

Mobile Homes (Wales) Bill

Explanatory Memorandum

This Explanatory Memorandum has been prepared by Peter Black AM in consultation with the Welsh Government and is laid before the National Assembly for Wales.

It was originally prepared and laid in accordance with Standing Order 26.6 in October 2012, and a revised Memorandum is now laid in accordance with Standing Order 26.28.

A number of key terms are used in this Explanatory Memorandum. The following are designed to assist the reader

- i. "The 1960 Act" - the Caravan Sites and Control of Development Act 1960;
- ii. "The 1968 Act" - the Caravan Sites Act 1968;
- iii. "The 1983 Act" - the Mobile Homes Act 1983;
- iv. "The 2013 Act" - the Mobile Homes Act 2013

Declaration on Legislative Competence

In my view the provisions of the Regulated Mobile Home Sites (Wales) Bill, introduced by me on 24 October 2012 would be within the legislative competence of the National Assembly for Wales.

Peter Black AM
Member in charge of the Bill

July 2013

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Part 1: Background and overview of the Bill

1. Introduction

1. On 29 November 2011 Peter Black AM was successful in the ballot held under Standing Order 26.87 for the right to seek leave to introduce a Member Bill. His proposal related to park homes. On 1 February 2012 the National Assembly for Wales agreed that Mr Black could lay a Bill to give effect to the pre-ballot information he provided.
2. This Explanatory Memorandum has been prepared and laid in accordance with Standing Order 26.6. It sets out the background to the provisions and scope of the Bill.
3. 'Park home' is the common name for a residential mobile home which is a permanent residence and situated on a site licensed by the local authority for residential use.
4. 'Park home' is not a legal term, so the Bill and this Explanatory Memorandum refer to 'mobile homes' and 'regulated sites' throughout, except where it is necessary to refer to 'caravans' or 'caravan sites' for legal reasons when referring to existing legislation. A 'regulated site' is one on which at least one mobile home is stationed under an agreement to which the *Mobile Homes Act 1983* applies.
5. This Bill has a number of objectives. Firstly, to introduce an updated licensing regime for mobile home sites and to give local authorities sufficient powers to enforce that regime. This will include ensuring that site owners or managers satisfy a fit and proper person test, modelled on a similar test that already applies to Houses in Multiple Occupation (HMOs). The Bill, through consolidating existing mobile homes legislation restates the powers of the Welsh Ministers to specify for the purposes of section 9 (power to attach conditions to a site licence) Model Standards with respect to the layout of, and provision of facilities, services and equipment for, regulated sites. In deciding what conditions to impose in a site licence, a local authority must have regard to any model standards specified. Section 35 gives the Welsh Ministers power to issue guidance to local authorities as to the performance of its functions under Part 2 and a local authority must have regard to any guidance issued.
6. Additionally, the Bill seeks to modernise a number of aspects of the contractual relationship between mobile home owners and site operators, including changes to the process by which homes are bought and sold.

7. This Bill does not affect the law relating to holiday or touring caravan sites, although it will affect mixed use sites, i.e. sites used for a combination of residential and holiday purposes as far as the residential parts are concerned. The Bill will not affect local authority Gypsy and Traveller sites.

2. Legislative background

8. The National Assembly for Wales' Standing Orders provides for Bills to be introduced by backbench Assembly Members, as well as the Welsh Government, where the National Assembly has legislative competence in a policy area.
9. The legislative competence enabling the National Assembly for Wales to make an Act in relation to mobile homes is contained in Part 1 of Schedule 7 to the *Government of Wales Act 2006* ("the 2006 Act"). In particular, heading 11 (Housing) of that Part specifically includes residential caravans and mobile homes; heading 12 (Local Government) specifically includes the powers and duties of local authorities and their members and officers; and heading 18 (Town and Country Planning) specifically includes caravan sites. The relevant headings from Part 1 of Schedule 7 to the 2006 Act are reproduced below with the relevant subjects highlighted:

Heading 11 Housing

Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits. Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes.

Heading 12 Local government

Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

"Local authorities" does not include police authorities [police and crime commissioners].

Exceptions—

Local government franchise.

Electoral registration and administration.

Registration of births, marriages, civil partnerships and deaths.

Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.

Anti-social behaviour orders.

Local land charges, apart from fees.

Sunday trading.

Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

Heading 18 Town and Country Planning

Town and country planning, including listed buildings [and conservation areas]. Caravan sites. Spatial planning. Mineral workings. Urban development. New towns. Protection of visual amenity.

Exception—

Development consent under the Planning Act 2008

There are no general restrictions or exemptions to those restrictions in the 2006 Act.

Minister of the Crown functions in the Caravan Sites and Control of Development Act 1960, the Caravan Sites Act 1968, and the Mobile Homes Act 1983 have been transferred to Welsh Ministers by the National Assembly for Wales (Transfer of functions) Order 1999 except for the Treasury functions under paragraph 6 of the second schedule to the Caravan Sites and Control of Development Act 1960.

The Treasury functions under paragraph 6 of the Second Schedule to the Caravan Sites and Control of Development Act 1960 relate to Orders regarding commons and Crown land in limited circumstances.

10. The existing primary legislation that is relevant to this Bill is:

- *The Caravan Sites and Control of Development Act 1960* (the 1960 Act) which provides for the licensing of caravan sites by local authorities;
- *The Caravan Sites Act 1968* (the 1968 Act) which protects mobile home owners from unlawful eviction and harassment;
- *The Mobile Homes Act 1983* (the 1983 Act) which regulates the contractual relationship between home owners and site operators and provides security of tenure to residents on residential mobile home sites; and
- *The Protection from Harassment Act 1997* which covers behaviour that would amount to an offence under the Caravan Sites Act 1968;
- *Mobile Homes Act 2013* which seeks to update the 1960 and 1983 Acts.

11. The principal secondary legislation that is relevant to this Bill is:

- *The Mobile Homes (Commissions) Order 1983* which sets a maximum rate of 10 per cent commission that can be claimed by the site operator on the sale of a mobile home;
- *The Mobile Homes (Written Statement) (Wales) Regulations 2007* which outlines the information that must be given to a proposed purchaser prior to an agreement to purchase a mobile home. The Welsh Government has confirmed that these regulations are expected to be updated in late 2012;
- *The Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007* amends Schedule 1 to the 1983 Act to provide greater protection and security for occupiers and to confirm and clarify the parties' rights and obligations; and
- *The Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunal) (Wales) Order 2012* transferred jurisdiction of disputes under the 1983 Act to the Residential Property Tribunal (the Tribunal).

12. The statutory guidance that is most relevant to this Bill is:

- The Welsh Government's *Model Standards 2008 for Caravan Sites in Wales* made under section 5(6) of the 1960 Act and issued in July 2008 which are for local authorities to use when considering what conditions to attach to a licence. They make provision for the layout, provision of facilities, services, and equipment for caravan sites.

3. Purpose and intended effect of the Bill

Overview

13. This Bill introduces an updated licensing, inspection and enforcement regime for residential mobile home sites in Wales. The Bill refers to these sites as "regulated sites". This will include those parts of mixed use sites used for residential purposes. This new regime is based upon the existing legislative framework that applies to Houses in Multiple Occupation (HMOs). As with HMO licensing, there will be a requirement for site operators (owners, if they are managing the site day to day, or otherwise managers) to pass a fit and proper person test. Additionally, the Bill will make a number of other changes that affect the contractual relationship between the home owner and the site operator. This includes giving mobile future home owners the right to sell a mobile home without the prior agreement of the site owner, and to assign the agreement.

Policy context

14. The Welsh Government's national housing strategy, *Improving Lives and Communities – Homes in Wales*, was published in April 2010.¹ The strategy recognises the diversity of the housing market in Wales, and the importance of delivering the types of housing people actually want to live in. For over 3,400 households in Wales a mobile home is their chosen form of housing.²
15. In December 2011 the Minister for Housing, Regeneration and Heritage published *Meeting the housing challenge: building a consensus for action*³, which was a consultation document to inform work on the forthcoming Housing Bill. Mobile homes were highlighted in the consultation as an area where there was a need for reform. In particular, the inadequacies of the current licensing regime and concerns about poor management on some sites were noted. In the 2012 Housing White Paper, *Homes for Wales: A White Paper for Better Lives and Communities*⁴, the Welsh Government notes its concerns about the current legislative framework for mobile homes which in its view “needs to be modernised”. The White Paper goes on to state that the Welsh Government's goal is to:
- Ensure that residents can enjoy their chosen style of home with reasonable protection against dubious practices.⁵
16. Many mobile home owners are older people, and therefore likely to be living on fixed incomes, spending their retirement on a mobile home site for lifestyle as well as financial reasons. Research published jointly by the UK and Welsh Governments in 2002 estimated that 68 per cent of residents on mobile home sites were aged over 60 compared with 33 per cent of the population as a whole. The same study found that 64 per cent of households on mobile home sites had a monthly income of less than £800 per month. This compared with 30 per cent in the population at large.⁶ With an ageing population, it is a reasonable assumption that demand for this type of accommodation is likely to increase.

¹ Welsh Government, *Improving Lives and Communities – Homes in Wales*, April 2010

² Source: Consumer Focus Wales

³ Welsh Government, *Meeting the housing challenge: building a consensus for action*, December 2011

⁴ Welsh Government, *Homes for Wales, A White Paper for Better Lives and Communities*, May 2012

⁵ *Ibid.*, para 4.119

⁶ Office of the Deputy Prime Minister & Welsh Assembly Government, *Economics of the park home industry*, 2002, paras 9-10

17. In recent years, the problems being experienced on some mobile home sites have come to public attention. Some credit for bringing these issues to public attention can be given to campaigns led by mobile home residents themselves such as through the *Park Home Owners' Justice Campaign*, as well as the criminal prosecutions of some site operators in England.⁷
18. Until recently there has been a paucity of robust data on the mobile home sector in Wales, and indeed throughout the rest of Britain. However, recent research commissioned by Consumer Focus Wales (CFW) has meant that, for the first time, there is a firmer evidence base for policy makers and legislators to draw upon.
19. The CFW research found that there were 92 residential mobile home sites in Wales, spread across 19 local authorities. In its response to the consultation on the proposals in this Bill, CFW note that its research highlighted that a significant number of mobile home owners who participated in the research expressed dissatisfaction with their site. Some of the issues raised by home owners were in relation to selling and buying mobile homes, the appearance of the site, concerns about their contracts with the site operator (their written statements) and pitch fees.
20. Many problems associated with the management of sites have been allowed to develop because of a licensing regime that is more suited to the 1960s than the modern world. Local authorities, who are the licensing authorities, have neither the powers nor the resources to regulate mobile home sites effectively.
21. Although there have been attempts to modernise the contractual relationship between home owners and site operators by amending the implied terms in Schedule 1 of the 1983 Act, unscrupulous site operators can still use this legislation to frustrate the sales of mobile homes.
22. This lack of effective regulation and legislation that is open to abuse has arguably encouraged less scrupulous elements into the sector that sometimes use dubious practices to maximise profits at the expense of home owners, many of whom could be regarded as vulnerable because of age or ill health. For example, it has been alleged that one motive for this behaviour is so that site owners can buy the mobile home at a greatly reduced price and either re-sell it at market value, or put a new home on the site which can then be sold. In either scenario the site operator stands to make a substantial profit.

⁷ A/DCI Colquhoun (West Mercia Constabulary), *Criminality within the park home industry – Best practice guidance*

23. This Bill will seek to address these issues, in particular the practice of sale blocking which is only possible because of the shortcomings of current legislation. This Bill will seek to ensure that sale blocking will no longer be possible, and the contractual relationship between home owners and site operators will be subject to better statutory regulation.
24. The case for improving rights for mobile home owners has been taken up by politicians in both Wales and at Westminster where two private members' bills seeking to reform the law in this area were introduced during the 2010/12 parliamentary session.⁸
25. During the third Assembly, in addition to a consultation that led to the transfer of disputes⁹ under the 1983 Act from the courts to the Tribunal, there was a consultation specifically on modernising the licensing regime that also took place on an England and Wales basis. That consultation, *Improving the Management of Residential Park Home Sites*¹⁰, was issued in May 2009 and considered how a modern licensing system might look.
26. In March 2010 a paper outlining responses to the 2009 consultation, and how these proposals could be taken forward, *Park homes site licensing reform: the way forward and next steps*,¹¹ was published. Both governments stated their policy intentions, which included introducing a fit and proper person test for site operators, and a range of other proposals to strengthen the licensing regime. Many of the 2010 paper's proposals are now reflected in this Bill.

Recent developments

27. In late 2011, the Communities and Local Government Select Committee at the House of Commons announced that it was to conduct an inquiry into park homes. This followed representations to Members of Parliament by constituents and campaigning groups. The Committee's report was published in June 2012 and made a range of recommendations for reform.¹² These included removing the right of site operators to veto the sale of mobile homes. On the issue of whether

⁸ The Park Homes (Site Owner Licensing Bill) and the Sale of Park Homes Bill. Neither Bill proceeded due to lack of parliamentary time.

⁹ The transfer took place in March 2012 when the *Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012* became law.

¹⁰ Department for Communities and Local Government/Welsh Government, [*Improving the Management of Residential Park Home Sites*](#), May 2009

¹¹ Department for Communities and Local Government/Welsh Government, [*Park homes site licensing reform: the way forward and next steps*](#), March 2010

¹² Communities and Local Government Committee, [*Park Homes*](#), 11 June 2012, HC 177-I, 2012-13, pp36-40

site operators should be required to satisfy a fit and proper person test, the Committee found that:

A fit and proper person test could be a useful addition to local authorities' armoury to exclude the worst offenders from owning and managing park home sites.¹³

28. The Committee specifically disagreed with the UK Housing minister, Grant Shapps MP, who argued that comparisons should not be made with HMO licensing. However, it stopped short of recommending that a fit and proper person test be introduced, preferring instead to call for enabling legislation to be brought forward that would allow ministers to introduce a test in future if it proved necessary. The Committee's report is available in full on Parliament's website.¹⁴
29. While the Select Committee was taking evidence for its inquiry, in April 2012 the Department for Communities and Local Government (DCLG) published a further consultation document on the park home industry, *A Better Deal for Mobile Home Owners*, which applies to England only. The consultation covered many of the same issues that this Bill seeks to address, although a notable divergence is that it does not seek to introduce a fit and proper person test for site operators.
30. The Bill that emerged from this consultation was taken forward by a backbench MP, with the support of the government. Peter Aldous MP has since taken the Bill through Parliament with the Mobile Homes Act 2013 coming into force on the 27th May 2013.
31. A Scottish Government consultation on the licensing of caravan sites was launched in May 2012. However, that consultation covered both mobile homes and holiday caravans and focused purely on licensing issues.

