans on the land,
- 35 (g) for securing that adequate sanitary facilities, and such other facilities, services or equipment as may be specified, are provided for the use of persons using holiday caravans on the land and that, at all times when holiday caravans are stationed on the land for the purposes of human habitation, any facilities and equipment provided for their use are properly maintained, and

(h) for requiring that where there is a change in the person who manages the site, a declaration is made by the holder of the site licence to the local authority that the new manager is a fit and proper person to manage the site.

5 (3) No condition may be imposed controlling the types of holiday caravans which are stationed on the land by reference to the materials used in their construction.

(4) Where the Regulatory Reform (Fire Safety) Order 2005 applies to land, no condition may be imposed in a site licence relating to the land in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.

10 (5) A site licence issued in respect of any land must, unless it is issued subject to a condition restricting to three or fewer the total number of holiday caravans which may be stationed on the land at any one time, contain a condition that, at all times when holiday caravans are stationed on the land for the purposes of human habitation, a copy of the site licence as for the time being in force and any current certificate of public liability insurance  
15 relating to the site, must be displayed on the land in a prominent place.

(6) A condition of a site licence may, if it requires the carrying out of any works on the land in respect of which the site licence is issued, prohibit or restrict the bringing of holiday caravans onto the land for the purposes of human habitation until such time as the local authority has certified in writing that the works have been completed to its satisfaction.

20 (7) Where the land to which the site licence relates is at the time in use as a holiday caravan site, a condition requiring the carrying out of any works on the land may, whether or not it contains any prohibition or restriction mentioned in subsection (6), require the works to be completed to the satisfaction of the local authority within a stated period.

25 (8) A condition of a site licence is valid even if it can be complied with only by the carrying out of works which the holder of the site licence is not entitled to carry out as of right.

### **13 Model standards**

(1) The Welsh Ministers may specify for the purposes of section 12 model standards with respect to the layout of, and the provision of facilities, services and equipment for, holiday caravan sites or particular types of holiday caravan site.

30 (2) In deciding what (if any) conditions to impose in a site licence, a local authority must have regard to any model standards which have been specified.

(3) No model standards may be specified in relation to land to which the Regulatory Reform (Fire Safety) Order 2005 applies in so far as the standards relate to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.

35 (4) The duty of a local authority to have regard to standards specified under this section is to be construed, as regards standards relating to fire precautions, as a duty to have regard to them subject to any advice given by the fire and rescue authority under section 14.

- (5) In this section and section 14, “fire precautions” means precautions to be taken for any of the purposes specified in section 12(2)(e).

#### 14 Fire precautions

- (1) The local authority must, in considering what conditions to impose in a site licence relating to any land, consult the fire and rescue authority as to the extent to which any model standards relating to fire precautions which have been specified under section 13 are appropriate to the land.

- (2) If –

(a) no such standards have been specified, or

(b) any standard that has been specified appears to the fire and rescue authority to be inappropriate to the land,

the local authority must consult the fire and rescue authority as to what conditions relating to fire precautions ought to be imposed instead.

- (3) This section does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

#### 15 Flood risk management

The local authority must, in considering what conditions to impose in a site licence, consult any public authority in Wales with general responsibility for flood risk management.

#### 16 Site inspections and licence reviews

- (1) The local authority must inspect each holiday caravan site situated in its area at least once in each period of three calendar years to monitor compliance with site licence conditions.

- (2) The duty to carry out site inspections does not commence until such time as the Welsh Ministers appoint by regulations, after consulting organisations that appear to them to be representative of interests substantially affected by the regulations and other persons whom they consider appropriate.

- (3) The local authority must review the site licence conditions at intervals of not more than five years, beginning with the date on which the licence comes into operation (and for the purpose of this subsection, licences continued under section 9 come into operation on the date the local authority carries out the assessment under section 9(2)).

#### 17 Appeal against conditions of site licence

- (1) Where a local authority decides to issue a site licence subject to conditions (other than the condition required by section 12(5)), the local authority must notify the applicant of the reasons for doing so and of the applicant’s right of appeal under subsection (2).

- (2) The applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a magistrates’ court against the decision.

(3) The court may vary or cancel the condition if satisfied (having regard, among other things, to any standards which may have been specified by the Welsh Ministers under section 13) that the condition is unduly burdensome.

(4) In a case where the court varies or cancels a condition under subsection (3), it may also attach a new condition to the site licence.

(5) In so far as the effect of a condition subject to which a site licence is issued in respect of any land is to require the carrying out on the land of any works, the condition does not have effect—

(a) during the period within which the person to whom the site licence is issued is entitled to appeal against the condition, or

(b) while an appeal against the condition is pending.

## **18 Power of local authority to vary conditions of site licence**

(1) The conditions of a site licence may be varied at any time (whether by the variation or cancellation of existing conditions, by the addition of new conditions, or by a combination of any such methods) by the local authority if—

(a) the holder of the site licence makes an application to the local authority for it to do so, or

(b) the local authority becomes aware of new information or considers that there has been a change of circumstances.

(2) Before varying the conditions of a site licence under subsection (1)(b), the local authority must give the holder of the site licence an opportunity to make representations.

(3) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the land to which the site licence relates, no new condition may be added to a site licence under subsection (1) in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.

(4) A local authority may require an application for a variation of the conditions of the site licence to be accompanied by a fee fixed by the local authority (see section 40).

(5) The variation by a local authority of the conditions of site licence is not to have effect until written notification of it has been received by the holder of the site licence.

(6) In exercising the powers conferred by subsection (1), a local authority must have regard (among other things) to any standards which may have been specified by the Welsh Ministers under section 13.

(7) The local authority must consult the fire and rescue authority before exercising the powers conferred by subsection (1) in relation to a condition of a site licence imposed for the purposes set out in section 12(2)(e).

(8) Subsection (7) does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

(9) The local authority must consult any public authority in Wales with general responsibility for flood risk management before exercising the powers conferred by subsection (1) in relation to a condition of a site licence imposed for the purposes of flood risk management.

**19 Appeal against variation of conditions of site licence**

- (1) Where the holder of a site licence is aggrieved by any variation of the conditions of the site licence under section 18(1)(b) or by the refusal of the local authority of an application for the variation of those conditions, the holder may, within the period of 28 days beginning with the day following that on which notification of the alteration or refusal is received by the holder, appeal to a magistrates' court.
- (2) The court, may, if it allows the appeal, give to the local authority such directions as may be necessary to give effect to the court's decision.
- (3) In so far as a variation of a site licence imposes a requirement on the holder of the site licence to carry out on the land to which the site licence relates any works which the holder of the site licence would not otherwise be required to carry out, the variation is not to have effect during the period within which the holder is entitled to appeal against the variation or while an appeal against the variation is pending.
- (4) In exercising the powers conferred by subsection (2) the court must have regard amongst other things to any standards which may have been specified by the Welsh Ministers under section 13.
- (5) In subsection (1) the reference to variation of conditions under section 18(1)(b) includes a reference to the use of that section in accordance with section 9(5).

*Breach of condition*

**20 Breach of condition**

- (1) If it appears to a local authority that the owner of a holiday caravan site situated in its area is failing or has failed to comply with a condition of a site licence, the local authority may give the owner –
- (a) a fixed penalty notice, or
  - (b) a compliance notice.
- (2) The Welsh Ministers may issue guidance to local authorities as to the considerations they should take into account in deciding whether to deal with a failure to comply with a condition of a site licence by giving a fixed penalty notice or a compliance notice.
- (3) A local authority must have regard to any such guidance in making such a decision.
- (4) Where a fixed penalty notice is given to a person in respect of a failure but payment of the amount specified in it is not made in accordance with the notice, the local authority may withdraw the fixed penalty notice and give the person a compliance notice in respect of the failure.

