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Explanatory Notes and an Explanatory Memorandum are printed separately.

Regulated Mobile Home Sites (Wales) Bill

[AS INTRODUCED]

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Schedule 1 – Amendments to the Mobile Homes Act 1983

Regulated Mobile Home Sites (Wales) Bill

[AS INTRODUCED]

An Act of the National Assembly for Wales to establish a licensing regime for mobile home sites in Wales and to make further provision in relation to the management of such sites and the agreements under which mobile homes are stationed on them.

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

PART 1

INTRODUCTORY

1 Interpretation and application

(1) In this Act—

10 (a) “regulated site” means (subject to subsection (2)) a protected site in Wales on which at least one mobile home is stationed under an agreement to which the Mobile Homes Act 1983 (c.34) (“the 1983 Act”) applies, and

(b) “protected site” and “mobile home” have the same meanings as in the 1983 Act.

15 (2) If the mobile home or homes referred to in subsection (1)(a) are stationed on a part (or parts) of a protected site, however that part (or those parts) may be defined or identified, an application for a licence under Part 2 may be made, and a licence may be granted, in respect of that part (or those parts) and the provisions of this Act relating to regulated sites are to apply generally in relation to such part (or parts) of a protected site.

(3) Section 32 makes further provision about interpretation.

20 2 Structure of the Act

(1) Part 2 of this Act establishes a licensing regime for regulated sites, and makes provision for enforcing that regime.

(2) Part 3 (and the Schedule) amend the 1983 Act.

(3) Part 4 makes provision in relation to the management of regulated sites.

25 (4) Part 5 contains miscellaneous provisions.

PART 2

LICENSING OF REGULATED SITES

3 Site licensing authorities

- 5 (1) This Part provides for regulated sites to be licensed by county and county borough councils (“site licensing authorities”).
- (2) Every site licensing authority has the following general duties –
- (a) to make such arrangements as are necessary to secure –
 - 10 (i) the effective implementation in its area of the licensing regime provided for by this Part, and
 - (ii) the effective enforcement of licence conditions.
 - (b) to ensure that all applications for licences and other issues falling to be determined by it under this Part are determined within a reasonable time.

4 Collaborative discharge of functions

- 15 (1) Site licensing authorities must, when considering how best to discharge their functions under this Part, have regard (amongst other things) to the desirability of exercising their powers of collaboration.
- (2) In this section “powers of collaboration” has the same meaning (insofar as it is applicable to the licensing authority in question) as in section 11 of the Local Government (Wales) Measure 2009 (nawm 2).

20 5 Requirement for regulated sites to be licensed

- (1) Every regulated site must be licensed under this Part unless –
- 25 (a) a temporary exemption notice is in force in relation to it under section 11(11),
 - (b) a temporary exemption notice is to be treated, under section 11(10), as having been given,
 - (c) the site falls within a category of site exempted by order made by the Welsh Ministers under this paragraph.
- (2) A licence under this Part (a “regulated site licence”) is a licence authorising the stationing on the site of no more than the maximum number of mobile homes specified in the licence.
- 30 (3) Sections 6 to 10 deal with applications for regulated site licences, the granting or refusal of licences and the imposition of licence conditions.
- (4) The site licensing authority must take all reasonable steps to secure that applications for licences are made to it in respect of regulated sites in its area which are required to be licensed under this Part but are not.
- 35 (5) In this Part (unless the context otherwise requires) –
- (a) references to a licence are to a licence under this Part, and

- (b) references to a site being (or not being) licensed under this Part are to its being (or not being) a site in respect of which a licence is in force under this Part.

6 Applications for licences

- 5 (1) An application for a licence must be made to the site licensing authority in whose area the regulated site is situated.
- (2) The application must identify –
- (a) the person who is the owner of the regulated site (or, if the site is owned by more than one person, all those persons), and
- (b) the person who is to be the manager of the site.
- 10 (3) The application must be accompanied by –
- (a) a standard written statement to be given to occupiers of the site under section 1 of the 1983 Act,
- (b) a statement of any rules (whether or not forming part of the agreements to which the written statement referred to in paragraph (a) relates) which are to govern the
- 15 conduct of persons residing on or visiting the regulated site,
- (c) evidence as to any consultation that has been carried out with –
- (i) occupiers of mobile homes positioned on the site,
- (ii) prospective occupiers of mobile homes to be positioned on the site,
- (iii) representatives of the persons referred to in sub-paragraphs (i) and (ii),
- 20 in relation to the terms of the statements referred to in paragraphs (a) and (b).
- (4) The application must be made in accordance with such requirements as the authority may specify.
- (5) When specifying requirements under subsection (4) the authority must (subject to subsection (7)) require the application to be accompanied by sufficient information to
- 25 enable it to consider the matters referred to in section 7(3)(b), section 7(3)(d) and section 9(5)(b) (whether certain persons are fit and proper persons).
- (6) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.
- (7) The power of the authority to specify requirements under this section is subject to any
- 30 regulations made under subsection (8).
- (8) The Welsh Ministers must by regulations make provision about the making of applications under this section.
- (9) Such regulations must, in particular –
- (a) specify the manner and form in which applications are to be made,
- 35 (b) require the applicant to give copies of the application, or information about it, to particular persons,
- (c) specify the information which is to be supplied in connection with applications,

(d) specify the maximum fees which may be fixed by an authority for the purpose of subsection (6) (whether by specifying amounts or methods for calculating amounts),

(e) specify any cases in which no fees are to be required or fees are to be refunded.