Licensing of Houses in Multiple Occupation

32. As has been noted, this Bill makes proposals for reform of licensing based upon the regime introduced for Houses in Multiple Occupation (HMOs) by the *Housing Act 2004*.
33. Prior to the implementation of the 2004 Act, local authorities had discretionary powers under the Housing Act 1985, as amended by the Housing Act 1996, to introduce registration schemes for HMOs within specified areas. Practice varied between local authorities and this led to

¹³ Communities and Local Government Committee, [Park Homes](#), 11 June 2012, HC, para 58

¹⁴ [Ibid.](#)

- differing approaches across Wales. In addition to mandatory registration schemes, many local authorities introduced voluntary accreditation schemes in a bid to raise standards (both physical standards and management standards) across the private rented sector, and in particular in relation to HMOs.
34. The 2004 Act brought with it a new statutory requirement for larger HMOs to be licensed across all of England and Wales. Local authorities have discretionary powers to license smaller HMOs either in specified areas, or across all of their area, following a General Approval from Welsh Ministers that was issued in March 2007. It is a statutory requirement that the licence holder if managing and/or manager of the house are fit and proper persons.
35. The 2004 Act requires local authorities to have regard to certain matters when determining whether the relevant person is a 'fit and proper person'. Specifically, it requires to the local authority to consider whether the person has:
- 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);
 - practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
 - contravened any provision of the law relating to housing or of landlord and tenant law; or
 - acted otherwise than in accordance with any applicable code of practice.
36. The 2004 Act also requires local authorities to have regard to whether any associates of the applicant would contravene any of the above.
37. These matters have been replicated in this Bill, and enhanced to include discrimination on the grounds of any protected characteristic under the *Equality Act 2010*.
38. As with the HMO licensing system, there are provisions within the Bill for local authorities to charge for their licensing function, enforcement notices and repayment orders in cases of unlicensed sites.

The current licensing regime for mobile homes

39. Existing licensing requirements under the *Caravan Sites and Control of Development Act 1960* make provision for the licensing of all caravan sites. It therefore covers holiday sites, touring sites, residential mobile home sites and mixed sites. As noted earlier, the provisions in the 1960 Act applicable to non-residential sites will be unaffected by this Bill, although mixed use sites will be affected in so far as they are occupied by permanent residents.

40. Under the 1960 Act, land cannot lawfully be used as a mobile home site unless it has both the appropriate planning permission and the site operator has a licence from the local authority.

41. The 1960 Act requires that:

Subject to the provisions of [Part I of the] Act, no occupier of land shall after the commencement of [the] Act cause or permit any part of the land to be used as a caravan site unless he is the holder of a site licence (that is to say, a licence under [Part I] of this Act authorising the use of land as a caravan site) for the time being in force as respects the land so used.¹⁵

42. It is an offence to cause or permit any part of land to be used as a caravan site unless the occupier of land holds a site licence. Contravention means the occupier will be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500). The level of fine is unlikely to be an effective deterrent. The Bill (in line with amendments made in England in the Mobile Homes Act 2013) will increase the level of fine to level 5 on the standard scale, currently £5,000

43. A site may be licensed for holiday purposes, touring purposes, residential purposes, or the site may be mixed use, where there are both residential units and holiday units. The site licence can prescribe a set number of pitches that can be used for a specific purpose. The local authority may not currently charge a fee for processing or issuing a licence. This is a significant hindrance to adequately resourcing the work of local authorities and therefore this Bill will permit local authorities to charge a fee for issuing a licence.

44. The existing provisions of the 1960 Act mean local authorities have limited powers to refuse to grant a licence. A licence must be issued by the local authority within two months (or longer by agreement between the parties) of the application providing the appropriate planning

¹⁵ Caravan Sites and Control of Development Act 1960, s1

permission is in place, and providing the applicant has not had a site licence revoked within the previous three years.¹⁶ No other convictions, however relevant, may be taken into consideration. When a licence is issued, it is issued for an indefinite period unless the planning consent is time limited.

45. In order to comply with the requirements outlined above, a local authority is unable to require compliance with licence conditions prior to issuing a licence. However, local authorities can impose licence conditions as they deem appropriate, and in particular the 1960 Act permits conditions that include:

- Restricting the total number, type and location of caravans that may be situated on the site;
- Ensuring that there are adequate fire precautions, and adequate means of dealing with any outbreak of fire;
- Ensuring that there is adequate sanitation on the site.

46. In attaching conditions to a site licence, the local authority should have regard to the model standards for caravan sites issued from time to time by Welsh Ministers. The model standards are what should normally be expected as good practice on sites. They make provision for the layout, provision of facilities, and equipment for caravan sites.

47. Local authorities have limited enforcement powers under the 1960 Act should there be a breach of a licence condition. They have no power to serve enforcement notices, although they do have the power to prosecute. Summary conviction for breach of a licence condition carries a fine of up to level 4 on the standard scale, currently £2,500. When a site operator has been convicted for the third time of breaching a licence condition, the local authority can ask the court to revoke the licence.¹⁷

48. No caravan site licence is required where one of the exemptions outlined in Schedule 1 to the 1960 Act is applicable. The exemptions are:

- Use within curtilage of a dwelling house
- Use by a person travelling with a caravan for one or two nights
- Use of holdings of five acres or more in certain circumstances
- Sites occupied and supervised by exempted organisations

¹⁶ Caravan Sites and Control of Development Act 1960, s3(6)

- Sites approved by exempted organisations
- Meetings organised by exempted organisations
- Agricultural and forestry workers
- Building and engineering sites
- Travelling showmen
- Sites occupied by licensing authority
- Gypsy sites occupied by county councils or regional councils

49. Every local authority is required to maintain a public register of licensed sites.¹⁸

50. All powers of enforcement conferred on local authorities under the 1960 Act are discretionary, and there is no obligation on a local authority to take any action.

A new licensing regime

51. This Bill will update the existing licensing regime as it applies to residential mobile homes with a modern, fit for purpose, framework that can be consistently implemented across Wales. Local authorities will be the licensing authorities, as they are under the 1960 Act.

52. Authorised agents or officers of licensing authorities will have powers of entry should they need to enter a regulated site for matters connected with licensing.

53. The Welsh Ministers will be able to issue guidance to licensing authorities on arrangements for the enforcement of licence conditions and with regard to any other provisions under Part 2 of the Bill. Section 35 allows the Welsh Ministers to issue guidance regarding the performance of local authority functions under Part 2 of the Bill.

54. Where necessary, and following service of a notice in writing upon the licence holder, the local authority will be able to carry out works to ensure compliance with a condition in the licence, and recover their costs from the licence holder. The licence holder will first be given reasonable time to carry out the works themselves.

¹⁷ Caravan Sites and Control of Development Act 1960, s9(2)

¹⁸ Caravan Sites and Control of Development Act 1960, s25

55. Local authorities will be permitted to charge a fee for processing and issuing a site licence which will last for up to five years, but be renewable thereafter.
56. As noted above, currently licensing authorities have no discretion to refuse an application. This Bill will permit a local authority to refuse to grant a licence where it is not satisfied as to certain matters outlined in the Bill. These matters are:
- The suitability of the site for stationing a maximum number of mobile homes;
 - That the licence holder (the owner, if they are managing the site day to day, or the manager otherwise) is a fit and proper person;
 - That the proposed manager of the site is either the person having control of the site (i.e. the person who receives the pitch fees or any other periodic payments), or an agent or employee of that person;
57. When determining the suitability of a site, the local authority must give due regard to the Model Standards issued by the Welsh Ministers for the stationing of that number of mobile homes.
58. It would be in the interests of the site operator to engage with the local authority before starting any works to the site after planning permission is granted.
59. The site licence must include a number of mandatory conditions. These require the licence holder to:
- Abide by the terms of the written statement;
 - To enforce any site rules;
 - To ensure that copies of the licence and the standard written statement are prominently displayed in an accessible place on the site;
 - Refrain from harassment or the provision of false information;
 - To notify the local authority of any change relating to the information that they provided with their application that led to the grant of the licence.
60. The local authority may also include such further conditions as they see fit.

61. The Welsh Ministers may give guidance as to the form and content of such conditions, and local authorities must have regard to this guidance.
62. In order to be granted a licence the proposed licence holder (who may be the owner if they are involved in the day to day management of the site or a manager appointed by the owner) will need to declare that they are a **“fit and proper” person**. It largely replicates the test that is applicable to owners/managers of Houses in Multiple Occupation (HMOs) as set out in section 66 of the *Housing Act 2004*. However, it will also take into account the broader protected characteristics under section 4 of the Equality Act 2010.
63. There will be a duty on local authorities to request sufficient information from applicants for a licence to determine whether the licence holder and any person involved in the management of the site are fit and proper persons. This test will consider relevant criminal offences, contraventions of any provision of the law relating housing, landlord and tenant law. Section 29(3)(c) of the Bill refers to contravention of the law relating to housing (including mobile homes) or landlord and tenant. It will be open to local authorities to request evidence of a person’s criminal convictions.
64. The licensing authority must be informed if there is any change relating to the information contained in or provided with the application that led to the grant of the licence, and this includes a change of owner or manager. A licence may not be transferred to another person. Where a licence holder dies, the new owner will not become the licence holder automatically. However, for a period of 3 months beginning with the date of the owner’s death, or the date on which a new person becomes the owner, the site is to be treated as if a temporary exemption notice is in force.
65. A licensing authority will have the power to exempt a site from any requirement to be licensed by issuing temporary exemption notices for further periods of 3 months. Either the personal representatives of the deceased owner or the new owner may request that such a notice is served.

Variation of licences

66. The licensing authority will be able to vary a licence where it is done with the agreement of the licence holder, or it discovers that there has been a change of circumstances since the licence was granted and this includes the discovery of new information.

67. The licensing authority may vary the terms of a licence, but only when the changes are approved under the procedure outlined Section 13 of the Bill. The same applies to the site rules, which may only be changed following consultation with occupiers and, if one exists, any qualifying residents' association, and it appears to the licensing authority that the majority of occupiers agree to the variation.

Revocation of licences

68. The Bill outlines the circumstances where the licensing authority may consider revoking a site licence either on its own initiative or, in certain cases, at the request of a qualifying residents association.

69. These circumstances are:

- where a condition of a site licence, enforced by compliance notice, has not been complied with on two or more occasions; where the authority no longer considers that the licence holder is a fit and proper person to manage a regulated site; and
- where the site to which the licence relates ceases to be a regulated site to which this Part applies

70. When considering whether to revoke a licence on the grounds that the site is not reasonably suitable for the stationing of the maximum number of mobile homes specified in the licence, the Bill outlines what standards should be applied when making that determination. The licensing authority must apply the same standards when it is considering whether to revoke a site licence as were applicable when the licence was granted. However, where the standards applicable at the time have subsequently been revised or superseded by the provisions of regulations made by the Welsh Ministers, the licensing authority may apply the new standards.

71. As an alternative to revocation, the licensing authority may instead appoint an interim manager. The remuneration and expenses of the interim manager may be deducted from any income that the licence holder would be entitled to receive. If the income were insufficient, then the licence holder would be liable.

Register of licences

72. The local authority will be required to maintain a register of regulated site licences that are currently in force. This register must be available for inspection at the authority's main offices during normal office hours. This restates an existing duty under the 1960 Act.

Appeals

73. Site owners will have a right of appeal in relation to the decisions of licensing authorities to the Tribunal. Matters which may be appealed are:

- (a) refusal of licences,
- (b) the maximum number of mobile homes specified in a licence,
- (c) conditions included in licences, other than ones the licensing authority is under a statutory obligation to impose,
- (d) revocation of licences,
- (e) variation of licences,
- (f) refusals to serve temporary exemption notices,
- (g) the appointment of interim managers,
- (h) compliance notices issued for breaches of site conditions,
- (j) where an existing (and not a new) agreement is in place and the site owner wishes to appeal the sale or gift of a mobile home.

74. When considering appeals the Tribunal must make reference to statutory provisions and codes of conduct that are in force at the time when the appeal is determined. The Tribunal will have the power to direct the licensing authority to take whatever steps are necessary to give effect to the Tribunal's decision. The Welsh Ministers must make regulations outlining the procedures to be followed in relation to appeals, including the time within which appeals must be made.

Offences

75. It will be an offence for a site that should be licensed, not to be so licensed. In relation to sites that are duly licensed, it will be an offence to:

- Station more homes on the site than are permitted by the licence; or
- To knowingly cause or permit any failure to comply with any licence conditions.

76. Upon conviction in the magistrates' court a person is liable to a fine not exceeding level 5 on the standard scale, currently £5,000.

77. As an alternative to prosecution, a local authority may choose, (in line with any guidance issued by Welsh Ministers) to give any person they

believe has committed a breach of licence condition the opportunity to discharge any liability for conviction for the offence by payment of a fixed penalty. The penalty will be set at level 1 on the standard scale, currently set at a maximum of £200 (Section 15).

78. Section 17 of the Bill will also allow Local Authorities to issue a Compliance notice for more serious site licence breaches. Local authorities will be required to draw up and publish a fees policy which will include when a fixed penalty or a compliance notice is to be used.
79. An owner of land who has been served with a compliance notice commits an offence if they fail to take the steps specified in the notice. A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. When two or more compliance notices are not complied with, the Local Authority may revoke a site licence.
80. As noted above, officers of the local authority will have powers of entry in relation to site licensing. At present it is a criminal offence (according to Section 26(5) of the 1960 Act) wilfully to obstruct any authorised person from entering a site. This Bill will provide specific rights of entry that relate to licensing.
81. The maximum penalty is currently a level 1 (£200) fine; this is no longer an effective deterrent. In modern housing legislation the maximum fine for a similar obstruction is £2,500. There is no justifiable reason why the fine for obstruction of entry to a mobile homes site should be considerably less, and this Bill will make any person who wilfully obstructs any authorised person entering a site, including where a warrant has been issued, liable for a fine of up to level 4 on the standard scale, which is currently £2,500 and in line with other housing legislation.

Other consequences of operating unlicensed regulated sites

82. A repayment order system is to be established by the Bill, similar to rent repayment orders as set out under current Houses in Multiple Occupation (HMOs) legislation, whereby site operators who sell homes and/or collect pitch fees for unlicensed sites may be ordered to repay all pitch fees and reasonable costs incurred. In the case of homes sold directly by site owners, this may include the purchase cost of the home and any commission paid to the site owner in respect of a sale. An application for a repayment order must be made by the occupier of a mobile home stationed on the site to the Tribunal. Repayment orders will only cover payments made within the period of 12 months ending with the date of the application to the Tribunal. The tribunal will have

discretion to decide what amount of repayment is reasonable in the circumstances.