**21 Fixed penalty notice**

- (1) A fixed penalty notice is a notice which –
- (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to pay a specified amount to the local authority at an address specified in the notice, and
  - (c) specifies the period within which the specified amount must be paid.

- (2) The amount specified in a fixed penalty notice given at any time must not exceed the amount specified at that time as level 2 on the standard scale for summary offences.
- (3) The Welsh Ministers –
- (a) must issue guidance to local authorities on when breaches in respect of holiday caravan sites are to be regarded as sufficiently serious to justify the giving of a fixed penalty notice (and local authorities must have regard to the guidance), and
  - (b) may by regulations restrict the circumstances in which fixed penalty notices may be given in respect of holiday caravan sites.
- (4) Without prejudice to payment by any other method, payment of an amount specified in a fixed penalty notice may be made by pre-paying and posting a letter containing the amount (in cash or otherwise) to the local authority at the address specified in the notice; and in that case payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

## **22 Compliance notices**

- (1) A compliance notice is a notice which –
- (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to take such steps as the local authority considers appropriate and as are specified in the notice in order to ensure that the condition is complied with,
  - (c) specifies the period within which those steps must be taken, and
  - (d) explains the right of appeal conferred by subsection (2).
- (2) An owner of land who has been served with a compliance notice may appeal to a magistrates’ court against that notice (see section 28).
- (3) A local authority may –
- (a) revoke a compliance notice, or
  - (b) vary a compliance notice by extending the period specified in the notice under subsection (1)(c).
- (4) The power to revoke or vary a compliance notice is exercisable by the local authority –
- (a) on an application made by the owner of land on whom the notice was served, or
  - (b) on the local authority’s own initiative.
- (5) Where a local authority revokes or varies a compliance notice, it must notify the owner of the land to which the notice relates of the decision as soon as is reasonably practicable.
- (6) Where a compliance notice is revoked, the revocation comes into force at the time when it is made.

(7) Where a compliance notice is varied—

(a) if the notice has not become operative when the variation is made, the variation comes into force at such time (if any) as the notice becomes operative in accordance with section 29, and

(b) if the notice has become operative when the variation is made, the variation comes into force at the time when it is made.

**23 Compliance notice: offence and multiple convictions**

(1) An owner of land who has been served with a compliance notice which has become operative commits an offence if the owner fails to take the steps specified in the notice under section 22(1)(b) within the period specified in the notice under section 22(1)(c).

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

(3) In proceedings against an owner of land for an offence under subsection (1), it is a defence that the owner had a reasonable excuse for failing to take the steps referred to in subsection (1) within the period referred to in that subsection.

(4) Subsection (5) applies where—

(a) an owner of land is convicted of an offence under subsection (1), and

(b) the owner has been convicted on two or more previous occasions of an offence under subsection (1) in relation to the site licence to which the conviction mentioned in paragraph (a) relates.

(5) On an application by the local authority which served the compliance notice, the court before which the owner of the land was convicted may make an order revoking the site licence on the date specified in the order.

(6) An order under subsection (5) must not specify a date which is before the end of the period within which notice of appeal (whether by case stated or otherwise) may be given against the conviction mentioned in subsection (4)(a).

(7) Where an appeal against the conviction mentioned in subsection (4)(a) is made by the owner of the land before the date specified in an order under subsection (5), the order does not take effect until—

(a) the appeal is finally determined, or

(b) the appeal is withdrawn.

(8) On an application by the owner of the land or by the local authority who issued the site licence, the court which made the order under subsection (5) may make an order specifying a date on which the revocation of the site licence takes effect which is later than the date specified in the order under subsection (5).

(9) But the court must not make an order under subsection (8) unless it is satisfied that adequate notice of the application has been given to the owner (if the applicant is the local authority) or to the local authority (if the applicant is the owner).



**24 Compliance notice: power to demand expenses**

- (1) When giving a compliance notice to an owner of land, a local authority may impose a charge on the owner as a means of recovering expenses incurred by the local authority –
- (a) in deciding whether to serve the notice, and
  - (b) in preparing and serving the notice or a demand under subsection (3).
- (2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).
- (3) The power under subsection (1) is exercisable by serving the compliance notice together with a demand which sets out –
- (a) the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
  - (b) a detailed breakdown of the relevant expenses, and
  - (c) where the local authority propose to charge interest under section 30, the rate at which the relevant expenses carry interest.
- (4) Where a magistrates’ court allows an appeal under section 22 against the compliance notice with which a demand was served, the court may make such order as it considers appropriate –
- (a) confirming, reducing or quashing any charge under this section made in respect of the notice, and
  - (b) varying the demand as appropriate in consequence.

**25 Power to take action following conviction of owner**

- (1) Where an owner of land is convicted of an offence under section 23(1), the local authority which gave the compliance notice may –
- (a) take any steps required by the compliance notice to be taken by the owner but which have not been taken, and
  - (b) take such further action as the authority considers appropriate for ensuring that the condition specified in the compliance notice is complied with.
- (2) Where a local authority proposes to take action under subsection (1), it must serve on the owner of the land a notice which –
- (a) identifies the land and the compliance notice to which it relates,
  - (b) states that the local authority intends to enter the land,
  - (c) describes the action the local authority intends to take on the land,
  - (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) sets out the dates and times on which it is intended that the action will be taken (including when the local authority intends to start taking the action and when it expects the action to be completed).

- (3) The notice must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (4) In a case where the local authority authorises a person other than an officer of the local authority to take the action on its behalf, the reference in section 37(1) to an authorised officer of the local authority includes that person.
- (5) The requirement in section 37(2) to give 24 hours' notice of the intended entry, in its application to a case within this section, applies only in relation to the day on which the local authority intends to start taking the action on the land.

**26 Power to take emergency action**

- (1) A local authority which has issued a site licence may take action in relation to any of the land comprising the site if it appears to the local authority that –
  - (a) the owner of the land is failing or has failed to comply with a condition of the site licence, and
  - (b) as a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.
- (2) The action a local authority may take under this section (referred to in this section as “emergency action”) is such action as appears to the local authority to be necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b).
- (3) Where a local authority proposes to take emergency action, the local authority must serve on the owner of the land a notice which –
  - (a) identifies the land to which it relates,
  - (b) states that the local authority intends to enter the land,
  - (c) describes the emergency action the local authority intends to take on the land,
  - (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) specifies the powers under this section and section 37 as the powers under which the local authority intends to enter the land.
- (4) A notice under subsection (3) may state that, if entry to the land were to be refused, the local authority would propose to apply for a warrant under section 37(3).
- (5) A notice under subsection (3) must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (6) In a case where the local authority authorises a person other than an officer of the local authority to take the emergency action on its behalf, the reference in section 37(1) to an authorised officer of the local authority includes that person.
- (7) Section 37, in its application to a case within this section, has effect as if –
  - (a) the words “at all reasonable hours” in subsection (1), and

(b) subsection (2),  
 were omitted.

(8) Within the period of seven days beginning with the date when the local authority starts taking the emergency action, the local authority must serve on the owner of the land a notice which—

- (a) describes the imminent risk of serious harm to the health or safety of persons who are or may be on the land,
- (b) describes the emergency action which has been, and any emergency action which is to be, taken by the local authority on the land,
- (c) sets out when the local authority started taking the emergency action and when the local authority expects it to be completed,
- (d) if the person whom the local authority has authorised to take the action on its behalf is not an officer of the local authority, states the name of that person, and
- (e) explains the right of appeal conferred by subsection (9).