5 (10) When fixing fees for the purpose of subsection (6), the authority may (subject to any regulations made under subsection (8)) take into account all costs incurred by the authority in carrying out its functions under this Part.

7 Grant or refusal of licence

10 (1) Where an application is made to a site licensing authority under section 6, the authority must either –

(a) grant a licence in accordance with subsection (2), or

(b) refuse to grant a licence.

15 (2) If the authority is satisfied as to the matters mentioned in subsection (3), it may grant a licence to the person who is the owner (or the persons who are the owners) of the site (the “licence holder”).

(3) The matters are –

(a) that the site is reasonably suitable for the stationing of not more than the maximum number of mobile homes mentioned in subsection (5) or that it can be made so suitable by the imposition of conditions under section 10,

20 (b) that the licence holder is a fit and proper person to be the owner of a regulated site,

(c) that the proposed manager of the site is either –

(i) the person having control of the site, or

25 (ii) a person who is an agent or employee of the person having control of the site,

(d) that the proposed manager of the site is a fit and proper person to be the manager of the site, and

(e) that the proposed management arrangements for the site are otherwise satisfactory.

30 (4) In subsection (3)(c) “the person having control” of a site means the person who receives the pitch fees or other periodical payments made by occupiers of mobile homes stationed on the site, whether on that person’s own account or as agent or trustee of another person, or would do so if any mobile homes were so stationed.

(5) The maximum number of mobile homes referred to in subsection (3)(a) is –

35 (a) the maximum number specified in the application, or

(b) some other maximum number decided by the authority.

(6) Sections 8 and 9 apply for the purposes of this section.

8 Tests as to suitability for the stationing of mobile homes

- 5
- (1) The site licensing authority may not be satisfied for the purposes of section 7(3)(a) that the regulated site is reasonably suitable for the stationing of a particular maximum number of mobile homes if it considers that the site fails to meet prescribed standards for the stationing of that number of mobile homes.
- (2) But the authority may decide that the site is not reasonably suitable for the stationing of a particular maximum number of mobile homes even if the site does meet prescribed standards for stationing of that number of mobile homes.
- 10 (3) In this section “prescribed standards” means standards prescribed by regulations which must be made by the Welsh Ministers.

9 Tests for fitness etc. and satisfactory management arrangements

- 15 (1) In deciding whether a person (“P”) –
- (a) is, for the purposes of section 7(3)(b) or (d), a fit and proper person to be the owner or (as the case may be) the manager of a regulated site, or
- (b) is, for the purpose of subsection (5)(b) of this section, a fit and proper person to be involved in the management of a regulated site,
- the site licensing authority must have regard (among other things) to any evidence within subsection (2) or (3).
- 20 (2) Evidence is within this subsection if it shows that P has –
- (a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c.42) (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 (c.15) in, or in
- 25 connection with, the carrying on of any business,
- (c) contravened any provision of the law relating to mobile homes, housing, landlord and tenant or town and country planning law, or
- (d) acted otherwise than in accordance with any applicable code of practice approved under section 28 or any regulations made under section 29.
- 30 (3) Evidence is within this subsection if –
- (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and
- (b) it appears to the authority that the evidence is relevant to the question whether P
- 35 is a fit and proper person to be the owner, the manager or involved in the management of a regulated site.
- (4) In deciding for the purposes of section 7(3)(e) whether the proposed management arrangements for the site are otherwise satisfactory, the authority must have regard (among other things) to the considerations mentioned in subsection (5).

(5) The considerations are—

- (a) whether any person proposed to be involved in the management of the site has a sufficient level of competence to be so involved,
- (b) whether any person proposed to be involved in the management of the site (other than the manager) is a fit and proper person to be so involved, and
- (c) whether any proposed management structures and funding arrangements are suitable.

(6) Any reference in section 7(3)(c)(i) or (ii) or subsection (3)(b) above to a person being the owner or having control of the site, or to being a person of any other description, includes a reference to a person who is proposing to be the owner or to have control of the site, or to be a person of that description, at the time when the licence comes into force.