Management of regulated sites

83. Model Standards for caravan sites in Wales were issued under section 5 of the 1960 Act. Licensing authorities should refer to these standards when considering licence conditions for new or substantially redeveloped sites. This Bill restates the Welsh Ministers' power to make Model Standards.

Residents' associations

84. Provisions for the recognition of a qualifying residents' association remain as set out in paragraph 28 of Schedule 1, Part 1, to the Mobile Homes Act 1983. The Bill restates and amends the 1983 Act to require a membership list, which should be up-to-date, to be presented to the licensing authority and not made public. The association's rules and constitution will also be held by the local authority, but these will be open to public inspection

85. An association must have at least 50% of the residents of a site as members to qualify and each association must not include the owner or any of the management of the site. This section also stipulates the rules and constitution requirements of an association.

86. Only one resident of each mobile home may be a member of the association and where there is more than one resident of a mobile home they must agree amongst themselves whose name is to be on the agreement. Local Authorities are required to keep an up to date list of residents' associations and must give notice to an association should its membership fall below the required 50% of residents.

87. Any disclosure to the public of the list of association members will be treated a breach of the Freedom of Information Act 2000, to ensure the confidentiality of the members of each association.

The sale, purchase of mobile homes

Current arrangements

88. Where the site operator sells a mobile home the prospective purchaser must be provided with a written statement of the terms under which they will occupy the pitch. This statement commonly becomes known as the written agreement once the home is actually purchased. A new written statement must be given every time the site operator agrees to sell a home directly to a purchaser. Different requirements apply where

- a prospective purchaser buys from an existing home owner and this is outlined below.
89. Mobile home residents own their home and rent the pitch from the site operator. It is an implied term of all written agreements that they are free to sell their home, subject to a number of statutory requirements. Where a home owner decides to sell their home they can also transfer their written agreement to the person who buys the home. The process of transferring the agreement in this way is known as assignment.
 90. Home owners do not have to inform a site operator that they are selling their home. However, they must seek approval from the site operator of the proposed purchaser. This approval should not be unreasonably withheld but some site operators have been accused of exploiting this requirement and blocking sales for their own financial benefit. A legitimate reason for declining to approve a sale could be the age of the prospective purchaser, where the site rules specify a minimum age.
 91. Consumer Focus Wales commissioned research submitted as part of the consultation on this Bill found that 41 per cent of residents who were interviewed as part of their recent research did not agree that people on their site could buy or sell their homes freely. It is difficult to precisely estimate how many actual sales have been blocked by undertaking surveys of current residents, because residents who had been under pressure previously, and left the site because of it, clearly cannot participate in the research.
 92. There are incentives for unscrupulous site operators to “churn” their residents as this could provide increased commission payments and also redevelopment opportunities – particularly where a site operator buys a home from a resident. The Consumer Focus Wales research suggested that sales were being blocked so that homes could be bought at far less than market value, and then either sold on at a substantial profit or replaced by a new unit.
 93. There is no requirement on the home owner or prospective purchaser to use a solicitor at any point during the sale or to arrange any kind of professional survey or valuation. This contrasts with purchases of bricks and mortar properties that usually involve mortgages where the mortgagee would insist on both a valuation and appropriate legal enquiries by a suitably qualified and insured person. Although specialist mortgages are available for the purchase of mobile homes, anecdotal evidence suggests many purchases are made without one.
 94. Much of the responsibility for ensuring that the prospective purchaser is given full and accurate information about the purchase falls on the

seller. The sellers could be held responsible if they provided false or misleading information about the mobile home or the site in order to induce the sale.

95. The site operator should respond to a request to approve the prospective purchaser within 28 days. If they do not respond then the seller can request that the Tribunal makes an order to approve the request. The site owner cannot insist on meeting the prospective buyer, but in many cases the buyers themselves may want to meet the site operator to ask questions about the site.
96. The site operator is entitled to commission on the sale of up to 10 per cent of the sale price. This is a limit prescribed in legislation.¹⁹ Site operators are however free to charge a lower amount. The revenue generated by this commission forms an essential part of site operators' business plans. This was highlighted recently by the House of Commons Communities and Local Government Select Committee's inquiry in the mobile home industry. The Committee found that there was:

...no pressing reason to change the maximum commission that is paid to site owners on the sale of park homes. The commission is an important source of revenue for site owners and provides funding for properly managing and maintaining sites. Indeed, a change could disturb the balance between commission and pitch fees for many residents on fixed incomes.²⁰

97. The 2001 research referred to above, found that if the entitlement to commission was removed, pitch fees would have to increase by around 22 per cent.²¹ For the reasons outlined above, this Bill is not proposing to remove the site owner's right to commission on sales.

New arrangements in this Bill

98. In the future, for new pitch agreements, the requirement for the new owner to be approved by the site operator will be removed. A new pitch agreement means an agreement which is made after the new provisions come into force, or one which was made before but which has been assigned after they came into force
99. In the case of existing agreements, a site owner may object to the sale by applying to the Residential Property Tribunal for a "refusal order"

¹⁹ *The Mobile Homes (Commissions) Order 1983*

²⁰ Communities and Local Government Committee, *Park Homes*, 11 June 2012, HC 177-1, 2012-13, para 31

²¹ Office of the Deputy Prime Minister & Welsh Assembly Government, *Economics of the park home industry*, 2002, para 41

preventing the occupier from selling the mobile home and assigning the agreement.

100. As site owners will no longer be involved in the sales process where the new arrangement applies, there is a risk that sellers would not pay owners the 10 per cent commission as set by statutory instrument. The Bill addresses this issue by ensuring that the purchaser must sign to say that they will pay the commission upon sale.

Gifting of Mobile homes

101. Similarly, when a mobile home resident wishes to gift their mobile home, different provision are made in relation to cases where the proposed gift concerns an existing pitch agreement (“an existing agreement”) and in relation to cases where the proposed gift concerns a new pitch agreement (“a new agreement”).
102. As above, in the future, for new pitch agreements, the requirement for the new owner to be approved by the site operator will be removed.
103. In the case of existing agreements, a site owner may object to the sale by applying to the Residential Property Tribunal for a “refusal order” preventing the occupier from selling the mobile home and assigning the agreement.

Written agreements and site rules

104. The written agreement is the contract which allows a mobile home to be situated on a particular pitch. It is formed by a combination of implied terms which apply to all contracts by virtue of the 1983 Act, and express terms which are agreed between the parties. It is usual for the express terms to refer to site rules.
105. A new written agreement is made when a site operator sells a mobile home to a home owner, or allows a new person to bring their mobile home onto an existing pitch. Where a home owner chooses to sell their home, no new written agreement is made – the existing agreement is merely assigned to the new owner. This is similar to the way by which leasehold flats are sold. The current arrangements for the sale of Mobile Homes are set out in paragraph 8 of Schedule 1 to the 1983 Act.
106. This Bill will continue with the current arrangements, i.e. assignment of the agreement by the seller if the sale is by a home owner will continue to apply. If the sale is by the site operator, there will clearly be a new pitch agreement.

Site rules

107. Most mobile home parks will have site rules. Many sets of rules will include a minimum age requirement, and most will set out general management rules, for example, on keeping pets, car parking arrangements, refuse collection etc. Good site rules ensure that expectations are clear on all sides and disputes can be more easily resolved or avoided all together.
108. At present, site rules can form part of the written agreement and the procedures for making rules or changing existing ones can be included on the face of the agreement itself. This often happens as there is an industry model written agreement that includes a requirement to consult with home owners. However, not all site operators will use this agreement, and there is no statutory requirement for changes to site rules to be consulted on. Where the written agreement does not specify any procedure for changing site rules, home owners can be faced with uncertainty as to whether the new rules are binding or enforceable. While they could ask the Tribunal to determine this, this Bill seeks to clarify the law on this matter.
109. The Bill provides Welsh Ministers with the power to make regulations with regard to the procedural arrangements for making site rules, for example to ensure that any proposed changes to the rules by a site operator must be consulted on with the home owners and, if there is one, any qualifying residents' association.
110. The Bill requires that the general terms set out in the written agreement, along with any site rules, must be deposited with the local authority and be made available for inspection by home owners and prospective purchasers referred to the licensing authority by a current owner alongside the site licence. If the site rules are not deposited in this way, the site operator will not be entitled to rely on them at all. Existing site rules will bind a new site operator until any changes have been consulted on and agreed between the site operator and home owners, or authorised by the Tribunal.

Joint ownership: rights and succession

111. Mobile homes are often owned jointly, for example, by married or cohabiting couples, couples in a civil partnership, family members or friends. In some instances only one of those owners is currently a signatory to the written agreement. This can lead to problems particularly if the person named on the written agreement moves into a care home or dies. For example, if the person named on the agreement

dies, at present their co-owner may not be entitled to succeed to the written agreement, even though they jointly own the home.

112. This Bill will ensure that any person living in the mobile home as their only or main residence will be entitled to take over the agreement.

Pitch fees

113. Mobile home owners pay a fee in return for permission to site their home on a pitch – this is known as the pitch fee. Payment of the pitch fee will be a condition of the written agreement.

114. Pitch fees are determined at the inception of the agreement between the site operator and home owner. Unless there have been some relevant changes (which are outlined below), there is currently a presumption that the pitch fee can be increased or decreased annually by an amount equal to the increase or decrease in the Retail Prices Index (RPI). This is known as the pitch fee review and there would normally only be one per year. This Bill will substitute the Consumer Prices Index for the RPI. The review process is outlined in the terms implied into all agreements by virtue of Schedule 1 to the Mobile Homes Act 1983 and restated in the Bill. When calculating any increase, or decrease, the site operator must take into account:

- Any authorised amounts spent on improvements to the site since the last review date. This means improvements that were the subject of consultation and the approval of home owners on the park;
- Any reduction in people's ability to use the site since the last review date; and
- The effect of any relevant changes in the law that have come into force since the last review date.

115. Pitch fees can only be increased in respect of legislative changes which directly affect the actual costs of the management or maintenance of the site, and have taken effect within the 12 months since the last review date. This would not include more general changes such as those affecting tax, overheads or other business or head office activities, but would include matters such as, for example, enhanced environmental duties applicable to the site.

116. As an example of inappropriate increases to pitch fees, the Department for Communities and Local Government consultation notes that it is aware of a site operator trying to claim the costs of maternity

pay through pitch fees, even though they had no pregnant staff working on the site.²²

117. This Bill makes it explicit that a site operator must not pass on any costs that are incurred by them in order to implement the changes to be made by this Bill, in the next or any future pitch fee review.

Improvement works to mobile homes

118. The recent Department of Communities and Local Government consultation highlights its concerns about some site operators being obstructive when a home owner is seeking to make internal alterations to their home. This particularly relates to adaptations for disabled occupants, some of which may be funded by a local authority Disabled Facilities Grant. The recent DCLG consultation gives another example where the installation of an accessible shower unit and permission to install a ramp for wheelchair access to the home has been refused.

119. The current law is not clear as to whether a home owner can make alterations of this kind without the consent of the site operator. This Bill clarifies that a home owner should generally be entitled to make any **internal or external** improvements to their home, so long as they do not carry out works to the mobile home which are prohibited under the terms of the agreement or by any enactment. Where the agreement requires the permission of the owner, that permission may not be unreasonably withheld. The site owner should not do or cause to be done anything that would affect their ability to carry out improvements, or interfere with the occupier's ability to do so.

Relocation of mobile homes

120. The site operator is entitled, under certain circumstances, to re-site a mobile home and when they do so the home owner has certain rights and protections. However, there have been cases of abuse, highlighted by the recent DCLG consultation, proving that the law is not sufficiently clear in this area. Therefore the law is to be clarified to specify that, unless there is agreement between the parties, a home can only be moved without the authorisation of the Residential Property Tribunal where the urgency of the need means that it is impractical to make an application before the mobile home is re-sited. An urgent relocation could be necessary in cases where, for example, there has been a sudden land slip. In the case of an urgent re-siting, where the mobile home has already been moved, the owner must immediately make an application to the Tribunal. The Tribunal must be satisfied of the need to

²² Department for Communities and Local Government, A better deal for mobile home owners – consultation, April 2012, Para 2.39

re-site and that the new pitch is broadly comparable to the old one. If the Tribunal is not satisfied of this, then the mobile home must be returned to the original pitch.

The Residential Property Tribunal

121. The Residential Property Tribunal (RPT) is an independent quasi-judicial body constituted under the Rent Act 1977, and given its formal title by the Housing Act 2004. The RPT sets up Rent Assessment Committees and Rent Tribunals to consider appeals over rent levels and to fix an appropriate rent where there are disputes between landlords and tenants in the Private Rented Sector; and Leasehold Valuation Tribunals to settle certain disputes between leaseholders and freeholders. The RPT also adjudicates on a wide range of matters under the Housing Act 2004.
122. In 2008, the Welsh Government and Department for Communities and Local Government jointly consulted on whether disputes under the 1983 Act should be heard by the RPT rather than the courts.²³ The consultation suggested that there were a number of advantages in transferring jurisdiction over a range of mobile home disputes to the RPT including their informality and relatively low cost. The party making the application to the RPT will not have to pay the other sides costs, even if they lose the case. This is not the case when matters are dealt with by the courts.
123. Transfer of jurisdiction for a range of disputes under the Mobile Homes Act 1983 finally took place in March 2012.²⁴ Appeals from the RPT can be heard by the Upper Tribunal. However, the permission of the RPT or the Upper Tribunal is required for an appeal to be heard.
124. The RPT will have jurisdiction over all disputes related to this Bill, aside from criminal prosecutions. Such prosecutions will still be heard by the courts.

4. Consultation by Peter Black AM

125. Peter Black AM launched a formal 8 week consultation on this Bill in May 2012. The consultation document posed 31 questions to all interested parties and stakeholders. Over 120 responses were received from a variety of stakeholders including home owners, residents'

²³ Department for Communities and Local Government and Welsh Government, *[A new approach for resolving disputes and proceedings relating to Park Homes under the Mobile Homes Act 1983 \(as amended\) A consultation paper](#)*, 2008

²⁴ Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012

associations, site operators and their trade associations and local authorities.

126. The consultation demonstrated that the case for reform had become polarized, with home owners and local authorities broadly in favour of reform, and site operators broadly in favour of retaining the status quo. While there were some areas where a consensus emerged, such as the need to increase the financial penalties for those prosecuted for licence breaches, such areas were limited. All of the consultation responses are available on the National Assembly for Wales' [website](#).