(9) The owner of land in respect of which a local authority has taken or is taking emergency action may appeal to a magistrates' court against the taking of the action by the local authority (see section 28).

(10) An appeal may be brought—

- (a) on the grounds that that there was no imminent risk of serious harm as mentioned in subsection (1)(b) (or, where the action is still being taken, that there is no such risk), or
- (b) on the grounds that the action the authority has taken was not necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b) (or, where the action is still being taken, that it is not necessary to remove the risk).

(11) The ways in which a notice under this section may be served include by fixing it in a prominent place at or near the main entrance to the land.

**27 Action under section 25 or 26: power to demand expenses**

(1) Where a local authority takes action under section 25 or emergency action under section 26, the local authority may impose a charge on the owner of the land as a means of recovering expenses incurred by the local authority—

- (a) in deciding whether to take the action,
- (b) in preparing and serving any notice under section 25 or 26 or a demand under subsection (6), and
- (c) taking the action.

(2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).

(3) In the case of emergency action under section 26, no charge may be imposed under subsection (1) until such time (if any) as is determined in accordance with subsection (4).

(4) For the purposes of subsection (3), the time when a charge in respect of emergency action may be imposed is—

- (a) if no appeal against the local authority’s decision to take the emergency action is brought under section 26(9) within the appeal period under section 28, the end of that period, and
- (b) if such an appeal is brought and a decision on the appeal confirms the local authority’s decision –
- (i) where the period within which an application for the statement of a case under section 111 of the Magistrates’ Court Act 1980 may be made expires without such an application having been made, the end of that period, and
- (ii) where an application for the statement of a case under section 111 of the Magistrates’ Court Act 1980 is made, when a decision is given on the application confirming the local authority’s decision.
- (5) For the purposes of subsection (4) –
- (a) the withdrawal of an appeal against, or an application in respect of, a decision by the local authority has the same effect as a decision on the appeal or application confirming the local authority’s decision, and
- (b) references to a decision on the appeal or application confirming the local authority’s decision are to a decision which confirms that decision with or without variation.
- (6) The power under subsection (1) is exercisable by serving on the owner of the land a demand for the expenses which –
- (a) sets out the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
- (b) sets out a detailed breakdown of the relevant expenses,
- (c) where the local authority proposes to charge interest under section 28, sets out the rate at which the relevant expenses carry interest, and
- (d) explains the right of appeal conferred by subsection (7).
- (7) The owner of land who is served with a demand under this section may appeal to a magistrates’ court against the demand (see section 28).
- (8) A demand under this section must be served –
- (a) in the case of action under section 25, before the end of the period of two months beginning with the date on which the action is completed, and
- (b) in the case of emergency action under section 26 –
- (i) before the end of the period of two months beginning with the earliest date (if any) on which a charge may be imposed in accordance with subsection (4), or
- (ii) if the action has not been completed by the end of that period, before the end of the period of two months beginning with the date on which the action is completed.

**28 Appeals under section 22, 26 or 27**

- (1) An appeal under section 22, 26 or 27 must be made before the end of the period of 21 days beginning with the day on which the relevant document was served (referred to in this section and section 29 as “the appeal period”).
- (2) In subsection (1) “relevant document” means –
- (a) in the case of an appeal under section 22, the compliance notice,
  - (b) in the case of an appeal under section 26, the notice under subsection (8) of that section, and
  - (c) in the case of an appeal under section 27, the demand under that section.
- (3) A magistrates’ court may allow an appeal under section 22, 26 or 27 to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).
- (4) An appeal under section 22, 26 or 27 –
- (a) is to be by way of a rehearing, but
  - (b) may be determined having regard to matters of which the local authority which made the decision was unaware.
- (5) The court may by order –
- (a) on an appeal under section 22, confirm, vary or quash the compliance notice,
  - (b) on an appeal under section 26, confirm, vary or reverse the decision of the local authority, or
  - (c) on an appeal under section 27, confirm, vary or quash the demand.

**29 When compliance notice or expenses demand becomes operative**

- (1) The time when a compliance notice under section 22 or a demand under section 24 or 27 becomes operative (if at all) is to be determined in accordance with this section.
- (2) Where no appeal under section 22 is brought within the appeal period against the compliance notice, the notice and any demand under section 24 which was served with it become operative at the end of that period.
- (3) Where no appeal under section 27 is brought within the appeal period, the demand under that section becomes operative at the end of that period.
- (4) Where an appeal under section 22 is brought, and a decision on the appeal confirms the compliance notice, the notice and any demand under section 24 which was served with it become operative –
- (a) where the period within which an application for a statement of case under section 111 of the Magistrates’ Court Act 1980 may be brought expires without such an application having been made, at the end of that period, or
  - (b) where an application for a statement of case under section 111 of the Magistrates’ Court Act 1980 is made and a decision on the application is given which confirms the notice, at the time of the decision.

- (5) Where an appeal under section 27 is brought, and a decision on the appeal confirms the demand under that section, the demand becomes operative –
- (a) where the period within which an application for a statement of case under section 111 of the Magistrates’ Court Act 1980 may be brought expires without such an application having been made, at the end of that period, or
  - (b) where an application for a statement of case under section 111 of the Magistrates’ Court Act 1980 is brought and a decision on the application is given which confirms the demand, at the time of the decision.
- (6) For the purposes of subsections (4) and (5) –
- (a) the withdrawal of an appeal against, or application in respect of, a notice or demand has the same effect as a decision confirming the notice or demand, and
  - (b) references to a decision which confirms the notice or demand are to a decision which confirms the notice or demand with or without variation.

**30 Recovery of expenses demanded under section 24 or 27**

- (1) As from the time when a demand under section 24 or 27 becomes operative, the relevant expenses set out in the demand carry interest at such rate as the local authority may fix until recovery of all sums due under the demand; and the expenses and any interest are recoverable by it as a debt.
- (2) As from that time, the expenses and any interest are, until recovery, a charge on the land to which the compliance notice or emergency action in question relates.
- (3) The charge takes effect at that time as a legal charge which is a local land charge.
- (4) For the purpose of enforcing the charge the local authority has the same powers and remedies under the Law of Property Act 1925 and otherwise as if it was a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (5) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (6) In this section “relevant expenses” –
- (a) in the case of a demand under section 24, has the meaning given by subsection (3) of that section, and
  - (b) in the case of a demand under section 27, has the meaning given by subsection (6) of that section.

*Transferring and altering site licences*

**31 Transfer of site licences, and transmission on death, etc.**

- (1) The holder of site licence in respect of any land who ceases to be the owner of the land may with the consent of the local authority transfer the licence to the new owner of the land.

- (2) A licence transferred under subsection (1) must be endorsed with the name of the new owner and the date agreed between the parties for transfer.
- (3) A person who by operation of law on the death of another becomes the owner of land to which a site licence applies becomes the holder of the licence; and the licence must be endorsed with the name of the new owner and the date of the transfer.