10 Licence conditions

(1) A licence must include conditions requiring the licence holder—

- (a) to abide by the terms of any agreement to which section 1 of the 1983 Act relates,
- (b) to enforce any rules of the kind referred to in section 6(3)(b) above,
- (c) to ensure that copies of—
 - (i) the licence,
 - (ii) the standard written statement referred to in section 6(3)(a), and
 - (iii) the rules referred to in section 6(3)(b)

are at all time prominently displayed at a place on the site which is readily accessible to occupiers,

- (d) not to commit any act (or to cause or permit any other person to commit any act) prohibited, in relation to the site, by section 3 of the Caravan Sites Act 1968 (c.52) (protection of occupiers against eviction and harassment),
- (e) to notify the site licensing authority forthwith of any change relating to the information contained in or provided with the application that led to the grant of the licence.

(2) A licence may include such further conditions as the authority considers appropriate for regulating the management, use and occupation of the regulated site concerned.

(3) Those conditions may, in particular, include (so far as appropriate in the circumstances)

- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the site by persons occupying it;
- (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the site;

(c) conditions requiring facilities and equipment to be made available on the site for the purpose of meeting standards prescribed by regulations made under section 29;

(d) conditions requiring such facilities and equipment to be kept in repair and proper working order;

(e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;

(f) conditions requiring the owner or the manager of the site to attend training courses in relation to any applicable code of practice approved under section 28.

(4) A licence may not include conditions imposing restrictions or obligations on a particular person other than the owner unless that person has consented to the imposition of the restrictions or obligations.

(5) The Welsh Ministers may from time to time give guidance as to the form and content of conditions to be included in licences and authorities must have regard to such guidance.

11 Licences: general requirements and duration

(1) A licence may not relate to more than one regulated site.

(2) There must be annexed to a licence –

(a) a standard written statement to be given to occupiers of the site under section 1 of the 1983 Act, and

(b) a statement of any rules (whether or not forming part of the agreements to which the written statement referred to in paragraph (a) relates) which are to govern the conduct of persons residing on or visiting the regulated site.

(3) The documents referred to in subsection (2) form part of the licence.

(4) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(5) A licence –

(a) comes into force at the time that is specified in or determined under the licence for this purpose, and

(b) unless previously terminated by subsection (9) or revoked under section 13, continues in force for the period that is so specified or determined.

(6) That period must not end more than 5 years after –

(a) the date on which the licence was granted, or

(b) if the licence was granted as mentioned in subsection (4), the date when the licence comes into force.

(7) Subsection (5)(b) applies even if, at any time during that period, the site concerned ceases to be one to which this Part applies.

(8) A licence may not be transferred to another person.

(9) If—

(a) the licence holder dies while the licence is in force,

(b) any person who was not the owner, or one of the owners, of the site at the time when the licence was granted becomes the owner (or one of the owners) of the site,

the licence ceases to be in force.

(10) However, during the period of 3 months beginning with—

(a) the date of the licence holder's death, or

(b) if subsection (9)(b) applies, the date on which the person in question becomes the owner (or one of the owners) of the site,

the site is to be treated for the purposes of this Part as if on that date a temporary exemption notice had been served in respect of the site under subsection (11).

(11) If, at any time during that period ("the initial period") or any subsequent period during which a notice issued under this subsection is in force ("a temporary exemption period")

(a) the personal representatives of the licence holder (if subsection (9)(a) applies, or

(b) the owner of the site (if subsection (9)(b) applies),

request the site licensing authority to do so, the authority may serve on the person who made the request a notice ("a temporary exemption notice") which, during the period of 3 months after the date on which the initial period (or the previous temporary exemption period) ends, exempts the regulated site from the requirement to be licensed.

(12) If the authority decides not to serve a temporary exemption notice in response to a request under subsection (11), it must without delay serve on the person who made the request a notice informing that person of—

(a) the decision, and

(b) the reasons for it and the date on which it was made.

12 Variation of licences

(1) The site licensing authority may vary a licence—

(a) if it does so with the agreement of the licence holder of the site to which it relates, or

(b) if it considers that there has been a change of circumstances (including any discovery of new information) since the time when the licence was granted.

(2) The authority may not vary a licence by varying the terms of the document referred to in section 11(2)(a) unless the variation to the terms of the agreement or agreements to which it relates has been agreed or approved under the provisions of the 1983 Act.

- (3) The authority may not vary a licence by varying the terms of the document referred to in section 11(2)(b) (insofar as the rules in question do not form part of the agreement or agreements referred to in section 6(3)(a)) unless—
- (a) there has been consultation on the terms of the proposed variation with—
 - (i) all occupiers of mobile homes on the regulated site, and
 - (ii) any qualifying residents' association in respect of the site, and
 - (b) it appears to the authority that a majority of the occupiers agree to the variation.
- (4) Subsection (5) applies where the authority—
- (a) is considering whether to vary a licence under subsection (1)(b); and
 - (b) is considering what number of mobile homes is appropriate as the maximum number authorised to occupy the regulated site to which the licence relates.
- (5) The authority must, subject to subsection (4), apply the same standards in relation to the circumstances existing at the time when it is considering whether to vary the licence as were applicable at the time when it was granted.
- (6) If the standards—
- (a) prescribed under section 8, and
 - (b) applicable at the time when the licence was granted,
- have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.
- (7) A variation made with the agreement of the licence holder takes effect at the time when it is made.
- (8) Otherwise, a variation does not come into force until the period for appealing against the variation expires without an appeal being made or when decision to vary is confirmed on appeal.
- (9) The power to vary a licence under this section is exercisable by the authority either—
- (a) on an application made by the licence holder or a relevant person, or
 - (b) on the authority's own initiative.