Summary

127. This consultation provoked considerable interest from a range of stakeholders with over 120 responses being received. Responses were received from:

- Residents/family members - 43
- Site operators/directors - 55
- Other stakeholders - 25

128. The responses broadly came from three main groups of stakeholders: mobile home owners and residents associations; site operators and their trade associations; and other stakeholders including local authorities. There were also two lengthy responses from Consumer Focus Wales – one based on research they had commissioned and another following an event they held for local authorities. No specific response was received from the WLGA. Other interested parties that responded included the Minister for Housing, Regeneration and Heritage, Huw Lewis AM, the Residential Property Tribunal (RPT), an Assembly Member, a Member of Parliament and the Older People's Commissioner. A full list of respondents, and all of the evidence they submitted, is available on the National Assembly's website.²⁵

129. Some of the headline issues that emerged from the consultation were:

- Home owners were **overwhelmingly in favour of reform**, and while there were a range of views on individual issues, there was solid support from this group for the general direction of the proposals outlined in the consultation document;

²⁵ www.assemblywales.org/bus-home/bus-legislation/proposed_members_bills/mobile_homes_wales_bill.htm

- Local authorities were in favour of reform, but anxious to ensure that any new regime takes adequate account of their **role and resources**;
- Site operators were generally **hostile to many of the proposals**, in particular they objected to the proposal to prevent them from passing on costs that they might incur as a result of this Bill to home owners;
- A significant number of **holiday site operators** responded to the consultation, and expressed concerns that the changes proposed by this Bill would affect their businesses, despite the assurances given in the consultation document that it would not. Holiday site owners also raised the issue of **residential units for employees** on their sites which could potentially bring these sites within the scope of this Bill.

130. Below is an analysis of responses by theme.

The Residential Property Tribunal

Transfer of jurisdiction to RPT

131. A majority of respondents that expressed a view felt that the RPT should have jurisdiction over disputes connected to this Bill. An advantage of this approach that was noted by many, in particular mobile home owners, was **the lower cost and more informal** approach when compared with the county court. One individual commented that the RPT would be “cheaper, faster and more focused than the courts”.
132. There was some concern that the RPT would not have the expertise necessary to deal with mobile home disputes, and reference was drawn to an individual’s bad experience in a court where it was claimed a judge did not know the difference between a holiday caravan and a residential mobile home. However, one site operators’ trade association indicated its willingness to become involved in training RPT members. Several respondents commented on what they saw as the inadequacy of the RPT’s powers, such as not being able to enforce judgements.
133. The RPT itself provided a detailed response to the consultation and noted that its members do indeed have expert knowledge and experience of determining property related disputes. It therefore believes that it is appropriate that recourse would be to the RPT on a range of issues connected with this Bill.
134. A number of respondents commented that they supported the Bill’s intention to retain the power for local authorities to bring criminal

prosecutions in the courts. Several also commented that the **termination of agreements** should remain a matter for the courts, not the RPT. A site operators' trade association clearly stated that it did not support the transfer of any disputes between the local authority and site operator to the RPT.

135. A number of local authorities drew comparisons between the way the RPT in Wales operates and its equivalents in England, particularly with regard to the **openness and transparency of decisions**. RPT decisions in Wales are not published online as they are in England. This issue was also commented upon by a site operator who noted that if decisions in Wales were also published, potential home owners would be able to see which parks constantly appear before the Tribunal.

Damages and compensation

136. There was broad support from mobile home owners for the RPT to have power to award damages and compensation. A number of site operators, as well as a solicitor and the RPT itself, noted that to be fair the power to award compensation **should apply equally to both site operators and home owners**. As one site operator put it, the power should "work both ways". The RPT also queried whether this power would extend beyond breaches of the written agreement to also include breaches of site rules.
137. Consumer Focus Wales highlighted that in England, where the RPTs have had responsibility for determining a range of mobile home disputes for over a year, **compensation has already been awarded in a number of cases**. A number of respondents suggested that guidance should be issued to the RPT to enable it to effectively and consistently use this power.
138. However, there were a number of cautionary notes on this issue. One, from the Welsh Government, suggested that giving the RPT explicit powers to award damages and compensation could have wider legal implications. Another respondent commented that they would not wish to see the RPT replace the role civil courts have in this area.

Re-siting requests

139. There was a more mixed response on the issue of whether re-siting requests in the case of an emergency should have to be determined by the RPT. Most individuals who expressed a clear preference were in favour of the RPT having a role, but this was far from unanimous. Some felt that there could be a genuine emergency that would require an

immediate response. Some examples that were given included fire, floods and ground collapses.

140. Site operators were largely content with the current arrangements with one commenting that they struck “the right balance”.

141. The RPT itself suggested that “it would be **disproportionate** to require consent in an emergency.” However, it went on to say that it accepted that that the interpretation of ‘emergency’ may be open to question.

Sale blocking

Experiences of sale blocking

142. There was an awareness of sale blocking by nearly all of the home owners that responded to the consultation, however, only a small number claimed to have experienced this first-hand. Most home owners that commented on this issue said that they knew of people that had been victims of sale blocking.

143. Site operators also acknowledged that this behaviour does happen on some sites, but stressed that there are a number of legitimate reasons why a site operator may wish to prevent a sale from going ahead using lawful means. One site operator noted that it dealt with around 250 assignments each year and that **very few were prevented** from going ahead. Some of the issues raised by site operators, and a number of home owners, were the age of the intended purchaser, whether they have pets and the age and condition of the mobile home itself.

144. Consumer Focus Wales suggested that some site operators were applying one set of rules for assignments and another for direct sales, with **far stricter criteria being used on assignments** for the sole purpose of blocking sales.

Reforming the law on sales

145. There was overwhelming support from home owners for removing the right of the site operator to veto a sale. Consumer Focus Wales believed that there was **substantial evidence** that a sale was often blocked so the site operator could purchase the home at a substantial discount, before then reselling it for a substantial profit.

146. A small number of home owners supported some sort of control on new residents, with concerns about anti-social behaviour being noted. A solicitor also commented that without proper controls on who was entering the site the **value of residents’ homes** could be adversely affected.

147. Site operators saw the current system as **fit for purpose**, and noted the existing role of the RPT in dealing with sales, and that a decision to block a sale can already be challenged at the Tribunal. The requirement for a site operator to approve a sale was seen by many site operators as an opportunity to provide information to potential purchasers, many of whom will never have lived on a mobile home site before. There were also some concerns from site operators that removing them from the sales process entirely could mean the **sale price is under-declared**, and they therefore receive less commission.
148. One local authority noted that it often addresses licence breaches by requiring that the areas of non-compliance are **addressed on the sale or assignment** of the homes. It believes that removing the ability to prevent a sale could affect this approach.
149. The RPT itself preferred one of the other options put forward in the consultation document, where the buyer is deemed to be approved and if the site operator objects they could apply to the RPT for a ruling to that effect. The RPT suggests that any fee for making such an application should be “realistic and sufficient to require a site owner to fully consider their position before making one.” The RPT also notes that it “...already has powers to dismiss vexatious applications and to award costs so there is a safeguard against spurious applications.”

Meetings between all parties

150. The majority of home owners were **strongly against any meeting** with the site operator prior to the purchase. One of the main reasons given was that this was just a tactic to block a sale. Others suggested that it could be used to intimidate a potential purchaser. However, this was not the view of all home owners or residents associations, and some did support the idea, seeing it as an opportunity to deal with important paperwork and to iron out any issues of concern.
151. Site operators saw a meeting as an opportunity to explain site rules and other issues any potential buyer would need to be aware of. One trade association saw a meeting as an **even more important safeguard** should, as a result of this Bill, the site operator no longer be able to approve the purchaser.

Licensing

Views on current licensing regime

152. The majority of home owners that responded to the consultation felt that the existing licensing system needed to be modernised. One individual described it as “woefully inadequate and weak”, another as a

- “toothless tiger”. A number directed comments at local authorities who they felt should make **better use of the existing powers** that they have rather than simply allowing breaches of licence conditions to be “ignored”, with one suggesting that there should be a statutory requirement placed upon local authorities to enforce licence conditions. Consumer Focus Wales noted that many local authorities do not have accurate records of sites they have licensed, despite this being a statutory requirement.
153. A number of respondents had concerns that there was **inconsistency in the approaches** of different local authorities and some suggested that there could be an all-Wales body to implement a new licensing regime to provide more uniformity. In a similar vein, Consumer Focus Wales suggested that this role could be taken forward by appointing a lead local authority to co-ordinate all of the licensing work and **information sharing**.
154. Site operators were generally content with the current regime with one saying that it had “stood the test of time”. Another site operator, echoing concerns expressed by some home owners, said that if any changes were to be made, it should be that “rogues” are made to comply with licence conditions and, where necessary, **licences should be updated**. A solicitor suggested that the existing licensing regime could be made more effective rather than introducing “unnecessary and costly new procedures”.
155. A number of local authorities responded to the consultation, with one describing the current regime as “cumbersome and not effective” with **prosecution the only enforcement option**. However, another local authority noted that the existing legislation has been effective in helping to secure improvements to poorly maintained or managed sites. A third local authority felt that more use could be made of the 2008 model standards that currently only apply to new or substantially redeveloped sites.
156. Local authorities raised the issue of fire safety during a consultation event facilitated by Consumer Focus Wales, and that they are **not clear** where responsibility for enforcement lies – i.e. whether it is the responsibility of the local authority or the fire and rescue service. They suggested that new legislation could clarify this issue.
157. The issue of **mixed holiday and residential sites** was raised by a local authority concerned that this Bill does not specifically address this, nor does the Bill address those **holiday sites effectively used as residential sites** where residents vacate their homes for only a few

weeks each year. This issue was also raised by an Assembly Member that responded to the consultation.

158. The issue of how the Bill would address the issue of residential units that are provided for **staff use** on holiday sites was also highlighted. There were substantial concerns from the holiday park sector that this Bill could impact directly upon them because of the existing shared licensing regime, despite the consultation document's promise not to. One holiday site operator emphasised that there was no need to change the current licensing system for holiday sites as the sector was very competitive and poor sites would simply go out of business.

Frequency of inspections and financing

159. There were a wide range of suggestions as to the frequency of site inspections, with annual inspections being a popular suggestion from home owners. A number of respondents also suggested that **inspections should be unannounced** if necessary, and this was supported by local authorities.
160. Site operators did not generally see a need for frequent inspections and a number suggested that inspection frequency should be **risk-based** rather than prescribed in law. This approach was supported by local authorities, a number of which noted that it mirrors the approach taken in other areas of regulation such as with trading standards, health and safety and food premises.
161. Many home owners suggested that licence fees could be used to fund inspections, with Consumer Focus Wales suggesting that local authorities should have the **power to charge for inspections** that were the result of an upheld reactive complaint.
162. Site operators did not see justification for additional fees to fund inspections, believing that local authorities should fund these from their own resources, which include **council tax from home owners and business rates from site operators**. One site operator suggested that inspections could be financed from fines levied on sites where licence conditions are breached.

Guidance on frequency and nature of inspections

163. There was broad support from home owners for the Welsh Government to issue guidance on the frequency and nature of inspections. Site operators were less enthusiastic on this issue, but thought that any guidance that was developed should be done so in **partnership with the industry**. Local authorities were also generally supportive, although

again emphasising that there should be a risk-based approach to inspections.

Licence conditions

164. There were a wide range of suggestions for possible licence conditions with many focusing on health and safety and specific issues of concern such as utilities. The current Model Standards were mentioned in a number of responses as a basis for licence conditions. Many home owners wanted very extensive conditions, but the benefit of a concise licence was noted by the secretary of a residents' association who felt this gave less opportunity for "unscrupulous owners to use parts of the licence to scare, intimidate or force people from their homes".
165. Site operators were anxious not to have rigid licence conditions that did not allow for some degree of local flexibility a point echoed by some local authorities.

Duration of licence

166. Suggestions for the duration of licences from home owners and local authorities varied from between **1 to 5 years**, or shorter if the circumstances warranted it. For example, where there had been particular issues of concern at the park or the site operator was new to the industry.
167. Site operators were **opposed to any fixed term licence**. They saw this as both a threat to the security of home owners and also a threat to their financial viability. A number of responses, primarily from owners of holiday sites, stated that the introduction of a fixed term licence would "completely undermine the economics" of their business. They had particular concerns about lenders willingness to invest in a business whose right to trade could simply expire, and the potential impact upon home owners' security of tenure and ability to sell their home. However, they saw no objection to the licence being **periodically reviewed** by the local authority based on a risk assessment.
168. A national body representing park home residents, the Independent Park Home Advisory Service (IPHAS), also had concerns about having fixed term licences, in particular they believe that **home owners would lose security of tenure should the licence expire**. They saw the potential for site operators to use the imminent expiry of a licence as a "weapon" that could be used against home owners. The site operator could, for example, threaten not to renew the licence if the home owner complained to the local authority. IPHAS would prefer the licence to remain in force until ownership of the site changed hands.

Fees for licensing

169. There were a variety of methodologies put forward for calculating licence fees, many local authorities preferred straightforward methods based on the **cost of inspection** to the local authority and the **number of pitches**. There was some support from local authorities for a “national set fee” which could be set by regulation.
170. Site operators again reiterated their opposition to licence fees, and felt that their contributions through business rates and other taxes, in addition to council tax from home owners, should be sufficient to finance the cost of licensing. Emphasising their belief that there should be no fee for licensing, one site operator noted that parks do not receive some services that other businesses would expect such as road maintenance and street lighting.

Annual charges

171. There was a mixed response to the proposal that there should be an annual charge. While a number of home owners supported this idea, many felt the licence fee should be sufficient. Local authorities were **strongly opposed** to the idea of an annual fee as they saw this as further bureaucracy, and pursuing non-payment could potentially take up a significant amount of resources and officer time.
172. Site operators saw no justification for an annual fee which they believed would result in good sites paying for enforcement on poorly managed sites.

Fit and proper person test (FPPT)

173. There was substantial support from home owners and local authorities for a fit and proper person test to be introduced for site operators. Many of the responses from home owners called for an **Enhanced Criminal Records Bureau check** rather than the basic one proposed in the consultation so that all “spent” convictions were disclosed on the basis that home owners were often older people that would be regarded as vulnerable. Two local authorities made reference to Disclosure Scotland basic disclosures (which do not disclose those convictions considered spent under the terms of the Rehabilitation of Offenders Act 1974) already being requested by some local authorities dealing with HMO licence applications.
174. It was also suggested by local authorities that attended the Consumer Focus Wales event that the directors of any company that owns the site,

and the person with whom home owners have direct dealings with (e.g. the site manager) should undergo the same checks.