### 32 Duty of licence holder to allow site licence to be altered

- (1) A local authority may at any time require the holder of a site licence to do whatever it considers necessary to enable the local authority to enter in it any variation of the conditions of the site licence made in pursuance of this Part.
- (2) If the holder of a site licence fails without reasonable excuse to comply with a requirement under this section, the holder of the site licence commits an offence.
- (3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Site managers to be fit and proper persons*

### 33 Requirement for manager of site to be fit and proper person

- (1) The owner of land may not cause or permit any part of the land to be used as a holiday caravan site unless (in addition to the owner holding a site licence) the local authority in whose area the land is situated –
- (a) is satisfied that the most senior person with responsibility for management of the site, and any person with responsibility for day-to-day management of the site, is a fit and proper person to do so, or
- (b) has, with the owner's consent, itself appointed a person to manage the site.
- (2) Where the owner of land who holds a site licence in respect of the land contravenes subsection (1), the local authority in whose area the land is situated may apply to a magistrates' court for an order revoking the site licence.
- (3) A person who contravenes the requirement imposed by subsection (1) commits an offence.
- (4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine.
- (5) Where the owner of land who holds a site licence in respect of land is convicted of an offence under subsection (3) in relation to the land and the person has been convicted of that offence in relation to the land on two or more previous occasions, the magistrates' court before which the owner is convicted may, on an application by the local authority in whose area the land is situated, make an order revoking the owner's site licence on the day specified in the order.
- (6) In this Act a reference to managing a site includes a reference to giving instructions about its management.

**34 Decision whether person is fit and proper**

- (1) In deciding whether a person is a fit and proper person to manage a holiday caravan site a local authority must have regard to all matters which it considers appropriate.
- (2) Among the matters to which the local authority must have regard is any evidence within subsection (3) or (4).
- (3) Evidence is within this subsection if it shows that the person has –
- (a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),
  - (b) practised unlawful discrimination on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 in, or in connection with, the carrying on of any business,
  - (c) contravened any provision of the law relating to housing (including caravans) or landlord and tenant, or
  - (d) contravened any provision of the law relating to trading standards.
- (4) Evidence is within this subsection if –
- (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (3), and
  - (b) it appears to the local authority that the evidence is relevant to the question whether the person is a fit and proper person to manage a holiday caravan site.
- (5) The Welsh Ministers may by regulations amend this section to vary the evidence to which a local authority must have regard in deciding whether a person is a fit and proper person to manage a holiday caravan site.
- (6) Where a local authority decides that a person is not a fit and proper person to manage a site –
- (a) the local authority must notify the person of the reasons for the decision and of the person’s right of appeal under paragraph (b), and
  - (b) the person may, within the period of 28 days beginning with the date of notice, appeal to a magistrates’ court against the decision.

*Interim managers*

**35 Appointment of interim manager**

- (1) If any of the conditions specified in subsection (2) is met in relation to a holiday caravan site, a local authority by which the site is licensed may appoint an interim manager of the site.



- (2) The conditions referred to in subsection (1) are –
- (a) that the local authority considers that the holder of the site licence is failing or has failed, either seriously or repeatedly, to comply with a condition of the site licence,
  - (b) that the local authority considers that the site is not being managed by a person who is a fit and proper person to manage the site, and
  - (c) that the local authority considers that there is no-one managing the site.
- (3) A person aggrieved by a decision to appoint an interim manager may, within the period of 28 days beginning with the day on which the decision is made, appeal to a magistrates' court against the decision.
- (4) The appointment of an interim manager comes to an end with the earliest of the following –
- (a) the termination of the site licence, and
  - (b) a date specified in the appointment.
- (5) If a person ceases to be an interim manager before the appointment has come to an end, the authority may appoint a new interim manager in place of that person.

**36 Terms of appointment and powers of interim manager**

- (1) Appointment of an interim manager is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.
- (2) The interim manager has –
- (a) any power specified in the appointment, and
  - (b) any other power in relation to the management of the site required by the interim manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the holder of the site licence).
- (3) The local authority may give the interim manager general or specific directions.
- (4) The local authority may withdraw or amend any directions given.
- (5) The remuneration and expenses of an interim manager may be deducted by the interim manager from any income which the holder of the site licence is entitled to receive in respect of the site, but if that income is insufficient any balance must be paid by the local authority.
- (6) Any amounts paid by the local authority under subsection (5) may be recovered by the authority from the holder of the site licence.

*Other enforcement provisions*

**37 Power of entry of officers of local authorities**

- (1) An authorised officer of a local authority, on producing (if required to do so), a duly authenticated document of authority, has a right at all reasonable hours to enter any land which is a holiday caravan site or in respect of which an application for a site licence has been made for the purpose of –

- (a) enabling the local authority to determine what conditions should be imposed on a site licence or whether the conditions of a site licence should be varied,
  - (b) ascertaining whether there is, or has been, on or in connection with the land, any contravention of the provisions of this Act,
  - 5 (c) ascertaining whether or not circumstances exist which would authorise the local authority to take any action, or execute any work, under this Act, or
  - (d) taking any action, or executing any work, authorised by this Act to be taken or executed by the local authority.
- (2) But entry to any land must not be demanded as of right unless 24 hours' notice of the intended entry has been given to the owner.
- (3) If it is shown to the satisfaction of a justice of the peace –
- (a) that any of the following sub-paragraphs apply –
    - (i) entry to any land has been refused,
    - (ii) refusal is apprehended,
    - 15 (iii) the owner of the land is temporarily absent and the case is one of urgency,
    - (iv) an application for entry would defeat the object of the entry, and
  - (b) that there is reasonable ground for entering the land for any purpose mentioned in subsection (1),
- the justice of the peace may by warrant authorise the local authority by any authorised officer to enter the land, if need be by force (save that any warrant authorising the local authority to enter land by force cannot authorise the local authority to enter any premises used wholly as a private dwelling).
- (4) But a warrant must not be issued unless the justice of the peace is satisfied –
- (a) that notice of the intention to apply for the warrant has been given to the owner,
  - 25 (b) that the owner is temporarily absent and the case is one of urgency, or
  - (c) that the giving of notice would defeat the object of the entry.
- (5) An authorised officer entering any land by virtue of this section, or of a warrant issued under it, may be accompanied by such other persons as may be necessary.
- (6) Every warrant issued under this section continues in force until the purpose for which the entry is necessary has been satisfied.
- (7) A person who intentionally obstructs any person acting in the execution of this section, or of a warrant under this section, commits an offence.
- (8) A person who is guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- 35 (9) Nothing in this section authorises entry to a holiday caravan.

### 38 Repayment orders

- (1) For the purposes of this section land is an “unlicensed site” if it is a holiday caravan site in respect of which no site licence is in force.

- (2) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
- (a) any provision requiring the payment of a pitch fee or the making of any other periodical payment in connection with any agreement to which Part 4 applies relating to an unlicensed site, or
- (b) any other provision of such an agreement.
- (3) But amounts paid in respect of certain payments made under and in connection with such an agreement may be recovered in accordance with subsection (4).
- (4) If—
- (a) an application in respect of an unlicensed site is made to a magistrates’ court by the occupier of a holiday caravan stationed on the site, and
- (b) the court is satisfied as to the matters mentioned in subsection (6),
- the court may make an order (a “repayment order”).
- (5) A repayment order is an order requiring the owner or manager of the site to pay to the occupier of the holiday caravan such sums as are specified in the order in respect of—
- (a) any payment made by the occupier of the holiday caravan (or any person through whom the occupier of the holiday caravan has acquired ownership of the holiday caravan) to the owner or manager of the site in respect of the purchase of a holiday caravan stationed on the site,
- (b) any commission paid to the owner or manager of the site by any person in respect of the sale of a holiday caravan stationed on the site,
- (c) the pitch fee paid in respect of such a holiday caravan, and
- (d) any periodical payments paid in respect of such a holiday caravan.
- (6) The court must be satisfied as to the following matters—
- (a) that the owner of the site has been convicted of an offence under section 7 in relation to the site,
- (b) that the occupier of the holiday caravan (or, in the case of payments referred to in subsection (5)(a) or (b), the person through whom the occupier of the holiday caravan has acquired ownership of the holiday caravan) made the payment to the owner or manager of the site during any period during which it appears to the court that such an offence was being committed in relation to the site, and
- (c) that the application is made within the period of 12 months beginning with the date of the conviction.
- (7) The amount required to be paid by virtue of a repayment order under subsection (5) is (subject to subsections (8) and (9)) to be such amount as the court considers reasonable in the circumstances.
- (8) The matters which the court must take into account when determining the amount to be paid include (but are not limited to)—

- (a) the total amount of relevant payments paid in connection with ownership of the site during any period during which it appears to the court that an offence was being committed by the owner of the site under section 7,
- (b) the extent to which that total amount was actually received by the owner or manager of the site,
- (c) whether the owner of the site has previously been convicted of an offence under section 7 in relation to the site,
- (d) the conduct and financial circumstances of the owner or manager of the site,
- (e) the conduct of the occupier of the holiday caravan;

and in this subsection “relevant payments” means those payments referred to in subsection (5).