13 Revocation of licences

- (1) The site licensing authority may revoke a licence—
- (a) if it does so with the agreement of the licence holder;
 - (b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holders or other persons);
 - (c) in any of the cases mentioned in subsection (3) (circumstances relating to the regulated site concerned); or
 - (d) in any other circumstances prescribed by regulations made by the Welsh Ministers.

(2) The cases referred to in subsection (1)(b) are as follows –

(a) where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;

(b) where the authority no longer considers that the licence holder is a fit and proper person to be the owner of a regulated site; and

(c) where the authority no longer considers that the management of the site is being carried on by persons who are in each case fit and proper persons to be involved in its management; and

section 9(1) applies in relation to paragraph (b) or (c) as it applies in relation to section 7(3)(b) or (d).

(3) The cases referred to in subsection (1)(c) are as follows –

(a) where the site to which the licence relates ceases to be a regulated site to which this Part applies; and

(b) where the authority considers at any time that, were the licence to expire at that time, it would, for a particular reason relating to the regulated site, refuse to grant a new licence to the licence holder on similar terms in respect of it.

(4) Subsection (5) applies where the authority is considering whether to revoke a licence by virtue of subsection (3)(b) on the grounds that the site is not reasonably suitable for the stationing of the maximum number of mobile homes specified in the licence.

(5) The authority must, subject to subsection (6), apply the same standards in relation to the circumstances existing at the time when it is considering whether to revoke the licence as were applicable at the time when it was granted.

(6) If the standards –

(a) prescribed under section 8; and

(b) applicable at the time when the licence was granted,

have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(7) A revocation made with the agreement of the licence holder takes effect at the time when it is made.

(8) Otherwise, a revocation does not come into force until such time as the period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal.

(9) The power to revoke a licence under this section is exercisable by the authority either –

(a) on an application made by the owner, or

(b) on the authority's own initiative.

14 Register of licences

(1) A site licensing authority must maintain a register of regulated site licences relating to sites in its area.

- (2) The register –
- (a) must contain copies of all licenses currently in force, and
 - (b) must be available for public inspection at the authority's main offices during normal office hours.

5 **15 Procedures relating to licences**

The Welsh Ministers must, by regulations, make provision for the procedures to be followed by site licensing authorities in relation to –

- (a) grant or refusal of licences,
- (b) variation of licences,
- 10 (c) revocation of licences.

16 Appeals and other determinations

- (1) Owners may (unless they have agreed to the decision in question) appeal to the tribunal in relation to decisions of licensing authorities in relation to –

- (a) refusal of licences,
- 15 (b) the maximum number of mobile homes specified in a licence,
- (c) the duration of licences,
- (d) conditions included in licences (other than those which the authority is required by section 10(1) to impose),
- (e) revocation of licences,
- 20 (f) variation of licences,
- (g) refusals to serve temporary exemption notices,
- (h) the appointment of interim managers.

- (2) Appeals under this section –

- (a) are to be by way of a re-hearing, but
- 25 (b) must be determined by reference to statutory provisions and codes of conduct in force at the time when the appeal is determined, and
- (c) may be determined having regard to matters of which the authority was unaware.

- (3) The tribunal –

- (a) may confirm or reverse the decision of the authority, and
- 30 (b) if it reverses the decision, must direct the authority to take whatever steps are necessary to give effect to the tribunal's decision.

- (4) The Welsh Ministers must, by regulations, make provision for the procedures to be followed (including the times within which appeals must be made) in relation to appeals under this section and determinations under section 18(4).

17 Enforcement

- (1) The arrangements which a site licensing authority must make in order to discharge its general duty under section 3(2)(a)(ii) (effective enforcement of licence conditions) are, subject to subsection (2), such arrangements as it considers appropriate.
- (2) When considering what arrangements it considers appropriate, an authority must have regard to any written guidance given by the Welsh Ministers under this section.

18 Execution of works by the licensing authority

- (1) If it appears to the site licensing authority that any works are required to be carried out to a regulated site in order to ensure compliance with any condition included in the licence relating to that site the authority may serve notice in writing on the licence holder requiring the licence holder to carry out the works in question, to the satisfaction of the authority, within such reasonable time as is specified in the notice.
- (2) If the works required by a notice served under subsection (1) are not completed within the period specified in the notice, the authority may enter the site and carry out (or complete) those works.
- (3) The authority may, subject to subsection (4), recover from the licence holder any costs (including any administrative and professional costs) which it reasonably incurs in or in connection with—
- (a) preparing and serving a notice under subsection (1), and
 - (b) carrying out (or completing) any works in accordance with subsection (2).
- (4) Any question that may arise as to—
- (a) the extent of any works required to ensure compliance with the condition in question,
 - (b) the reasonableness of the time for completion of the works specified in the notice,
 - (c) whether the works had in fact been completed prior to the authority seeking to exercise its powers under subsection (2),
 - (d) the costs reasonably incurred by the authority in or in connection with—
 - (i) preparing and serving a notice under subsection (1), and
 - (ii) carrying out (or completing) any works in accordance with subsection (2),
- may be referred by the authority or by the licence holder to the tribunal for determination in accordance with section 16.