175. Site operators expressed mixed views on this issue. While some had no objection in principle to this proposal, there were queries such as how far back the checks would go and would this sort of check be applied to other businesses? The issue of what would happen should a licence be revoked if a person failed to meet the fit and proper person criteria was also raised. A site operators' trade association suggested separating the site licence which would deal with infrastructure from a **personal licence** to manage the site, a point echoed by a residents' association. They suggested that a central Wales-wide body could deal with personal licences and this would deal with the issue of one person owning a number of sites in different areas. Local authorities could retain responsibility for the physical inspection of sites.

176. It was noted by a holiday site operator that many owners and employees on these sites already have to pass a variety of fit and proper person tests as part of other licensing regimes, such as alcohol licensing, gambling and financial services.

Other issues relevant to FPPT

177. Many home owners wanted a wide range of issues to be taken into account, including the opinions of site residents. Amongst the more popular suggestions from home owners were complaints made to the local authority and a history of harassment or sale blocking. A number suggested that there should be some consideration given to the **financial resources and financial background** of the site operator.

178. Local authorities were keen to consider any record of enforcement action, including referrals to the RPT. The RPT saw itself as a potential arbitrator should a site operator be deemed not to be a fit and proper person.

Fines

179. There was a general consensus from across the whole spectrum of respondents that the current level of fine was not an effective deterrent. Many site operators felt that the fine "should be proportionate to the gravity of the offence". A number of home owners called for unlimited fines.

Fixed penalty notices

180. There was a substantial amount of support for fixed penalty notices from home owners, with agreement that these should be for minor breaches of licence conditions.
181. Site owners had various concerns about this type of notice, including that they could just be used by local authorities as a way of **raising extra revenue**, and that there would not necessarily be any judicial oversight of the process.
182. Some local authorities saw some merit in the proposal, with one suggesting this type of notice could be appropriate for licence breaches that could be easily remedied. However, as with annual fees, local authorities highlighted a potential **administrative burden** in collecting unpaid fines. Some local authorities saw other means of enforcement as potentially more effective than fixed penalty notices.

Enforcement notices and works in default

183. There was **broad agreement** that local authorities should have a greater range of enforcement options available to them and that this should include enforcement notices and an ability to carry out works in default. One local authority commented that “tools other than prosecution” were what they needed. Another local authority felt that it was important that they should be able to instigate a prosecution should a notice not be complied with. A third local authority, while supporting the principle of enforcement notices, felt that this should only be a power, and not a requirement.
184. While site operators generally supported the proposal, one did feel that an enforcement notice should only be “limited to instances of repeated and flagrant breach”. Another commented that if the current licensing regime allowed for such notices there would be no need for this consultation.

When to revoke a licence

185. It was generally agreed that a licence should only be revoked in the **most extreme cases** of licence breaches, including where a site operator no longer meets fit and proper person criteria. It was noted by a number of respondents that there would be serious implications for home owners should their licence be breached, for example frustrating sales that may be imminent.

Local authority management orders

186. As noted above, respondents generally saw the revocation of a licence as a last resort, and in these circumstances it may be necessary for the local authority to take over the management of a site.

187. Local authorities saw some **practical difficulties**, with one noting that there would probably be a substantial amount of work to be carried out on a site where this took place. Another local authority commented that a local authority would not have the practical experience necessary to undertake this. Several local authorities paralleled experience of dealing with management orders in relation to HMOs, and noted how **resource intensive** this was.

188. Consumer Focus Wales suggested that a Registered Social Landlord could take the role of manager.

Residents taking over management

189. There were **mixed views** from home owners on them being given the power to take over the management of a site. However, many believed that there would either not be enough interest from home owners, or practical difficulties may be difficult to overcome. A number of respondents suggested that some home owners or particular “factions” on the site may be more interested in furthering their own interests, rather than taking decisions that would benefit the park as a whole. Site operators were opposed to this proposition.

190. If home owners were to take over the management of a site, a number of respondents commented that they should be expected to meet all of the standards of the site operator, including passing a fit and proper person test.

Written agreements and site rules

Consultation requirements

191. A number of respondents suggested written notice of proposed changes, and a statutory period of consultation. Consumer Focus Wales suggested that the consultation requirements could be set out in **regulations**, with CIH Cymru suggesting that any consultation should address barriers faced by anyone with protected characteristics as defined in the *Equality Act 2010*. A number of respondents suggested involving any Residents’ Association in the consultation process and holding public meetings.

192. A number of site operators believed that the existing provisions on changes to express terms were sufficient.

Pitch fees

Regulation

193. The majority of home owners believed that pitch fees **should be regulated**, and a number suggested that the increase should be linked to the Consumer Prices Index (CPI) rather than the currently higher Retail Prices Index (RPI). One reason given for this was that pensions are linked to CPI, and most mobile home owners are pensioners. A number of respondents asked for **more clarity** on pitch fee review notices. An anonymous response suggested that some older sites have deteriorated in quality because pitch fee increases have not been sufficient to pay for maintenance.

194. Site operators were generally content with the current system for pitch fee reviews. On the specific issue of CPI versus RPI, a trade association commented that it is necessary for a business to remain viable, echoing the words of English housing minister Grant Shapps when he gave evidence to the Communities and Local Government select committee at the House of Commons. Another trade association said it would welcome more clarity in how pitch fees are calculated and this could be by means of an **annual statement**.

195. Consumer Focus Wales commented that site operators must be prevented from using legislative changes to increase the pitch fee, unless those legislative changes can be directly proven to affect the management or maintenance costs of the site. However, they did not believe that changes as a result of this Bill should be passed on to home owners.

Other comments on pitch fees

196. It was clear from the consultation responses that a number of respondents had direct experience of issues connected with pitch fees. A number of issues were raised including, the clarity of the pitch fee review notice and differences in charges between homes on the same park.

Improvements and alterations

Maintenance and repairing obligations

197. There was general agreement from home owners that clarification of site operators' repairing and maintenance obligations would be a positive step, with a number also commenting that a clearer definition of

the **difference between repairs and improvements** would also benefit all parties. However, as a site operators' trade association commented, it is not always straightforward to make this distinction. For example, they queried whether replacing an old electrical system is a repair or an improvement.

Consultation on proposed improvements and alterations

198. There was strong support for a standard consultation format from home owners. However, site operators were content with the current arrangements as set out in the *Mobile Homes Act 1983* and in existing park agreements.

199. One local authority pointed out that some improvements could be required as a result of licence conditions.

Internal improvements and alterations

200. Most home owners were adamant that internal improvements should be the sole responsibility of the home owner. However, some site operators and local authorities, as well as a small number of home owners, raised health and safety issues, as well as potential breaches of licence conditions as a reason why the site operator may need to be aware of alterations. Examples given included the installation of fixed heating appliances, sub dividing accommodation, an alteration that would affect the mobility of the unit and installing electrical appliances that could affect the electricity supply to the rest of the park. A local authority suggested that internal alterations that could be carried out without approval should be limited to decorative or replacement like for like works only.

External improvements and alterations

201. There was much more of a consensus on external alterations, with many respondents from all sides suggesting that anything that would result in a breach of the site licence being grounds for refusing permission. Fire safety and privacy concerns were also raised as issues that should be considered when considering whether to give permission.

Succession

202. There was strong support from home owners for the proposals to modernise the rules on succession. Site operators and their trade bodies were more cautious, with some content with the status quo, and others seeing scope for modernisation.

203. Many respondents, representing both home owners and site operators, highlighted the potential complexity of this area.

Financial impact of the Bill

204. The main concern of home owners was that the potential costs of this Bill would ultimately fall on them through **higher pitch fees**.

205. Local authorities saw additional costs from their enhanced enforcement powers and duties, but saw licence fees as an opportunity to make the new licensing scheme **self-financing** or at least contribute towards these costs. There were also some concerns raised about initial setup costs, and awareness raising costs.

206. Site operators saw a potentially **significant financial impact** upon their business and felt that these costs should be passed on to home owners through pitch fees. They also thought that local authorities should be able to absorb more of the additional costs from their existing resources which include a significant contribution from both site operators and home owners through various taxes. A number of site operators highlighted the fact that parks do not receive a number of services that most businesses and council tax payers receive such as road maintenance and street lighting.

207. Site operators **strongly objected** to the proposal that they should not be permitted to pass on any of the costs of this Bill to home owners, and if this was not allowed it could impact upon the viability of their business. However, a number of site operators also highlighted that it was difficult to be precise when calculating the impact of this Bill on their business as there were so many variables/possibilities at this stage. On balance, site operators saw the potential for this Bill to **disproportionately affect** them.

208. The Residential Property Tribunal saw a **considerable impact** on the Tribunal should the Bill become law. It noted that in recent years costs to the Tribunal have increased and there already exists considerable pressure on the budget, members time and staff resources. It also noted that consideration would have to be given to staff training and **fees** that would be charged when making applications to the RPT.

Other issues

209. A number of issues not directly consulted on were raised in the consultation responses. A number of home owners objected to the 10 per cent commission that is paid to the site operator on the sale of a

home. However, a number of site operators were equally certain that the commission was an essential part of their business plans.

210. A number of home owners suggested that “park home” should be a legal term rather than “mobile home”.

211. There were a number of calls for an information hub, available online and by telephone, to be funded by the Welsh Government so there was a central source of information on mobile homes, particularly on the buying and selling process.

212. A number of home owners raised the issue of fair utility bills, and the right to have a water meter, and asked for these issues to be considered when drafting the Bill.

Transitional Provisions

213. Much of the current legislation applies to all forms of caravan sites. The arrangements proposed in this Bill will make substantial changes to the law relating to residential mobile home sites. Transitional Provisions will be required to explain how holders of licences under the current arrangements are to transfer to the new regime. Other parts of the Bill are more self-contained, and should be capable of being implemented more quickly. Those relating to pitch fees, for example, may be implemented more quickly, but transitional arrangements will need to specify whether changes take effect from a certain date, or from the next review.

Implementation timescale

214. In order to implement this Bill effectively, Welsh Ministers will need to put in place a number of pieces of subordinate legislation as explained in Part 5 of this Explanatory Memorandum, Local authorities will also need to put in place appropriate administrative arrangements. As these are matters outside the control of the Member in Charge of the Bill, no firm timescale can be established at this stage, though a period of 12-24 months would appear reasonable.

5. Power to make subordinate legislation

215. The Bill makes a range of provisions for subordinate legislation. The following table sets out in relation to each provision:

- the person upon whom, or the body upon which, the power is conferred;
- the form in which the power is to be exercised;
- the appropriateness of the delegated power; and

- the applied procedure (affirmative, negative, no procedure) if any.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 29(5)	Welsh Ministers	Regulations by statutory instrument	The evidence to be considered by local authorities when deciding if someone is a fit and proper person is set out on the face of the Bill. Suitable for regulations as it provides Welsh Ministers with the ability to amend this section to vary the list of evidence to be considered.	Affirmative	Amends an Act of the Assembly and relates to a requirement on members of the public to demonstrate they are a fit and proper person.
Section 50(1)(e)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it provides the flexibility to set out requirements for the content of written statements in addition to those on the face of the Bill	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 52(1)	Welsh Ministers	Order by statutory instrument	Suitable for order as it provides the flexibility to amend the implied terms of mobile home agreements set out in Schedule 2, except those in paragraph 10	Affirmative	These regulations have the ability to change terms of mobile home agreements.
Section 53(2)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the making of site rules which govern the proper management and conduct of sites.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section	Welsh	Regulations	Suitable for	Negative	These

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
53(2)(b)	Ministers	by statutory instrument	regulations as it will enable Welsh Ministers to set out other matters which site rules may cover, beyond the management and conduct of sites.		regulations will prescribe technical matters of detail which may change from time to time.
Section 53(3)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out the time period after which site rules made under existing legislation will cease to have effect once this section of the Bill comes into force.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(4)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the time period following commencement of consultation with occupiers that a site rule comes into force.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(5)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the time period following commencement of consultation with occupiers that a variation of a site rule comes into force.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(5)(a)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh	Negative	These regulations will prescribe

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			Ministers to set out administrative details regarding the procedure to be followed to delete a site rule.		technical matters of detail which may change from time to time.
Section 53(6)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the time period following commencement of consultation with occupiers that deletion of a site rule comes into force.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(6)(a)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the procedure to be followed to delete a site rule.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(7)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding how occupiers are notified of proposals to make, vary or delete a site rule.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(8)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out matters that cannot be included in site rules.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 53(9)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh	Negative	These regulations will prescribe

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			Ministers to set out administrative details regarding how disputes regarding the making, varying or deletion a site rule or their deposit with a local authority are to be resolved.		technical matters of detail which may change from time to time.
Section 53(11)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the keeping of a register of site rules by local authorities and the charging of fees for the deposit of site rules.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Section 58(2)	Local Authorities	Order	Suitable for order as it will enable local authorities to make an order prohibiting the stationing of a mobile home on specified areas of common land.	No procedure	Local order, not made by statutory instrument.
Section 59(3) –	Welsh Ministers	Order by statutory instrument	Suitable for order as it enables Welsh Ministers to make consequential, transitional, transitory and saving provisions	Affirmative if amending primary legislation Negative if amending other legislation	Affirmative procedure is appropriate where orders affect primary legislation Negative procedure is appropriate for other orders which make technical provision only.
Section 61(4) –	Welsh Ministers	Order by statutory instrument	Suitable for order as it will enable Welsh Ministers to amend administrative details regarding the size of mobile	Negative	These orders will prescribe technical matters of detail which may change from time to time.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			homes covered by the Bill.		
Section 65(2) –	Welsh Ministers	Order by statutory instrument	Suitable for order because this provision enables Welsh Ministers to provide for commencement of the Bill.	No procedure	These orders will be confined to commencement and are technical in nature.
Schedule 1 paragraph 3(2)	Welsh Ministers	Order by statutory instrument	Suitable for order as it will enable Welsh Ministers to amend administrative details regarding the size of certain sites which are not to be a regulated site.	No procedure	These orders will prescribe technical matters of detail which may change from time to time.
Schedule 1 paragraph 14(1)	Welsh Ministers	Order	Suitable for order as it will enable Welsh Ministers to specify that exemptions contained in Schedule 1 do not apply in specified areas, at the request of a local authority	No procedure	Local order, not made by statutory instrument.
Schedule 2 paragraph 8(4)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out the maximum commission rate new occupiers will be required to pay site owners under new agreements.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 8(6)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the procedures for the sale of mobile homes, assignment of agreements and payment of	Negative	These regulations will prescribe technical matters of detail which may change from time to time.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			commission where a new agreement is in place.		
Schedule 2 paragraph 9(5)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the content of a notice of sale required where other agreements are in place.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 9(7)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out the grounds on which an application for a refusal order preventing a sale of a mobile home and assignment of an agreement	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 9(8)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out the maximum commission rate new occupiers will be required to pay site owners under other agreements.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 9(10)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the procedures for the sale of mobile homes, assignment of agreements and payment of commission where an agreement other than a new agreement is in	Negative	These regulations will prescribe technical matters of detail which may change from time to time.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			place.		
Schedule 2 paragraph 10(2)(a)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the information, and form it is to take, that an occupier must provide a proposed occupier before the completion of a sale of a mobile home and assignment of an agreement.	Negative for first regulations	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 11(2)(a)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the evidence of family connection an occupier is required to provide a site owner when they are proposing to use exercise their entitlement to gift a mobile home and assign an agreement to a family member.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 11(5)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the procedure to follow when gifting a mobile home and assigning an agreement to a family member where a new agreement is in place.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Schedule 2 paragraph 12(5)(b)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding information, other than evidence of family, to be included in a notice that an occupier must serve on a site owner when proposing to gift a mobile home and assign an agreement to a family member where an other agreement is in place.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 12(7).	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out the grounds on which an application for a refusal order preventing the gift of a mobile home and assignment of an agreement	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph 12(9)	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh Ministers to set out administrative details regarding the procedure to follow when gifting a mobile home and assigning an agreement to a family member where an other agreement is in place.	Negative	These regulations will prescribe technical matters of detail which may change from time to time.
Schedule 2 paragraph	Welsh Ministers	Regulations by statutory instrument	Suitable for regulations as it will enable Welsh	Negative for first regulations	These regulations will prescribe

Section	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
22(a)			Ministers to set out administrative details regarding the form the notice a site owner must serve on an occupier informing them of a proposed change in pitch fee.		technical matters of detail which may change from time to time.