- (9) A repayment order may not require the payment of any amount which is in respect of any time falling outside the period of 12 months ending with the date of the occupier’s application, and the period to be taken into account under subsection (8)(a) is restricted accordingly.
- (10) Any amount payable to an occupier of a holiday caravan home by virtue of a repayment order is recoverable as a debt due to the occupier of the holiday caravan from the owner or manager of the site.
- (11) In this section “occupier”, in relation to a holiday caravan and a holiday caravan site, means a person who enters into an agreement with the owner of the site under Part 4.
- (12) This section does not apply to a local authority holiday caravan site.

*Fees*

**39 Annual fees**

- (1) A local authority may require a site licence holder to pay an annual fee fixed by the local authority.
- (2) When requiring a licence holder to pay an annual fee under this section, a local authority must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question (in particular, the extent to which they have had regard to deficits or surpluses in the accounts for the annual fee for previous years).
- (3) Where an annual fee due to a local authority under this section has become overdue, the local authority may apply to a magistrates’ court for an order requiring the licence holder to pay the local authority the amount due by the date specified in the order; and the order may make provision about the manner in which the payment is to be made.
- (4) Where a licence holder fails to comply with an order under subsection (3) within the period of three months beginning with the date specified in the order for the purposes of that subsection, the local authority may apply to a magistrates’ court for an order revoking the site licence.

**40 Power to charge fees: supplemental**

- (1) This section applies to fees under sections 8, 18 and 39.

- (2) Before charging a fee, the local authority must prepare and publish a fees policy.
- (3) When fixing a fee the local authority –
  - (a) must act in accordance with its fees policy,
  - (b) may fix different fees for different cases or descriptions of case, and
  - (c) may determine that no fee is required to be paid in certain cases or descriptions of case.
- (4) When fixing a fee the local authority may not take into account any costs incurred by it in exercising –
  - (a) its functions under any of sections 20 to 30, or
  - (b) any function under any provision of this Act in relation to a site which is not a holiday caravan site.
- (5) The local authority may revise its fees policy and, where it does so, must publish the policy as revised.

*Miscellaneous and supplementary*

**41 Registers of site licences**

- (1) Every local authority must keep a register of site licences issued in respect of land situated in the local authority's area.
- (2) The register is to be open for inspection by the public at all reasonable times.
- (3) Where under section 32 a local authority enters on a site licence a variation of any of the conditions of the site licence, the local authority must record that fact in the register of site licences.

**42 Crown land**

This Part applies to land the owner of which is not the Crown even if an interest in the land belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

**43 Interpretation**

- (1) In this Part –
 

“development order” (“*gorchymyn datblygu*”) means an order made under section 59 of the Town and Country Planning Act 1990;

“fire and rescue authority” (“*awdurdod tân ac achub*”), in relation to any land, means the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the land is situated.
- (2) Where land amounting to not more than 400 square metres in area is let under a tenancy entered into with a view to the use of the land as a holiday caravan site, for the purposes of this Part “owner”, in relation to the land, means the person who would be entitled to possession of the land but for the rights of any person under that tenancy.

- (3) Any reference in this Part to the carrying out of works includes a reference to the planting of trees and shrubs and the carrying out of other operations for preserving or enhancing the amenity of land.
- (4) Any reference in this Part to planning permission is to be taken as a reference to planning permission whether or not restricted in any way or subject to any condition or limitation, and any reference in this Part of this Act to planning permission includes a reference to planning permission deemed to be granted or granted on the designation of an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980.

### **PART 3**

#### **RESIDENCE TEST**

##### *Prohibition on permanent occupation*

#### **44 No occupation as main residence**

- (1) An occupier of a holiday caravan site may not occupy a holiday caravan on the site as an only or main residence.
- (2) Subsection (1) does not apply to—
- (a) the owner of the site,
  - (b) a manager of the site, or
  - (c) a person who is employed to work on the site and whose work makes it necessary to live on the site.

##### *Residence test*

#### **45 Residence test**

- (1) A site licence must contain a condition requiring the owner of a site to conduct tests to establish that occupiers are not occupying holiday caravans as an only or main residence (“the residence test”).
- (2) Occupiers must cooperate with a residence test by providing evidence that they are not using the holiday caravan as an only or main residence.
- (3) Evidence provided under subsection (2) must include at least two of the documents listed in Schedule 2.
- (4) The condition under subsection (1) must require the owner to—
- (a) maintain evidence of how occupiers have passed the residence test (which may include copies of documents produced in accordance with subsection (2)), and
  - (b) make the evidence available for inspection by the local authority at all reasonable times.
- (5) The local authority must inspect evidence maintained by a site owner at intervals of not more than a year.

**46 Timing of first residence test**

- (1) When the owner of a holiday caravan site enters into an agreement by virtue of which a person becomes an occupier of a holiday caravan on the site, the first residence test must be carried out before the agreement is entered into (for which purpose the test is that the occupier will not be occupying the holiday caravan as an only or main residence when the agreement is entered into).
- (2) Where a person is an occupier of a holiday caravan on the date when this Part comes into force, the first residence test must be carried out within the period of three months beginning with that date.

**47 Timing of subsequent residence tests**

The owner of a site must arrange for a residence test to be conducted in respect of each occupier of the site at intervals of not more than 12 months.

**48 Change of occupier’s circumstances**

If an owner believes that there has been a change to an occupier’s circumstances that may be relevant to the application of the residence test, the owner must carry out the next residence test in respect of the occupier within the period of six weeks beginning with the date on which the owner forms that belief.

*Failure to meet residence test*

**49 Failure of residence test**

- (1) If the owner of a holiday caravan site believes that an occupier has failed the residence test, the owner must notify the local authority as soon as is reasonably practicable.
- (2) If the local authority believes (whether or not following a notice under subsection (1)) that an occupier has failed the residence test, the local authority –
  - (a) must give a notice to the occupier (a “residence test failure notice”), and
  - (b) may give the occupier a fixed penalty notice.

**50 Residence test failure notice**

- (1) A residence test failure notice is a notice which –
  - (a) sets out why the local authority believes that the occupier has failed the residence test,
  - (b) requires the occupier to cease, within a specified period, occupying the holiday caravan as an only or main residence, and
  - (c) explains the right of appeal conferred by subsection (2).
- (2) An occupier who has been given a residence test failure notice may appeal to a magistrates’ court against the notice.

(3) Section 28 applies to appeals under subsection (2) as it applies to appeals under section 22 (for which purpose the “relevant document” is the residence test failure notice).