19 Appointment of Interim Manager

- (1) If any of the cases mentioned in section 13(2) applies, the site licensing authority may, instead of revoking the licence, appoint an interim manager of the regulated site.

- (2) Appointment is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.
- (3) 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 licence holder).
- (4) The authority may give the interim manager general or specific directions.
- (5) The authority may withdraw or amend any directions given.
- (6) An appointment under this section comes to an end with the earliest of the following –
- (a) when the licence ceases to be in force in accordance with section 11(5)(b),
 - (b) the termination of the licence under section 11(9) (unless section 11(10) or section 11(11) applies,
 - (c) the revocation of the licence, or
 - (d) a date specified in the appointment.
- (7) 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.
- (8) The remuneration and expenses of the interim manager may be deducted by the interim manager from any income which the licence holder is entitled to receive in respect of the site, but if that income is insufficient any balance must be paid by the authority.
- (9) Any amounts paid by the authority under subsection (8) may be recovered by the authority from the licence holder.

20 Exercise of powers under sections 13 and 19

- (1) A site licensing authority must, if requested to do so by an association that is a qualifying residents' association in relation to a regulated site, consider whether –
- (a) any of the cases mentioned in section 13(2) applies, and
 - (b) if so, whether to exercise its powers under sections 13 or 19.
- (2) Subsection (1) does not affect the discretion of the authority to exercise its powers under sections 13 or 19 on its own initiative.

21 Power of entry of officers (etc.) of site licensing authorities

- (1) Subject to the provisions of this section, any authorised officer or agent of a site licensing authority may, on producing, if so required, some duly authenticated document showing that the person has been so authorised, at all reasonable hours enter any regulated site, or land which the authority has reasonable grounds for believing to be a regulated site for the purpose of –
- (a) enabling the authority to determine what conditions should be attached to a licence under this Part,

- (b) ascertaining whether there is, or has been, on or in connection with the land any contravention of the provisions of this Part of this Act or of a licence granted under this Part,
- (c) ascertaining whether or not circumstances exist which would justify the taking of any action by the authority under this Part, including the carrying out of works under section 18,
- (d) taking any such action,

provided that admission to any land may not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the owner or apparent owner.

(2) If it is shown to the satisfaction of a justice of the peace that –

- (a) admission to any land has been refused, or that refusal is apprehended, or that the owner of the land is temporarily absent and the case is one of urgency, or that an application for admission would defeat the object of the entry; and
- (b) there is reasonable ground for entering on the land for any such purpose as is mentioned in subsection (1) of this section;

the justice may by warrant authorise the authority by any authorised officer or agent to enter the land, if need be by force.

- (3) A warrant may not be issued unless the justice is satisfied either that notice of the intention to apply for the warrant has been given to the owner, or that the owner is temporarily absent and the case is one of urgency, or that the giving of such notice would defeat the object of the entry.
- (4) An authorised officer or agent entering any land by virtue of this section, or of a warrant issued thereunder, may be accompanied by such other persons as may be necessary.
- (5) Every warrant granted under this section is to continue in force until the purpose for which the entry is necessary has been satisfied.
- (6) A person who wilfully obstructs any person acting in the execution of this section, or of a warrant under this section, is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

22 Offences in relation to licensing of regulated sites

(1) A person who –

- (a) is the owner of a regulated site, or
- (b) has control of or manages such a site,

commits an offence if the site is required to be licensed under this Part but is not so licensed.

(2) A person who –

- (a) is the licence holder in relation to a regulated site, or
- (b) has control of or manages such a site,

commits an offence if that person knowingly permits a mobile home to be stationed on the site, and the stationing of that mobile home on the site results in more mobile homes being stationed on the site than are authorised by the licence.

(3) A person who –

- (a) is the licence holder in relation to a regulated site,
- (b) has control of or manages such a site,
- (c) is a person on whom restrictions or obligations under the licence are imposed in accordance with section 10(4), or
- (d) is an employee or agent of any of the persons referred to in paragraphs (a), (b) and (c),

commits an offence if that person knowingly causes or permits any failure to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsections (1), (2) or (3) it is a defence that the person in question had a reasonable excuse –

- (a) for having control of or managing the site in the circumstances mentioned in subsection (1),
- (b) for permitting the mobile home to be positioned on the site, or
- (c) for causing or permitting the failure to comply with the condition.

(5) A person who commits an offence under this section is liable –

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale, or
- (b) on conviction on indictment to a fine.