6. Territorial application

216. This Bill will apply only to residential mobile homes situated on protected sites in Wales. This Bill will also apply to the sites themselves.

7. Cross border issues

217. As the Bill applies to regulated home sites in Wales, there are no direct cross-border issues in the Bill. Nevertheless, there may be a need for regulations and guidance to address matters such as the exchange of information with local authorities outside Wales regarding site owners and managers who operate sites in Wales and beyond.

Part 2: Regulatory Impact Assessment

218. Official data on the sector is scarce, and until recently a 2002 survey commissioned by the Office of the Deputy Prime Minister (now the Department for Communities and Local Government) provided the bulk of robust data. Census data only provide limited scope for further analysis as mobile homes are not identified as a distinct form of housing in the census questionnaire, they are instead included within a wider category that includes other temporary structures.

219. Recent research by Consumer Focus Wales provides the most up-to-date data on the sector, and they have shared some of their findings so as to assist with the preparation of this explanatory memorandum.

220. The mobile home sector in Wales is small, comprising approximately 3,400 homes on 92 sites.²⁶ This equates to less than 0.3 per cent of the total housing stock in Wales.²⁷ The majority of sites have pitches for fewer than 50 mobile homes, while eight sites have over 100 pitches.²⁸ Just under one third of sites are corporately owned.

221. The options considered are:

- Option 1: Do nothing
- Option 2: Voluntary arrangement
- Option 3: Introduce the proposed Bill

Estimate of Costs: Option 1 – do nothing – continue with existing arrangements.

222. There is broad agreement from mobile home owners that the measures within this Bill should be implemented. This is evidenced by the response to the consultation held by Peter Black, the research carried out by Consumer Focus Wales and also by the House of Commons Communities and Local Government Select Committee inquiry into park homes. However, it is recognised that there is considerable opposition to reform from site operators and their trade associations, many of whom would prefer to retain the current licensing regime.

223. The current licensing system, which includes criminal penalties, is openly flouted by a minority of site owners who engage in dubious practices, and there is no reason to believe this will change unless the

²⁶ CFW 2012

²⁷ There are approximately 1.3 million homes in Wales.

²⁸ CFW 2012

law is strengthened. While this does mean extra regulation for all site owners, including the majority who manage their sites well, this is a necessary step to protect mobile home owners.

224. As has been stated previously, local authorities are unable to charge for their mobile home licensing functions under current legislation. They therefore receive no direct contribution from site operators towards the costs associated in dealing with duties under the 1960 Act. If this Bill does not become law, these costs will continue to fall upon council tax payers and the local authority's general resources provided by the Welsh Government. The inability of local authorities to charge may deter some authorities from intervening where breaches of licences are identified, or indeed from undertaking regular monitoring.

225. The consultation held by Peter Black highlighted that a number of local authorities do already undertake regular inspections of sites within their areas, but this does not happen in all areas. The new regime proposed by this Bill will ensure that regular inspections are carried out, and licences renewed at least every five years. In the absence of these provisions there is a risk that in some areas there will be few, if any, inspections to ensure that physical and management standards are being maintained.

Estimate of Costs: Option 2 – Voluntary arrangement

226. Consideration was given to whether a voluntary arrangement, such as the Landlord Accreditation Wales model, could be agreed that would meet the needs of the Bill without the need for legislation.

227. However, the issues giving rise to this Bill would not be addressed by a voluntary arrangement as the sites likely to sign up to such an agreement would be likely to exclude the minority of sites where dubious practices take place.

228. Hence the impact would be negligible.

Estimate of Costs: Option 3 – Introduce a proposed Bill

229. The new proposals would impose a number of new costs on site owners, licensing authorities, the Residential Property Tribunal and the Welsh Government. The Bill specifically prevents site owners from passing on costs associated with this Bill to mobile home owners.

230. There are fourteen regulation and order-making powers within this Bill and therefore the financial cost of the Bill will be very much dependent on how and when these powers are implemented. The following sections set out indicative costings around the intention of the Bill. It is anticipated that more detailed estimates will be available when regulations are drafted and consulted upon.

A new licensing regime

231. This Bill will update the existing licensing regime as it applies to residential mobile homes with a modern framework that is both fit for purpose and consistently implemented across Wales. Local authorities will be the licensing authorities, as they are under the 1960 Act.

232. The Welsh Ministers will be able to issue guidance to licensing authorities on arrangements for the enforcement of licence conditions. Where necessary, and following service of a notice in writing upon the licence holder, the licensing authority will be able to carry out works to ensure compliance with a condition in the licence, and recover their costs from the licence holder. The licence holder will first be given reasonable time to carry out the works themselves.

233. Licensing authorities will be permitted to charge a fee for processing and issuing a site licence which will be renewable at least every five years.

234. The site licence must include a number of mandatory conditions, as set out in Section 55 of this Explanatory Memorandum. The licensing authority may also include such further conditions as they see fit, but those conditions cannot apply to any person other than the owner, unless that person has consented to the imposition of those conditions.

235. Welsh Ministers may give guidance as to the form and content of such conditions, and licensing authorities must have regard to this guidance.

236. Welsh Ministers may issue guidance as to the appropriate level of fees. For illustrative purposes an example is set out below, this example assumes that the fee is based on the number of units on a site and following consultation responses, there would be no annual fee charged. A few examples of income follow, based on the facts that there are 92 sites in Wales with around 3,400 units. If a fee were set based on the number of units then the following licence fees could be raised over 5 years.

Fee per unit £	Licence fee income from 92 sites £
50	170,000
100	340,000
150	510,000
200	680,000

This is simply a transfer from site owners to licensing authorities and so not a net economic cost.

237. In order to be granted a licence the owner and manager (or other persons involved in the management of the site) will need to pass a **“fit and proper” person test**. There will be a duty on licensing authorities to obtain sufficient information from applicants for a licence to determine whether the licence holder and any person involved in the management of the site are fit and proper persons. Licensing authorities must have regard to any relevant criminal offences, contraventions of any provision of the law relating to equality, housing and landlord and tenant law,. It will be open to licensing authorities to request evidence of a person’s criminal convictions.
238. There would be administrative costs to the site owner in relation to additional work needed for the licence application and we have included an estimation of £100 per site to cover this. This would lead to a cost of £9,200 over 5 years (£100 * 92) and more if a local authority decides to grant a licence for a shorter period. Also, if a local authority requires evidence of criminal convictions, a Disclosure Scotland Criminal Conviction Certificate costs around £25, a standard CRB check costs around £26 and an enhanced CRB check £44. If we were to assume that on average three checks were carried out per site, the cost of carrying out criminal checks for all 92 sites would be in the region of £7,000 and £12,000 depending on the check required to be carried out by the licensing authority.
239. Local authorities with park homes sites within their areas currently license and inspect, to varying degrees, these sites. The new system of licensing would be considerably different with regulations set by Welsh Ministers and there is potential for collaborative service delivery and economies of scale.
240. A licence may not be transferred to another person. Where a licence holder dies, the new owner will not become the licence holder automatically. However, for a period of three months beginning with the date of the owner’s death, or the date on which a new person becomes the owner, the site is to be treated as if a temporary exemption notice is in force. The initial three month period of exemption may be renewed by

the licensing authority for further periods, each of three months duration.

241. The proposed Bill also contains a power to appoint an interim manager of a site. It is estimated, based on appointing a manager at senior level that the potential cost to the licensing authority of securing a replacement could be approximately £10,000. The full cost of employing the interim manager would come from site revenue. However it is hoped that such an intervention would only ever be considered as a last resort, and used only rarely. The consultation responses indicated that the limited experience local authorities have of dealing with Houses in Multiple Occupation management orders would lead them to only use this power only in extreme circumstances. Moreover, the enhanced regulatory powers contained in this Bill should enable a local authority to intervene at an early stage when problems are identified, before it becomes necessary to consider the appointment of an interim manager.

242. The licensing authority will be required to maintain a register of regulated site licences that are currently in force. This must be available for public inspection.

243. How services are organized on a local, regional or national level should not be directed by this Bill. We have assumed in the first year that to process the 92 new site licenses in Wales would take a combined resource of around four (full time equivalent) environmental health officer (EHOs), this would assume that two licence applications and associated work could be processed per officer per month, allowing time for interaction with site owners as part of the application process, to minimise the number of potential appeals. If the cost of an EHO is assumed to be £40,000 this would be a combined cost of £160,000 in the first year, this would assume all licences would be processed within one year of policy implementation, if this was not the case these costs would be spread over a longer period. Their role would include setting up registers of licences.

244. As part of work by the Welsh Government to determine regulations around licensing, further modelling work would need to be done to calculate more definite costs including time taken to undertake inspections and administrative work associated with this.

Variation of licences, site rules and agreements

245. The written statement will continue to be a requirement of the arrangement between a site owner and a mobile homes resident. The licensing authority may not vary its terms without the changes being approved under the procedure outlined in the 1983 Act, which is being

restated in the Bill. The same applies to the site rules, which may only be changed following consultation with occupiers and, if one exists, any qualifying residents' association, and it appears to the licensing authority that the majority of occupiers agree to the variation.

246. If it is assumed that 10% of site owners need to make some form of amendment to the site rules, agreement or licence each year and this would have an administrative cost of around £250 to the site owner, including a possible requirement to consult with residents. This would lead to a cost of £2,300 a year (£250*9.2). Section 6(9) would permit lower fees when it is the licence holder only that is being considered and not the site.

Fines and Penalties

247. The Bill introduces a system of fines, fixed penalty notices and compliance notices, for offences such as breaches of site licence conditions. These conditions will be determined by the Welsh Government and local authorities. The intention of the new regulatory framework is that these powers are only exercised as a last resort and will be a rare occurrence. The relationship model being applied will allow for early intervention in order to address issues through voluntary undertaking. Any income in relation to fixed penalties or the failure of a site owner to meet the terms of a compliance notice would be retained by the licensing authority, whereas income from fines imposed by the courts would be passed on to the Treasury – however, in cases of successful prosecution, local authorities can apply to the court for costs to be payable in relation to preparatory and court costs. Therefore cost and income to the licensing authority is not included.

248. Costs falling on site owners in relation to fines or fixed penalty notices have not been included in these cost estimates, as these will only come into force as a reaction to criminal activity by site owner / management rather than due to the Bill itself. Benefits (or illegally withheld costs) accruing from illegal activity are not typically recognised in appraisals. In this instance withholding maintenance represents an illegal transfer from the residents to the site owner. However, we do recognise the of the work to residents when it is undertaken.

249. Upon conviction of the offence of failing to meet the terms of a compliance notice in the magistrates' court, a person is liable to a fine not exceeding level 5 on the standard scale, currently £5,000 except in the case of obstruction, for which see below).

250. This Bill will make any person who wilfully obstructs any authorised person entering a site, including where a warrant has been issued,

liable for a fine of up to level 4 on the standard scale, which is currently £2,500 and in line with other housing legislation.

Monitoring of sites

251. This Bill will restate the powers held by Welsh Ministers to set Model Standards, and restate the duty that those standards are given regard to by local authorities when setting licence conditions. Following consultation responses it is not suggested that routine inspections should be charged for.

252. Local authorities currently monitor and inspect sites so the additional burden of this legislation is limited. In response to the consultation two local authorities mentioned inspection frequency:

The City and County of Swansea Council stated that “We inspect sites annually on a routine basis with visits in response to queries”

The Vale of Glamorgan Public Protection Service stated that “The Council officers currently regularly inspect licensed site to ensure compliance with site licence condition”

253. Costs would be dependent on the number of routine inspections required, it was suggested in consultation that the frequency of inspection should be subject to a risk based assessment, Consumer Focus Wales has suggested “a five year licence with a full inspection every two and half years. When there’s a breach, officers should go back more often and could charge the park owners for the inspection”. We have assumed that any new monitoring and general administrative requirements would need the resource input of two full-time equivalent technical officers, or around 5 person days input per site per year. If the cost of a technical officer is approximately £30,000 per year, the annual cost of this would be £60,000 per year from year 2 onwards. This would include processing any variations to existing licences, maintaining registers of licences, along with holding the required information on residents’ associations and site rules.

254. A different need in relation to monitoring by licensing authorities may require site owners to spend more time to provide evidence that the site is up to standard. We have assumed that this will involve a cost of £100 a year per site from year 2 onwards, based on administrative time collating information that the site owner will already hold, totaling £9,200 per year.

Powers to take emergency action

255. The Bill provides for local authorities to take emergency action so as to remove an imminent risk of serious harm to the health and safety of any person on the site. In this instance, the local authority must serve a notice specifying, amongst other matters, the emergency action it intends to take, and the intention to enter the land. However, as these events are likely to be infrequent and the costs are unpredictable they are not assessed here.