(4) A local authority may (whether on an application by the occupier or on the local authority’s own initiative) –

- 5 (a) revoke a residence test failure notice, or
- (b) vary it by extending the period specified under subsection (1)(b).

(5) Where a local authority revokes or varies a residence test failure notice, it must notify the occupier, and the owner of the site, as soon as is reasonably practicable.

(6) The revocation of a residence test failure notice takes effect immediately.

10 (7) Section 29 applies to the time when a residence test failure notice becomes operative in the same way as it applies to a compliance notice under section 22.

(8) Where a residence test failure notice is varied –

- 15 (a) if the notice has not become operative when the variation is made, the variation comes into force at such time (if any) as the notice becomes operative in accordance with subsection (7), and
- (b) if the notice has become operative when the variation is made, the variation comes into force at the time when it is made.

**51 Fixed penalty notice for residence test failure**

20 Section 21(1), (2) and (4) applies to fixed penalty notices given under section 49(2)(b) in the same way as it applies to a breach of a condition of a site licence.

**52 Failure to comply with residence test failure notice**

(1) An occupier who remains in occupation of a holiday caravan in breach of a residence test failure notice commits an offence.

25 (2) An occupier guilty of an offence under subsection (1) is liable on summary conviction to a fine.

**53 Duty of owner of site in relation to residence test failure notice**

(1) A local authority which gives a residence test failure notice must inform the owner of the holiday caravan site without delay.

30 (2) The local authority may give the site owner any instructions that appear to it to be necessary or expedient to take action in respect of the occupier who has failed the residence test; and it is an implied condition of a site licence that the owner must comply with those instructions.



**PART 4**

**HOLIDAY CARAVAN AGREEMENTS**

**54 Agreements to which Part applies**

- 5 (1) This Part applies to any agreement (a “holiday caravan agreement”) under which a person is entitled –
- (a) to station a holiday caravan on a holiday caravan site for holiday purposes for a period of more than six consecutive weeks, or
  - (b) to occupy a holiday caravan, owned by the owner of the holiday caravan site, for holiday purposes and for a period of more than six consecutive weeks.
- 10 (2) This Part applies to agreements whether made before or after the commencement of this Part.

**55 Particulars of agreements**

- 15 (1) Before making a holiday caravan agreement the owner of the holiday caravan site must give the proposed occupier a written statement which –
- (a) specifies the names and addresses of the parties;
  - (b) includes particulars of the land on which the occupier is to be entitled to station or occupy the caravan that are sufficient to identify that land;
  - (c) sets out the express terms to be contained in the agreement (including the start and end dates, details of all fees payable under it, details of proposals for the payment of any commission on sale of the holiday caravan, details of the dates between which the occupier is entitled to occupy the holiday caravan in each year, the termination provisions, any provisions about assignment and succession, and any site rules); and
  - (d) sets out the terms implied by section 56.
- 25 (2) The written statement must be given no later than 28 days before the date on which the holiday caravan agreement is made.
- (3) But the period in subsection (2) may be shortened with the written consent of the proposed occupier, unless the owner proposes to sell the holiday caravan to the proposed occupier.
- 30 (4) In the case of a holiday caravan agreement made before commencement of this Part, subsection (1) does not apply but the owner of the holiday caravan site must give the occupier a written statement containing the information in subsection (1) not later than three months after commencement of this Part.
- (5) An express term of a holiday caravan agreement is unenforceable by the owner if it was not set out in a written statement in accordance with this section.
- 35 (6) A statement required to be given to a person under this section may be given to the person personally or sent by post or electronic mail.

- (7) Any reference in this section to the making of a holiday caravan agreement includes a reference to any variation of an agreement by virtue of which the agreement becomes a holiday caravan agreement.

**56 Implied terms of agreements**

- 5 (1) The terms set out in subsection (3) are implied into any holiday caravan agreement; and this subsection has effect notwithstanding any express term of the agreement.
- (2) If the owner of a holiday caravan site fails to comply with those terms, the occupier may apply to a county court for an order requiring the owner to comply with those terms.
- (3) The implied terms are –
- 10 (a) the occupier must comply with Part 3 of this Act (residence); and if the occupier fails the residence test under that Part, the owner is relieved of obligations under the agreement to any extent necessary to enable compliance with instructions under section 53(2));
- 15 (b) the occupier must inform the owner if there is a change of circumstances in respect of the occupier that is or might reasonably be expected to be relevant to the application of the residence test;
- (c) the occupier of a holiday caravan must notify the owner in writing before permitting another person to become an occupier of the holiday caravan, if the occupation is expected to last for a period of more than six consecutive weeks;
- 20 (d) the owner of the holiday caravan site must, on the reasonable request of the occupier, provide copies of the most recent –
- (i) utility bills relating to the site (and “utility bills” means bills for the provision of gas, electricity, water, sewerage or other similar services); and
- (ii) non-domestic rating bill relating to the site; and
- 25 (e) the owner of the holiday caravan site must consult the owners of all holiday caravans on the site who have a holiday caravan agreement about any matter which –
- (i) relates to the operation or management of the site, or proposals to change or improve the site, and
- 30 (ii) is likely to affect occupiers significantly (whether directly or indirectly)
- (4) Consultation under subsection (3)(e) 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.

- 5 (5) Where the owner of the holiday caravan site is satisfied that by reason of urgency it is not reasonably practicable to consult in accordance with subsections (3)(e) and (4), those subsections do not apply but the owner must take reasonable steps in the circumstances to seek views of owners of holiday caravans on the site who have a holiday caravan agreement.

57 **Owners' successors in title**

A holiday caravan agreement applies, is binding on, and has effect for the benefit of, any successor in title of the owner of a holiday caravan site and any person claiming through or under the owner or any such successor.

10 **58 Jurisdiction**

- (1) The county court for the district in which the holiday caravan site is situated has jurisdiction—
- (a) to determine any question arising under this Part or under any holiday caravan agreement, and
  - 15 (b) to entertain any proceedings brought under this Part or under any such agreement.
- (2) But where the parties have agreed in writing to submit any question arising under this Part or any holiday caravan agreement to arbitration, references in this Part to a county court are to be read as references to the arbitrator.

20 **PART 5**

**PROTECTION FROM HARASSMENT**

**59 Application of Part**

- (1) This Part applies in relation to any licence or contract (whenever made) under which a person is entitled—
- 25 (a) to station a holiday caravan on a holiday caravan site and to occupy it for holiday purposes, or
  - (b) if the holiday caravan is stationed on the holiday caravan site by another, to occupy it for holiday purposes.
- (2) A licence or contract within subsection (1) is referred to in this Part as a "holiday contract".
- 30

**60 Protection from harassment**

- (1) A person to whom any of subsections (2) to (5) applies commits an offence.
- (2) This subsection applies to a person if, during the subsistence of a holiday contract, the person unlawfully deprives the occupier of the holiday caravan of occupation on the holiday caravan site of any holiday caravan which the occupier is entitled by the contract to station and occupy, or to occupy, for holiday purposes.
- 35

(3) This subsection applies to a person if (during the subsistence of a holiday contract) with intent to cause the occupier of the holiday caravan –

- (a) to abandon the occupation of the holiday caravan or remove it from the site, or
- (b) to refrain from exercising any right or pursuing any remedy in respect of that,

5 the person does acts likely to interfere with the peace or comfort of the occupier or other persons using the holiday caravan for holiday purposes, or withdraws or withholds services or facilities reasonably required for the occupation of the holiday caravan for holiday purposes on the site.