23 Fixed penalties

(1) If an authorised officer of a site licensing authority has reason to believe that a person has committed an offence under section 22(3) the officer may give a written notice to that person offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(2) A fixed penalty under this section is payable to the authority whose officer gave the notice.

(3) Where a person is given a notice under this section in respect of an offence –

- (a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date on which the notice was given, and
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary to explain why an offence has occurred.

(5) A notice under this section must also state –

- (a) the period under subsection (3) during which proceedings will not be taken for the offence,

(b) the amount of the fixed penalty,

(c) the person to whom and the address at which the fixed penalty may be paid.

5 (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person referred to, at the address provided, in the notice.

(7) If a letter is sent, 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.

(8) The Welsh Ministers must by regulations specify the form of a notice under this section.

(9) In any proceedings a certificate which—

10 (a) purports to be signed on behalf of the chief finance officer of an authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this section—

15 “authorised officer”, in relation to an authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

20 (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform the function;

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to an authority, means the person having responsibility for the financial affairs of the authority.

25 **24 Amount of fixed penalty**

(1) The amount of the fixed penalty payable under section 23(1) is £100.

(2) The Welsh Ministers may by order substitute a different amount for the amount for the time being specified in subsection (1).

30 **25 Other consequences of operating unlicensed regulated site: repayment orders**

(1) For the purposes of this section a regulated site is an “unlicensed regulated site” if it is required to be licensed under this Part but is not so licensed.

(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 section 1 of the 1983 Act applies relating to an unlicensed regulated site, or
- (b) any other provision of such an agreement.
- 5 (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 a regulated site is made to the tribunal by the occupier of a mobile home stationed on the site, and
- 10 (b) the tribunal is satisfied as to the matters mentioned in subsection (6), the tribunal may make an order (a “repayment order”).
- (5) A repayment order is an order requiring the appropriate person to pay to the occupier such sums as are specified in the order in respect of—
- 15 (a) any payment made by the occupier (or any person through whom the occupier has acquired ownership of the mobile home) to the owner of the site in respect of the purchase of a mobile home stationed on the site,
- (b) any commission paid to the owner of the site by any person in respect of the sale of a mobile home stationed on the site,
- (c) the pitch fee paid in respect of such a mobile home, and
- 20 (d) any periodical payments paid in respect of such a mobile home.
- (6) The tribunal must be satisfied as to the following matters—
- (a) that the appropriate person has been convicted of an offence under section 22(1) in relation to the site,
- 25 (b) that the occupier (or, in the case of payments referred to in subsection (5)(a) or (b), the person through whom the occupier has acquired ownership of the mobile home) paid, to a person having control of or managing the regulated site, the payment in question during any period during which it appears to the tribunal that such an offence was being committed in relation to the regulated site, and
- 30 (c) that the application is made within the period of 12 months beginning with the date of the conviction.

26 Further provisions about repayment orders

- (1) This section applies in relation to repayment orders made by tribunals under section 25(5).
- 35 (2) A repayment order may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.
- (3) The amount required to be paid by virtue of a repayment order under section 25(5) is (subject to subsections (4) to (6)) to be such amount as the tribunal considers reasonable in the circumstances.

- (4) In such a case the tribunal must, in particular, take into account the following matters –
- (a) the total amount of relevant payments paid in connection with occupation of the regulated site during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the regulated site under section 22(1),
 - (b) the extent to which that total amount was actually received by the appropriate person,
 - (c) whether the appropriate person has at any time been convicted of an offence under section 22(1) in relation to the regulated site,
 - (d) the conduct and financial circumstances of the appropriate person, and
 - (e) where the application is made by an occupier, the conduct of the occupier.
- (5) In subsection (6) “relevant payments” means those payments referred to in section 25(5).
- (6) A repayment order may not, where the application is made by an occupier, 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 (4)(a) above is restricted accordingly.
- (7) Any amount payable to an occupier by virtue of a repayment order is recoverable by the occupier as a debt due to the occupier from the appropriate person.

PART 3

AMENDMENTS TO THE 1983 ACT

27 Amendments to the 1983 Act

The 1983 Act is amended in accordance with the Schedule.

PART 4

MANAGEMENT OF REGULATED SITES

28 Approval of codes of practice with regard to the management of regulated sites

- (1) The Welsh Ministers may by order –
- (a) approve a code of practice (whether prepared by them or another person) laying down standards of conduct and practice to be followed with regard to the management of regulated sites,
 - (b) approve a modification of such a code, or
 - (c) withdraw approval of such a code or modification.
- (2) Before approving a code of practice or a modification of a code of practice under this section the Welsh Ministers must take reasonable steps to consult –

- (a) persons involved in the management of regulated sites and occupiers of mobile homes stationed on such sites, or
- (b) persons whom the Welsh Ministers consider to represent the interests of those persons.
- 5 (3) The Welsh Ministers may only approve a code of practice or a modification of a code if satisfied that –
- (a) the code or modification has been published (whether by them or by another person) in a manner that they consider appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it; or
- 10 (b) arrangements have been made for the code or modification to be so published.
- (4) The Welsh Ministers may approve a code of practice which makes different provision in relation to different cases or descriptions of case (including different provision for different areas).
- 15 (5) A failure to comply with a code of practice for the time being approved under this section does not of itself make a person liable to any civil or criminal proceedings.