Residents' Associations

256. The Bill amends and restates the 1983 Act to require a membership list, which should be up-to-date, to be presented to the licensing authority and not made public. The association's rules and constitution will also be held by the licensing authority, but these will be open to public inspection. It is assumed that costs to Residents' Associations of this requirement will be too small to be significant. For example, if a change to a membership list is made notifying the licensing authority this may involve printing and sending off a copy of the list or possibly correspondence by email.

Consultations on changes to site rules

257. The Bill provides that site rules are made by the owner by a procedure prescribed in regulations made by the Welsh Ministers. Site rules may be varied/or deleted, but again this will be in accordance with the procedure set out in regulations. Welsh Ministers have new regulation making powers to make provision on a number of matters in relation to site rules including, for example, requiring local authorities to maintain a register of site rules for protected sites in its area. The costs of any further regulations made will be subject to a further RIA.

The sale and purchase of mobile homes, changes and relocation

258. The Bill removes the requirement for the new occupier to be approved by the site owner. This change will not lead to an increase in costs. The likely impacts are less administrative burden on site owners and less potential for conflict and legal cases due to alleged sale blocking.

259. Similarly the clarifications in terms of joint ownership, rights and succession will have no financial impacts.

260. The clarification of law in terms of entitlement to make internal and external improvements to their home and clarifications around the relocation of mobile homes have no direct financial consequences. The clarification of the law in relation to re-siting of mobile homes is also not assumed to have a financial impact. However, it would be anticipated

that these changes should lead to less applications to the courts or Tribunal.

261. Costs in terms of training of licensing authority and Residential Property Tribunal staff in relation to these changes are covered later in this document.

Pitch fees

262. This Bill makes it explicit that a site operator must not pass on any costs that are incurred by them in order to implement the changes to be made by this Bill, in the next or any future pitch fee review. There is currently a presumption that pitch fees can be increased or decreased annually by an amount equal to the increase or decrease in the Retail Price Index (RPI). The Bill will substitute the Consumer Prices Index (CPI) for the RPI. Looking at the past two years, up to July 2012, the CPI has been 0.6 percentage points lower than the RPI. This will have an impact on the amount of income that site operators can potentially raise through the pitch fee over time. Whilst the impact of this change is not predictable due to the nature of fluctuations between the two indices, if a site owner of a 30 caravan site with £150 monthly fees for all residents would have annual fee income of £54,000, 0.6% of this is £324.

263. This is not included as a cost as the pitch fee is simply a transfer from residents to site owners. However, this is highlighted as a consequence of the Bill.

Residential Property Tribunal (RPT)

264. See Paragraph 115 for more details on the Residential Property Tribunal. The Tribunal will have jurisdiction over all disputes related to this Bill, aside from criminal prosecutions.

265. In 2012 most disputes relating to Mobile Homes under existing legislation were transferred to the Residential Property Tribunal. The underlying reasons for the transfer were to provide a more cost effective, informal and quicker access to justice in dispute resolution. In their response to the consultation on this Bill the Tribunal stated that at that time it had received no valid applications under the existing legislation so it is difficult to judge the likely impact of the proposed Bill, however this does not suggest that the number of cases falling to the RPT will be large.

266. The Bill does include a number of situations where the RPT may be involved with some proposals likely to be more frequently used than others. There are new provisions for owners to appeal to the Tribunal

where a site licence application is turned down, where they are aggrieved by licence conditions and where site owners wish to object to the sale or gifting of a mobile home on their site, where an agreement is already in existence, The effect of changing the law in relation to the site owners' veto on the sale of a home may go a long way to reducing disputes which would otherwise come to the Tribunal. However, if enforcement action is used by the Local Authorities of Wales, then appeals to the Tribunal will follow. The best estimate is for 15 appeals from 92 sites (over 15% of sites) over the course of 5 years, on which the additional resource requirement for the Tribunal.

267. Training will have to be provided to members on the new legislation and to the office staff.

268. If we were to assume that there are three cases heard a year, with appeal costs estimated at £500 a case in preparing for and attending the Tribunal, this would lead to an annual cost of £1,500 to the site owner.

269. If we were to assume that there are three cases heard a year, with appeal costs estimated at £500 a case to the licensing authority in preparing for and attending the Tribunal, this would lead to an annual cost of £1,500 to the licensing authority.

270. A Tribunal of Lawyer, Surveyor and Lay Person costs over £1,000 per day leaving aside the cost of a venue, travel and the office staff. Therefore, if we assumed 3 cases of 2 days each per year this could be up to £6,000 or £8,000 including ancillary costs. This would equal £8,000 per year. There would need to be training for Tribunal staff, estimates for training and publicity are included in figures provided by the Welsh Government with regards to transitional costs of the Bill.

271. Costs for residents are not included as it is anticipated that the provisions within the Bill would make it less likely for resident to need recourse to legal action than is currently the case and the availability of the RPT will mean that costs will be lower than in the past. Under current provisions, an application to the RPT starts at £150 and could go up to £500 depending on the detail of the case. Regulations could be used to amend these amounts.

Other costs

272. Additional training would be needed for licensing authority staff in the first year along with publicity costs, estimates for training and publicity are included in figures provided by the Welsh Government with regards to transitional costs of the Bill.

273. In the unlikely event that a licensing authority were required to take over the management of a site, the authority would be able to recover management costs from site income, therefore costs are not included to cover this eventuality.

Welsh Government

274. There will also be costs for the Welsh Government due to the number of regulations and order making powers in the Bill. These will generally be transitional costs that could involve the setting of and consulting on legislation and publicising decisions. It is difficult to estimate the costs that will fall on the Welsh Government, as the timing and extent of resource input will be decided within the relevant department. Also, some of the powers are similar to those in existing housing legislation or current industry standards.

275. There are fourteen regulation and order-making powers, and the Welsh Government may need to draft, consult upon and implement these. However, existing housing legislation, particularly in relation to Houses in Multiple Occupation, may provide a basis for some of the new legislation. There is also provision for two sets of guidance.

276. Although costs will vary due to the complexity of regulations and guidance prescribed. We approached the Welsh Government for more detailed estimates of what the implications of this Bill will be in terms of costs to produce regulations and guidance. The Welsh Government estimated that transitional costs for the set of 14 regulation and order making powers and two guidance documents would be estimated to be at least £270,000. This includes their preparation, publication and publicity along with training for staff who would enforce these regulations and adhere to guidance.

Summary of costs

Site owners

277. There will be a number of costs which will fall on site owners these are summarised below:

- Site licence fees – illustrative figure £340,000. Transitional period, assumed to be the first year. The licence will last up to five years.
- Fit and proper person test though dependent on regulations, likely to be approximately £10,000 every five years.
- Administrative costs for licence application, £9,200 in first year.
- Amendment of rules, agreement or licence £2,300 a year.

- Administrative support for licensing authority monitoring £9,200 from year 2.
- Tribunal administration costs £1,500 per year.
- Change from RPI to CPI ceiling on pitch fee increase over time, will have an impact on site owner income and residents pitch fees paid.
- Over the first five years of the Bill this would equate to around £415,000.

278. Most of the costs outlined above will be incurred by small/micro firms, as site owners typically employ very few staff. For a fixed licence fee, the cost will be proportionally greater on small firms as the cost per resident would be higher. However, the fee structure is to be determined by local authorities, so the impact will depend on what structure each decides on.

279. There is the potential for adverse effects caused by extra costs associated with introduction of licensing fees, as different areas are likely to charge different rates. In particular, where there are high fixed monitoring costs for a local authority, and a small number of sites, fees for each site may have to be very high if local authorities were to achieve full cost recovery. This may make the park homes business unviable in some areas, and could result in a clustering of sites where fees are low and Local authorities can benefit from economies of scale. Or it may result in fewer, larger sites so that only one licence fee has to be paid for a larger number of tenants. To mitigate this risk, we are proposing to allow local authorities discretion over the fee structure and any exemptions.

Local authorities

- Site fee income – illustrative figure £340,000.
- Four EHO equivalent staff in first year to support implementation of licensing, £160,000.
- Two technical officers to cover additional monitoring £60,000 a year from year 2 onwards.
- Tribunal administration costs £1,500 per year.
- Training and publicity costs are included in Welsh Government transitional costs.
- Over the first five years of the Bill this would equate to around £67,500 (net of £340,000 illustrative income).

Residential Property Tribunal

- A Tribunal of Lawyer, Surveyor and Lay Person costs £6,000 or £8,000 including ancillary costs a year. Additional training costs in the first year for Tribunal staff are included in Welsh Government transitional costs.
- Over the first five years of the Bill this would equate to around £40,000.

Welsh Government

280. There will also be costs for the Welsh Government dependent on the level of regulations in the Bill and how much existing legislation needs to be amended or replaced. This will place an administrative burden on Welsh Government staff. Transitional costs were estimated by the Welsh Government to be at least £270,000, this includes preparation, publication and publicity along with training for staff who would enforce these regulations and adhere to guidance.

	£				
	Yr1	Yr2	Yr3	Yr4	Yr5
Site Owners					
Admin license	9,200				
Checks	10,000				
Amend license	2,300	2,300	2,300	2,300	2,300
Monitoring		9,200	9,200	9,200	9,200
Appealing	1,500	1,500	1,500	1,500	1,500
Total administrative costs	23,000	13,000	13,000	13,000	13,000
Licence fee ¹	340,000				
Total	363,000	13,000	13,000	13,000	13,000
Licensing authorities					
Cost of licensing monitoring	160,000	60,000	60,000	60,000	60,000
Court costs	1,500	1,500	1,500	1,500	1,500
Total administrative costs	161,500	61,500	61,500	61,500	61,500
License income ¹	-340,000				
Total	-178,500	61,500	61,500	61,500	61,500
Tribunal costs	8,000	8,000	8,000	8,000	8,000
Welsh Government²	270,000				
Total	462,500	82,500	82,500	82,500	82,500

¹ Licence is illustrative estimate based on £100 per unit licence fee.

² These figures were provided by the Welsh Government. Timing of costs will be dependent on timetable of implementation, for simplicity all transitional costs are included in year 1.

Benefits

281. We estimate that complaints²⁹ about site conditions and management relate to around 10 per cent of sites that are significantly below required standards. Data from the Mobile Homes Act 2013 impact assessment shows that average site operating costs are around £180,000 per year³⁰, and we estimate that annual remedial work would cost site owners an average of £36,000. In our assessment, we take the cost of the remedial work to be the benefit accruing to residents from the work, as this is work that residents have already paid for through their pitch fee.

282. The cost of necessary remedial work that is not performed is therefore the value that is presently being extracted from residents by site owners. We therefore assume that this is the value that is returned to residents when a site is brought back up to standard. We also need to make assumptions about the proportion of substandard sites that are persuaded or compelled to make improvements as a result of the new system, and the value of the work undertaken to residents.

283. As we cannot know with certainty how many sites will make improvements in response to the new sanctions and enforcement powers, it is sensible to undertake sensitivity analysis around the outcome of the stronger enforcement framework.

284. The main benefits of the Bill are anticipated to take the form of improvements to mobile homes sites. We have used the following calculation to determine the potential range of benefits: Cost of remedial work per site (base = £36,000) * proportion of substandard sites (10 per cent) * total number of sites each year (base = 92) * number of substandard sites compelled to make improvements (low = 25 per cent, base = 50 per cent, high = 75 per cent.)

- a. Low = £82,800
- b. Base = £165,600
- c. High = £248,800

285. The principal benefit expected to arise from the provisions relating to sales and gifting is the ability of residents to sell their homes at the market value without site owners blocking or otherwise interfering with

²⁹ 29 per cent of respondents to Consumer Focus Wales had experienced problems with the maintenance, security or safety standards on their site, p.7, 2012

³⁰ [A Better Deal for Mobile Home Owners - Changes to the Local Authority Site Licensing Regime, 2012](#)

the process. This has the wider benefit of opening up the market and making the match up of prospective buyers and sellers more efficient.

286. The other benefits include:

- purchasers from being able to see, from site rules deposited with the local authority, what the regulations are for living on the site without having to make direct contact with the owner before purchase;
- responsible site owners gaining from an enhanced reputation of the sector; and
- a reduced potential for harassment and intimidation of residents leading to improved quality of life, health and wellbeing.

287. We conservatively estimate that at present 10 per cent of residents experience harassment and problems in selling their homes in the open market. Research by Consumer Focus Wales also suggests a 'discount' of more than 50% of the property value when the resident sells to the site owner.

288. Assuming the annual sales of mobile homes in Wales to be 5% of the total stock (100% = 3,400 units, 5% = 170) we have estimated the maximum transfer from site owners to residents as £340,000, (10% of £3.4m - [10% of residents who experience harassment]).

This assumes an average property value of £40,000. It constitutes the difference of £20,000 per property - between a reduced sale value of £20,000 and the sale value that will be received by sellers in the future

289. Other benefits are difficult to put a financial value on:

- The current legal system is complex. Fines are currently at a low level which does not make it cost effective for local authorities to monitor and enforce legislation effectively.
- The current system of enforcement is cumbersome and the new system would therefore be likely to result in savings for local authorities in terms of current enforcement costs.
- The proposed system is intended to give local authorities the powers and funding to effectively oversee the industry, through licence fees, fixed penalty income and any recovered enforcement costs. This should improve standards at sites which currently provide an unacceptable service

- The legal system will reduce the opportunities currently being exploited by a minority criminal element at the expense of a mainly elderly population. The system should also push to raise standards at sites which have an unacceptable level of facilities.
- The incidence of elderly residents being coerced out of their accommodation will be reduced by this Bill and there will be less demand to house vulnerable people removed from sites and potentially made homeless.
- Where owners make improvements to sites, site owners more broadly may benefit from an enhanced reputation for the industry.

Unintended consequences

290. There were fears raised in consultation responses that having a fixed term license would make banks less likely to provide financing for park homes sites. However, this appears unlikely as banks will lend to many other types of businesses and industry which require licences, including HMO landlords who also require 5 year renewable licences.

291. The additional costs, if they are borne by site owners entirely, will have a marginally detrimental effect on site profitability, along with the slight reduction in capacity to raise the pitch fee, caused by the switch from the use of RPI to CPI in terms of expected maximum increase over time. This may lead to less money being invested in park facilities. If a park were to become unprofitable in the long run this could lead to a site owner considering changing the status of their parks or leaving the industry.