10 (4) This subsection applies to a person if the person is, or is the agent of, the owner of the holiday caravan site and (during the subsistence of a holiday contract) –

- (a) the person does acts likely to interfere with the peace or comfort of the occupier of the holiday caravan or other persons using the holiday caravan for holiday purposes, or

- (b) withdraws or withholds services or facilities reasonably required for the occupation of the holiday caravan for holiday purposes on the site,

15 and (in either case) the person knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (3) (a) or (b).

20 (5) This subsection applies to a person if the person is, or is the agent of, the owner of a holiday caravan site and, during the subsistence of a holiday contract, the person –

- (a) knowingly or recklessly provides information or makes a representation which is false or misleading in a material respect to any person, and

- (b) knows, or has reasonable cause to believe, that doing so is likely to cause –

- (i) the occupier to do any of the things mentioned in subsection (3)(a) or (b), or

- (ii) a person who is considering whether to purchase or occupy the holiday caravan to which the holiday contract relates to decide not to do so.

(6) In subsections (4) and (5) references to the owner of a holiday caravan site include references to a person with an estate or interest in the site which is superior to that of the owner (within the meaning of section 5(1)(a) and (b)).

30 (7) Nothing in this section applies to the exercise by the owner of a holiday caravan of a right to take possession of the holiday caravan, or to anything done pursuant to the order of any court.

**61 Offences under section 60: supplementary**

35 (1) In proceedings for an offence of contravening section 60(2) it is a defence to prove that the accused believed, and had reasonable cause to believe, that the occupier of the holiday caravan had ceased to use the site for holiday purposes.

(2) In proceedings for an offence of contravening section 60(3) it is a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.

(3) A person guilty of an offence under section 60 is liable –

- 5           (a) on summary conviction, to a fine or to imprisonment for a term not exceeding 12 months, or to both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

**62       Supplementary**

- 10       (1) Nothing in this Part affects the operation of section 13 of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority).
- (2) The Protection from Eviction Act 1977 does not apply to any premises consisting of a holiday caravan stationed on a holiday caravan site.

**63       Offences**

15       Proceedings for an offence under this Part may be instituted by any local authority.

**PART 6**

**SUPPLEMENTAL AND GENERAL**

**64       False or misleading information**

- (1) It is an offence to –
- 20           (a) make a false or misleading declaration or other statement under this Act knowing or believing it to be false or misleading,
- (b) provide false or misleading information under this Act knowing or believing it to be false or misleading, or
- (c) fail to provide information or notifications required under this Act without
- 25           reasonable excuse.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

**65       Guidance by Welsh Ministers**

- 30       (1) The Welsh Ministers may issue guidance to local authorities as to the performance of their functions under this Act.
- (2) Local authorities must have regard to any guidance issued under subsection (1).

**66       Consequential amendments and transitionals etc.**

(1) The Welsh Ministers may by order –

- (a) modify an amendment made by Schedule 4 to the Mobile Homes (Wales) Act 2013 (consequential amendments) so that it reflects the provisions of this Act as well as the provisions of that Act;
- (b) make any other amendments (including repeals or revocations) of any enactment or instrument which are consequential on any provision made by this Act; and
- (c) make any other transitional provision, or saving, which appears appropriate in connection with the coming into force of any provision of this Act.

(2) Schedule 3 contains transitional provisions and savings.

## 67 Liability of officers of bodies corporate

(1) Where a body corporate commits an offence under this Act and it is proved that—

- (a) the offence was committed with the consent or connivance of an officer of the body corporate, or
- (b) the offence was attributable to neglect on the part of an officer of the body corporate, the officer, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1) “officer” means—

- (a) a director, manager, secretary or similar officer of the body corporate,
- (b) in the case of a body corporate whose affairs are managed by its members, a member of the body corporate, or
- (c) a person purporting to act in a capacity mentioned in paragraph (a) or (b).

## 68 Other interpretation

“local authority” (*“awdurdod lleol”*) means the council of a Welsh county or county borough;

“pitch fee” (*“ffi am y llain”*) means the amount which the occupier of a holiday caravan is required by an agreement to pay for the right to station the holiday caravan on the pitch and for use of the common areas of the holiday caravan site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amount;

“planning permission” (*“caniatâd cynllunio”*) means permission under Part 3 of the Town and Country Planning Act 1990.

## 69 Orders, regulations and guidance

(1) Any power of the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Subsection (1) does not apply to the power in paragraph 14 of Schedule 1.

- (3) No order may be made under section 2(4) unless the Welsh Ministers have consulted such persons or bodies as appear to them to be concerned.
- (4) None of the following may be made unless a draft of the statutory instrument containing it or them has been laid before, and approved by a resolution of, the National Assembly for Wales—
- 5 (a) regulations under section 21(3)(b),
- (b) regulations under section 34(5), and
- (c) any order or regulations under this Act, other than an order under section 2(4), containing an amendment of an enactment.
- 10 (5) A statutory instrument containing—
- (a) an order under section 66(1)(b), or
- (b) an order under section 2(4),
- is subject to annulment in pursuance of a resolution of the National Assembly for Wales unless a draft of the statutory instrument has been approved in accordance with
- 15 subsection (4).
- (6) Any order or regulations under this Act may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (7) Any order or regulations under this Act may contain such incidental, supplementary, consequential, transitional or saving provisions as the Welsh Ministers consider
- 20 appropriate.
- (8) Any guidance issued under this Act by the Welsh Ministers may be varied or withdrawn by them.

**70 Commencement**

- (1) This Part comes into force on the day after the day on which this Act receives Royal
- 25 Assent.
- (2) The other provisions of this Act come into force on a day appointed by order made by the Welsh Ministers.
- (3) An order under subsection (2) may appoint different days for different purposes.

**71 Short title**

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

SCHEDULE 1  
(introduced by section 3)

SITES WHICH ARE NOT HOLIDAY CARAVAN SITES

*Use within curtilage of dwelling house*

- 5 1 A site is not a holiday caravan site by virtue of being used in a way which is incidental to the enjoyment of a dwelling house within the curtilage of which the land is situated.

*Use by a person travelling with a holiday caravan for 1 or 2 nights*

- 2 Subject to paragraph 14, a site is not a holiday caravan site by virtue of being used by a person travelling with a holiday caravan who brings the holiday caravan on to the land  
10 for a period which includes not more than two nights –
- (a) if during that period no other holiday caravan is stationed for the purposes of human habitation on that land or any adjoining land in the same ownership, and
  - (b) if, in the period of 12 months ending with the day on which the holiday caravan is brought on to the land, the number of days on which a holiday caravan was  
15 stationed anywhere on that land or that adjoining land for the purposes of human habitation did not exceed 28.

*Use of holdings of 20,000 m<sup>2</sup> or more in certain circumstances*

- 3 (1) Subject to paragraph 14, a site is not a holiday caravan site on any day if it comprises, together with any adjoining land which is in the same ownership and has not been built  
20 on, not less than 20,000 square metres and in the period of 12 months preceding that day –
- (a) the number of days on which a holiday caravan was stationed anywhere on that land or on that adjoining land for the purposes of human habitation did not exceed 28, and
  - (b) not more than three holiday caravans were stationed anywhere on that land or on  
25 that adjoining land for the purposes of human habitation at any one time.
- (2) The Welsh Ministers may by order provide that in any such area as may be specified in the order this paragraph is to have effect as if –
- (a) for the reference in the sub-paragraph (1) to 20,000 square metres there were  
30 substituted a reference to such smaller area as is specified in the order, or
  - (b) for the condition specified in paragraph (a) of that sub-paragraph there were substituted a condition that the use in question falls between such dates in any year as may be specified in the order.
- (3) The Welsh Ministers may make different orders under sub-paragraph (2) in relation to  
35 different areas.
- (4) An order under sub-paragraph (2) is to come into force on the date specified in the order, being a date not less than three months after the order is made.