29 Management regulations in respect of regulated sites

- (1) The Welsh Ministers must by regulations make provision for the purpose of ensuring that, in respect of every regulated site of a description specified in the regulations –
- (a) there are in place satisfactory management arrangements; and
- 20 (b) satisfactory standards of management are observed.
- (2) The regulations must, in particular –
- (a) impose duties on the person managing a regulated site in respect of the repair, maintenance, cleanliness and good order of the site and facilities and equipment on it (other than individual mobile homes or any part of the site for the repair, maintenance, cleanliness and good order of which the occupiers of mobile homes are responsible under the terms of the agreements under which those mobile homes are stationed on the site);
- 25 (b) impose duties on the occupiers of mobile homes on a regulated site for the purpose of ensuring that the person managing the site can effectively carry out any duty imposed on that person by the regulations.
- 30 (3) A person who fails to comply with a regulation under this section commits an offence.
- (4) In proceedings against a person for an offence under subsection (3) it is a defence that the person in question had a reasonable excuse for not complying with the regulation.
- 35 (5) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

30 Qualifying residents' associations

- (1) When a list of members of a residents' association is lodged with a site licensing authority for the purpose of satisfying the condition contained in paragraph 28(ea) of Part 1, Chapter 2 of Schedule 1 to the 1983 Act the authority –

- (a) must take reasonable steps to satisfy itself that at least 50 per cent of the occupiers of the mobile homes on the site are members of the association, and
- (b) must give notice in writing to—
- (i) the association, and
- (ii) the licence holder,
- whether it is, or is not, so satisfied.
- (2) A residents' association which has been given notice under subsection (1)(b)(i) that the authority is so satisfied must, as soon as is reasonably practicable after any changes to its membership, lodge an up to date list of members with the licensing authority.
- (3) If it appears to the authority, at any time, that the members of a residents' association to which subsection (2) applies, are no longer at least 50 per cent of the occupiers of the mobile homes on the site, the authority must forthwith give notice of that fact to—
- (a) the association, and
- (b) the licence holder.
- (4) For the purposes of section 41(1) (but not section 41(2)) of the Freedom of Information Act 2000 (c.36) the disclosure by an authority of a list of members of a residents' association lodged with that authority for the purpose of satisfying the condition contained in paragraph 28(ea) of Part I, Chapter 2 of Schedule 1 to the 1983 Act (including any up to date list lodged in accordance with subsection (2)) is to be regarded as giving a breach of confidence actionable by the person who lodged it.

PART 5

MISCELLANEOUS

31 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Act includes power—
- (a) to make different provision for different cases or classes of case, different areas or different purposes;
- (b) to make provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;
- (c) to make such incidental, supplementary, transitory, transitional or saving provision as the Welsh Ministers think fit.

(3) The Welsh Ministers may by order make such provision as they consider necessary or expedient for the general purposes, or any particular purposes, of this Act, or in consequence of, or for giving full effect to, any provisions made by this Act.

(4) An order under subsection (3) may amend, repeal or revoke any provision of –

5 (a) any Act of Parliament or Act or Measure of the National Assembly for Wales (including this Act), and

(b) subordinate legislation (within the meaning of Interpretation Act 1978 (c. 30)).

(5) Any statutory instrument containing an order or regulations made under this Act, other than –

10 (a) an order under section 24(2) or section 33(2), or

(b) an order under subsection (4) of this section which includes provision under subsection (4)(a),

is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(6) Any statutory instrument containing an order –

15 (a) under section 24(2), or

(b) under subsection (4) of this section, which includes provision under subsection (4)(a),

may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

20 **32 Interpretation**

In this Act, unless the context otherwise requires –

“owner” and “occupier” have, in relation to regulated sites, the same meanings as they have in the 1983 Act in relation to protected sites;

25 “person” includes, in the case of a body corporate, any director, manager, secretary or other similar officer of the body corporate, and any person purporting to act in such a capacity;

“pitch fee” has the same meaning as in Part 1, Chapter 2 of Schedule 1 to the 1983 Act;

“site licensing authority” means a county or county borough council;

30 “the tribunal” means the Residential Property Tribunal for Wales or, where the parties have agreed in writing to submit any question arising under this Act or, as the case may be, any agreement to which it applies to arbitration, the arbitrator.

33 Short title, repeals and commencement

- (1) The short title of this Act is the Regulated Mobile Home Sites (Wales) Act 2013.
- (2) The provisions of this Act come into force in accordance with an order or orders made by the Welsh Ministers under this section.