- (5) The Welsh Ministers must publish notice of an order under sub-paragraph (2) in a local newspaper circulating in the locality affected by the order and in such other ways as appear to them appropriate for the purpose of drawing the attention of the public to the order.

5 *Sites owned and supervised by exempted organisations*

- 4 Subject to paragraph 14, a site is not a holiday caravan site if it is owned by an organisation which holds a certificate of exemption granted under paragraph 12 (an “exempted organisation”) and it is used for purposes of recreation under the supervision of the exempted organisation.

10 *Sites approved by exempted organisations*

- 5 (1) Subject to paragraph 14, a site is not a holiday caravan site if there is in force in respect of it a certificate issued under this paragraph by an exempted organisation and not more than five holiday caravans are at the time stationed for the purposes of human habitation on the land to which the certificate relates.
- 15 (2) For the purposes of this paragraph an exempted organisation may issue as respects any land a certificate stating that the land has been approved by the exempted organisation for use by its members for the purposes of recreation.
- (3) The certificate must be issued to the owner of the land to which it relates, and the exempted organisation must send particulars to the Welsh Ministers of all certificates issued by the exempted organisation under this paragraph.
- 20 (4) A certificate issued by an exempted organisation under this paragraph must specify the date on which it is to come into force and the period for which it is to continue in force, being a period not exceeding a year.

*Meetings organised by exempted organisations*

- 25 6 Subject to paragraph 14, a site is not a holiday caravan site if the use of the site is under the supervision of an exempted organisation and is in pursuance of arrangements made by that organisation for a meeting for its members lasting not more than five days.

*Agricultural and forestry workers*

- 7 Subject to paragraph 14, a site is not a holiday caravan site if it is agricultural land used for the accommodation during a particular season of a person or persons employed in farming operations on land in the same ownership.
- 30 8 Subject to paragraph 14, a site is not a holiday caravan site if it is used for the accommodation during a particular season of a person employed on land in the same ownership, being land used for the purposes of forestry (including afforestation).

*Building and engineering sites*

9 Subject to paragraph 14, a site is not a holiday caravan site if it forms part of, or adjoins,  
land on which building or engineering operations are being carried out (being operations  
for the carrying out of which planning permission has, if required, been granted) and is  
5 used for the accommodation of a person or persons employed in connection with the  
operations.

*Travelling showmen*

10 (1) Subject to paragraph 14, a site is not a holiday caravan site by virtue of being used by a  
travelling showman who is a member of an organisation of travelling showmen which  
10 holds a certificate granted under this paragraph and who is, at the time, travelling for the  
purposes of business or who has taken up winter quarters on the land with equipment  
for some period falling between the beginning of October in any year and the end of  
March in the following year.

15 (2) For the purposes of this paragraph the Welsh Ministers may grant a certificate to any  
organisation recognised by them as confining its membership to bona fide travelling  
showmen; and a certificate may be withdrawn by the Welsh Ministers at any time.

*Temporary exemption after death of, or other change in, owner*

11 (1) Where the holder of a site licence for a holiday caravan site dies, or there is a change in  
who is the owner of a site in respect of which a site licence is in force for any other reason,  
20 the site is not a holiday caravan site during the period of three months beginning with the  
day of the death or change of owner (the "initial exempt period").

25 (2) If at any time during the initial exempt period, or any subsequent period specified under  
this sub-paragraph, the personal representatives of the dead owner or the new owner  
applies to the local authority in whose area the site is, the local authority may by notice  
issued to the applicant provide that the site is not to be a holiday caravan site during the  
period specified in the notice.

(3) If a local authority decides to refuse an application under sub-paragraph (2) the local  
authority must give the applicant notice of that decision and the reasons for it.

*Certification of exempted organisations*

30 12 (1) For the purposes of paragraphs 4, 5 and 6 the Welsh Ministers may grant a certificate of  
exemption to any organisation as to which they are satisfied that its objects include the  
encouragement or promotion of recreational activities.

(2) A certificate granted under this paragraph may be withdrawn by the Welsh Ministers at  
any time.

*Continuation of certificates granted under the 1960 Act*

35 13 A certificate which is granted in accordance with Schedule 1 to the Caravan Sites and  
Control of Development Act 1960 and which has effect when this Schedule comes into  
force, continues to have effect, unless and until withdrawn by the Welsh Ministers.

*Power to withdraw exceptions*

- 14 (1) The Welsh Ministers may, on the application of a local authority, by order provide that,  
in relation to such land situated in its area as may be specified in the order, this Schedule  
is to have effect as if paragraphs 2 to 10, or such one or more of those paragraphs as is  
5 specified in the order, were omitted from this Schedule.
- (2) An order under this paragraph—
- (a) comes into force on the date specified in it, and
- (b) may be varied or revoked by a subsequent order only on the application of the  
local authority on whose application it was made.
- 10 (3) Not less than three months before an order under this paragraph comes into force, the  
local authority on whose application it was made must cause a notice setting out the  
effect of the order and the date on which it comes into force to be published in a local  
newspaper circulating in the locality in which the land to which the order relates is  
situated.
- 15 (4) Sub-paragraph (3) does not apply in the case of an order the sole effect of which is to  
revoke in whole or part a previous order.

SCHEDULE 2  
*(introduced by section 45)*

EVIDENCE FOR THE PURPOSES OF THE RESIDENCE TEST

The documents referred to in section 45(3) are documents which show –

- 5           the occupier's sole or main residence for council tax purposes;
- the address of a school attended by children of the occupier who live with the occupier;
- the occupier's entry in an electoral role;
- the occupier's address for correspondence with a financial institution;
- 10          the occupier's address for correspondence with a utility provider;
- the occupier's address for correspondence with HMRC;
- the occupier's registration with a general practitioner.

SCHEDULE 3  
*(introduced by section 66)*

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

*Pending applications for site licences*

- 5 1 An application for a site licence under the Caravan Sites and Control of Development Act 1960 in respect of a holiday caravan site which has been made to, but not determined by, a local authority before Part 2 comes into force is to be treated after the coming into force of that Part as an application to the local authority for a site licence under that Part in respect of the holiday caravan site.

10 *Continuation of existing model standards*

- 2 Any model standards made by the Welsh Ministers under section 5(6) of the Caravan Sites and Control of Development Act 1960 which are in force immediately before the coming into force of Part 2 and apply to holiday caravan sites have effect after that time (until they are replaced) as if made under section 13.

15 *Pre-commencement offences to count for certain purposes*

- 3 The reference in section 23(4)(b) to the offence under subsection (1) of that section includes an offence under section 9 of the Caravan Sites and Control of Development Act 1960 in relation to a site licence under that Act in relation to the same land.

*Prosecution of pre-commencement offences*

- 20 4 Nothing in any provision of this Act affects the operation of any enactment in relation to offences committed before that provision comes into force.

*Old transitionals and savings*

- 5 Any transitional provision or saving relating to the coming into force of any provision re-enacted in this Act which is capable of having effect in relation to the provision as so re-enacted has the same effect in relation to the provision as so re-enacted as it had in relation to the provision that it re-enacts.
- 25

*Temporary reduction of maximum penalty for either way offence tried summarily*

- 6 In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, section 61(3)(a) has effect as if for “12 months” there were substituted “6 months”.
- 30