SCHEDULE 1
(introduced by section 27)

AMENDMENTS TO THE MOBILE HOMES ACT 1983

- 1 Section 3 of the 1983 Act (successors in title) is amended as follows.
- 5 2 After subsection (4) insert –
- “(5) In the case of a mobile home stationed on a protected site in Wales,
subsection (3) applies with the following modifications –
- (a) the words “at a time when he is occupying the mobile home as
his only or main residence” are omitted, and
- 10 style="padding-left: 80px;">(b) the words “with that person (“the deceased”)” are omitted and
the words “in the mobile home as that person’s only or main
residence” are substituted.”
- 3 Part 1, Chapter 2 of Schedule 1 to the 1983 Act is amended as follows.
- 4 (1) Before sub-paragraph (1) of paragraph 8 insert –
- 15 style="padding-left: 40px;">“(A1) This paragraph applies in relation to a protected site in England.”
- (2) After paragraph 8 insert –
- “8A(1) This paragraph applies in relation to a protected site in Wales.
- (2) The occupier shall, subject to sub-paragraph (3)(b), be entitled to sell
the mobile home, and to assign the agreement.
- 20 style="padding-left: 80px;">(3) Where the occupier sells the mobile home, and assigns the agreement,
as mentioned in sub-paragraph (2) –
- (a) the owner shall be entitled to receive a commission on the sale
at a rate not exceeding such rate as may be specified by an
order made by the Welsh Ministers, and
- 25 style="padding-left: 120px;">(b) neither the sale nor the assignment are to have any effect until
the owner has received the commission referred to in sub-
paragraph (3).
- (4) Except to the extent mentioned in sub-paragraph (3), the owner may
not require any payment to be made (whether to the owner or
otherwise) in connection with the sale of the mobile home, and the
assignment of the agreement, as mentioned in sub-paragraph (2)
above.
- 30 style="padding-left: 40px;">(5) An order under this paragraph –
- (a) shall be made by statutory instrument,
- 35 style="padding-left: 80px;">(b) shall be subject to annulment in pursuance of a resolution of
the National Assembly for Wales, and
- (c) may make different provision for different areas or for sales at
different prices.”
- 5 (1) At the beginning of paragraph 10(1)(b) insert –

“in the case of a protected site in England”.

(2) At the end of paragraph 10(1)(b) insert—

“, or

(c) in the case of a protected site in Wales, the owner needs to carry out essential repair works that can only be carried out if the mobile home is moved to the other pitch for that period, and

(i) the appropriate judicial body is, on the application of the owner, satisfied of that need and that the other pitch is broadly comparable to the original pitch, or

(ii) the urgency of the need means that it is impracticable to make an application before the mobile home is re-sited,

provided that where (ii) applies the owner must immediately make an application to the appropriate judicial body for a decision as to whether that body is satisfied of the need and that the other pitch is broadly comparable to the original pitch and, if that body is not so satisfied the owner must immediately secure that the mobile home is returned to the original pitch.”

(1) At the beginning of paragraph 18(1)(c) insert—

“subject to paragraph 19(3),”

(2) After paragraph 19(2) insert—

“(3) In the case of a protected site in Wales, when determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in relation to—

(a) compliance with any duty imposed on the owner by or under Part 2 of the Regulated Mobile Home Sites (Wales) Act 2013 (licensing of regulated sites), or

(b) the conduct of any proceedings under that Act.”

(1) At the beginning of paragraph 20(1) insert—

“In the case of a protected site in England,”.

(2) After paragraph 20(1) insert—

“(1A) In the case of a protected site in Wales, there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the consumer prices index since the last review date, unless this would be unreasonable having regard to paragraph 18(1) above.”

(1) At the beginning of paragraph 23 insert—

“In the case of a mobile home stationed on a protected site in England,”

(2) After paragraph 23 insert –

“23A(1) In the case of a mobile home stationed on a protected site in Wales, the owner shall not do or cause to be done anything –

(a) which may adversely affect the ability of the occupier to perform the obligation under paragraph 21(c) above or which may deter the occupier from making internal improvements to the mobile home or interfere with the occupier’s ability to do so, or

(b) which may adversely affect the ability of the occupier to perform the obligation under paragraph 21(d) above or which may deter the occupier from making external improvements to the mobile home or interfere with the occupier’s ability to do so.

(2) Sub-paragraph (1) does not authorise an occupier to carry out works to the mobile home which are prohibited by the terms of the agreement or by or under any enactment. Where the terms of the agreement permit works to the mobile home to be carried out only with the permission of the owner, that permission may not be withheld unreasonably.”

In paragraph 28 insert –

(a) at the beginning of paragraph (1)(e) –

“In the case of a protected site in England,”

(b) after paragraph (1)(e) –

“(ea) In the case of a protected site in Wales, its rules and constitution are open to public inspection and it maintains a list of members, an up to date copy of which has been lodged with the authority which is the site licensing authority for the purpose of Part 2 of the Mobile Home Regulated Sites (Wales) Act 2013.”

After “Chapter” in paragraph 29 insert –

““consumer prices index” means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board;”