292. The Bill prohibits the passing on of additional costs in relation to this Bill. If the additional costs were to be passed on to park residents, this could have a considerable impact on residents. Especially as research suggests that over two-thirds of residents on mobile home sites are elderly, well over half of households on mobile home sites had a monthly income of less than £800 per month. Also, any significant increase in living costs could impact on the desirability and value of park homes.

Equality considerations

293. The Bill will ensure that as part of the licensing process, site owners and managers will be required to pass a fit and proper person test. One of the criteria that the licensing authority will be able to use to assess an applicant is whether they have discriminated on the basis of a protected characteristic under the Equality Act 2010.

294. It is common practice for site rules to restrict occupancy of mobile homes to people over a certain age. This could potentially be challenged on the basis of age discrimination. Section 29 of the Equality Act 2010 (the 2010 Act) prevents a service provider discriminating against a person requiring a service by not providing the person with the service. This would apply to mobile home site operators. However, The UK Government has used its powers under the 2010 Act to make an order that amends the 2010 Act by inserting new paragraph 30D into Part 7, Schedule 3 to the Act, so that the owner of a mobile home park does not violate the 2010 Act if he requires a person to have attained a particular age before being allowed to occupy a mobile home on the site.³¹

³¹ The Equality Act 2010 (Age Exceptions) Order 2012

Explanatory Notes

Mobile Homes (Wales) Bill

INTRODUCTION

1. These Explanatory Notes relate to the Mobile Homes (Wales) Bill.
2. The notes have been prepared by the Department of Housing and Regeneration in the Welsh Government in liaison with Peter Black AM, the Member in Charge of the Bill in order to assist the reader of the Bill.
3. The notes should be read in conjunction with the Bill, but do not form part of it. The notes are not intended to be a comprehensive description of the Bill, and where a section of the Bill does not require any explanation or comment, none is given.
4. A number of key terms are used in these Explanatory Notes. The following are designed to assist the reader
 - i. “The 1960 Act” - the Caravan Sites and Control of Development Act 1960;
 - ii. “The 1968 Act” - the Caravan Sites Act 1968;
 - iii. “The 1983 Act” - the Mobile Homes Act 1983;
 - iv. “The 2013 Act” - the Mobile Homes Act 2013

CONTEXT AND AIMS

5. Mobile homes are used by their owners all year round as their primary residence, and are commonly referred to as Park homes.
6. The law regulating mobile home occupation is contained within numerous Acts of Parliament which have been amended substantially over the last 50 years, for example the Caravan Sites and Control of Development Act 1960, the Caravan Sites Act 1968, and the Mobile Homes Act 1983. These Acts will be amended so that they continue to apply to holiday caravan sites only.
7. The Bill consolidates the legislation on mobile home sites in Wales. It restates the 1960, 1968 and 1983 Acts and also makes amendments to those Acts. The Bill aims to improve how residential mobile home sites are managed and maintained in Wales and removes the site owner’s power to ‘block’ sales.

COMMENTARY ON SECTIONS

Part 1 – Introduction

Section 1- Overview of Act

8. This section summarises the main provisions of the Bill. It is intended to be a sign posting section and to introduce the six key Parts of the Bill.

Section 2 - Mobile home sites subject to Act

9. This section explains the meaning of “regulated site”, “protected site” and “holiday site.”
10. A “Regulated site” is a site in Wales which has at least one mobile home stationed on it for the purposes of human habitation other than a holiday site (or a site which Schedule 1 provides is not to be a regulated site).
11. “Protected Site” means land which is:
- a. a regulated site, or
 - b. any site that would be a regulated site but is occupied by a local authority.
12. In Part 4 of the Bill a protected site does not include any land occupied by a Local Authority as a caravan site providing accommodation for Gypsies and Travellers.
13. Whilst holiday sites are excluded from the definition of a regulated site in this Bill (and therefore the licensing regime does not apply; nor to caravan occupied by site owners, their family, or agents / employees) this section restates the definition of a holiday home site as set out in previous Acts. The meaning of “owner” is set out in section 3.

Part 2 - Licensing of Mobile Home Sites etc

Section 4 – Overview of Part

14. This section summarises the main provisions of Part 2. It is intended to be a sign posting provision.

Section 5 - Prohibition on use of land as regulated site without site licence

15. Section 5 is restated from section 1(1) and (2) 1960 Act.

16. This section creates offences in relation to the licensing of regulated sites, and provides that owners or managers of a regulated site commit an offence if they do not hold a required licence. The licence holders or managers of a regulated site commit an offence if they knowingly allow more mobile homes to be stationed on the site than is authorised by the licence. The penalty for a summary offence is a fine of level 5 on the standard scale, (current maximum £10,000.) This has been increased from level 4 (current maximum £2,500.)

Section 6 - Application for site licence

17. This section derives from section 3 of the 1960 Act and sets out who makes an application for a site licence and what that application must contain. The licence application must amongst other matters identify the owner(s) and manager(s) of the regulated site. It must also be accompanied by a declaration by the applicant or the manager
18. Subsection (5) introduces a new requirement that a local authority may require an application to be accompanied by a fixed fee by the local authority in line with its published fees policy.

Section 7 - Issue of site licence

19. Section 7 is restated from section 3(3) - (5) of the 1960 Act and also includes some new provisions which take account the Mobile Homes Act 2013 (which applies in relation to England). By example, where a local authority decides not to issue a licence, they must notify the applicant of the reasons for the decision and of the applicant's right of appeal.
20. Section 7(1) sets out that a local authority may issue a site licence when the applicant has planning permission for the use of the land as a mobile home site otherwise than by a development order.
21. Subsections (2) to (6) of section 7 ensure that local authorities provide and manage the application process for licences, provide timely responses and notify applicants of the appeal process.
22. Section 7(4) requires local authorities to notify unsuccessful applicants of their right to appeal via a Residential Property Tribunal and specifies that compensation may not be claimed should an appeal be rejected.

Section 8 - Duration of site licence

23. Section 8 provides that licences are issued for a period of up to five years, unless revoked. A licence is valid for a maximum period of 5 years from the date it was granted, or the date it came into force. Licences are non-transferrable.

Section 9 - Power to attach conditions to site licence

24. This section is restated from section 5 of the 1960 Act.
25. Section 9 provides Local Authorities with the power to attach conditions to a licence, including setting out the total number of mobile homes allowed on the site, conditions regarding their state of repair and other environmental and sanitary facilities.
26. Local authorities may, under this section, require works to be completed on a mobile homes site to the satisfaction of the local authority. When such works are on-going the local authority can prohibit or restrict the movement of mobile homes on to the site (section 9(7)).
27. The authority may attach a condition to the licence so as to require the completion of the necessary work, within a time limit.

Section 10 - Model standards

28. Section 10 derives from section 5 (6) of the 1960 Act and section 7 of the 1983 Act.
29. Welsh Ministers may for the purposes of this section, specify model standards with respect to the layout of the site and the position of facilities, services and equipment. Model standards are currently specified under the Model standards 2008 for Caravan Sites in Wales (Caravan Sites and Control of Development Act 1960.)
30. A local authority must have regard to model standards set by Welsh Ministers when they consider attaching conditions to a site licence.

Section 11 - Fire precautions

31. This section is derived from section 5 of the 1960 Act. It ensures that local authorities must consult the fire and rescue authority when they are considering conditions to impose on a site licence.

Section 12 - Appeal against conditions of site licence

32. This section derives from section 7 of the 1960 Act, as amended by section 3(2) of the 2013 Act. It sets out the applicant's right of appeal to a Residential Property Tribunal against any condition that is attached to a site licence within 28 days, (other than the condition about displaying the site licence). If that condition is deemed unduly burdensome, the Residential Property Tribunal may vary or cancel the condition and it may attach a new condition to the licence.

Section 13 - Power of local authority to vary conditions of site licence

33. This section is restated from section 8 of the 1960 Act. It allows the local authority to alter conditions attached to site licences at any time, but before exercising this power, a local authority must afford the licence holder an opportunity to make representations. It also allows a variation where the local authority discovers new information or considers that there has been a change of circumstances since the licence was issued.
34. Usually the licence conditions will remain the same for the duration of the licence, but it may be necessary for the site local authority to vary the licence in certain circumstances.
35. Also introduced in this Section is the ability for a local authority to charge a fixed fee for any variations to the conditions attached to site licences.

Section 14 - Appeal against variation of conditions of site licence

36. This section is restated from section 8(2) of the 1960 Act as amended by Section 3 of the English Act. A licence holder may appeal to the residential property tribunal, rather than the magistrates' court against any alteration of the conditions of the licence or any refusal to vary the conditions within 28 days of receiving the notification of the decision.
37. The variation to the conditions, where these relate to carrying out of works to the site, does not come into effect until the time for making an appeal has expired, or any appeal against it is disposed of or withdrawn.
38. The Residential Property Tribunal must have regard to any standards made by Welsh Ministers under section 10.

Section 15 - Breach of condition

39. This section is restated from section 9 of the 1960 Act as amended by section 4(1) of the 2013 Act so that local authorities may now use a fixed penalty notice or a compliance notice in instances where there is a breach of a licence condition.
40. This section provides for either a compliance notice (see section 16) or a fixed penalty notice (see section 17) to be issued by the local authority where there is a breach of licence conditions.
41. The Welsh Minister may issue guidance to local authorities as to the considerations they should take into account when deciding whether to deal with a failure to comply with a condition of a site licence by issuing a fixed penalty notice or a compliance notice. The local authority must have regard to any guidance issued.

Section 16 - Fixed penalty notice

42. This section enables a local authority to issue a fixed penalty notice as an alternative to issuing a compliance notice under section 17.
43. Subsection (2) provides that the amount specified in the fixed penalty notice must not exceed Level 1 on the Standard Scale for summary offences (which at this time is £200.)
44. Subsection (3) confirms that the payment method of the fixed penalty, which is by posting a prepaid letter enclosing the fixed penalty amount.

Section 17 - Compliance notices

45. Under section 9 of the 1960 Act, an owner of land who fails to comply with a site licence condition is guilty of an offence.
46. Section 17 carries forward this provision and also provides that where it appears to a local authority that an owner (referred to as 'the owner' in the 1960 Act) is failing to comply with a licence condition, the local authority may serve a compliance notice on the owner (by virtue of section 15(1)(b)). Such a compliance notice will contain, amongst other matters, the steps the owner must take to ensure the licence condition is complied with and the time in which these steps are to be taken.

47. Subsection (2) provides that the owner may appeal against the compliance notice to a residential property tribunal (see also section 23.)
48. A local authority may revoke a compliance notice, or vary it by extending the time period specified for compliance with the notice. The local authority could cancel the compliance notice or vary it at the request of the site owner, but may also take this action at their own initiative. The owner must be notified of a variation or cancellation of the compliance notice.

Section 18 - Compliance notice: offence and multiple convictions

49. Sections 18 to 25 are restated from section 9 of the 1960 Act and amended by provisions from the 2013 Act.
50. Section 18(1) sets out that an owner of land who has been served with compliance is guilty of an offence if he or she fails to take the steps specified in the notice within the period provided. Such an offence attracts an unlimited fine (section 18(2)).
51. Subsection (2) sets out the penalty that applies where a person is guilty of the offence. The penalty on summary conviction is a fine.
52. Where an owner has a reasonable excuse for failing to take the steps set out in the compliance notice within the time period specified, this will be a defence in any proceedings.
53. Subsections (4) and (5) set out the circumstances in which a local authority can make an application to court for an owner's site licence to be revoked. The circumstances relate to multiple convictions for failing to comply with the compliance notice.

Section 19 - Compliance notice: power to demand expenses

54. Section 19 is restated from section 9 of the 1960 Act and provides the power to demand expenses where a compliance notice has been served under section 17.
55. Subsection (1) sets out that where a local authority serves a compliance notice on an owner of land, the local authority may impose a charge on the owner as a means of recovering the expenses they have incurred in relation to this. The charges could relate, for example, to the costs of obtaining legal advice in deciding whether or not to serve a compliance notice. The charges are not limited to legal advice. The charges may include interest (under section 25).

56. Subsection (3) specifies that a local authority's power to recover expenses in this way is exercised by serving the compliance notice together with a demand, setting out the information specified in paragraphs (a) to (c) of this subsection.
57. Subsection (4) sets out the orders which the tribunal may make about an expenses demand where it allows an appeal against the underlying compliance notice.

Section 20 - Power to take action following conviction of owner

58. Where a site owner is convicted of an offence of failing to comply with a compliance notice, section 20 provides local authorities with the power to take action to ensure the actions which the original compliance notice required to be undertaken are now undertaken by the local authority.
59. Where a local authority proposes to take action under this section, it must serve a notice on the owner informing them, amongst other matters, of its intentions to enter the site and the actions it intends to take.
60. Subsection (3) provides that the notice must be served sufficiently in advance of the intended entry to the site as to give the owner reasonable notice.
61. A minimum of 24 hours notice of an intended entry must be given to the owner (see section 32(2)), but depending on the circumstances, it may be reasonable to provide additional notice. Section 32 of the Bill gives an authorised officer of a local authority a power of entry to a regulated site, and section 20(4) makes clear that where a local authority authorises a person other than an officer of the local authority to take action on their behalf, this person shall be treated as being an authorised officer. This means that person will be able to exercise a right of entry to the land.

Section 21 - Power to take emergency action

62. This section provides for local authorities to take emergency action so as to remove an imminent risk of serious harm to the health and safety of any person on the site. In this instance, the local authority must serve a notice specifying, amongst other matters, the emergency action it intends to take, and the intention to enter the land.
63. Subsection (6) provides that where a local authority authorises a person other than an officer of the local authority to take action

on their behalf, this person shall be treated as being an authorised officer under section 32(1) of the Act, and so will be able to exercise a right of entry to the land. Subsection (7) sets out that the requirement in section 32(1) for the right of entry to be exercised “at all reasonable hours” does not apply, as this may not be appropriate in an emergency situation.

64. Similarly the requirement for 24 hours notice of the intended entry, also does not apply here. The provisions set out that the local authority must serve a further notice on the owner within seven days of starting to take emergency action, which contains certain specified information. Such information must include an explanation of the right of appeal.
65. The owner is provided with a right of appeal to a residential property tribunal against the emergency action, but only if the grounds for appeal are satisfied, namely, that there was no imminent risk of serious harm or the action of the local authority was (or is) not necessary to remove such a risk (see also section 23).

Section 22 - Action under section 20 or 21: power to demand expenses

66. Where action has been taken following the conviction of a site owner or following emergency action the local authority is able to demand expenses to recover the costs incurred from taking such action.
67. Subsection (1) provides that where a local authority has taken such action, they may impose a charge on the owner of the land as a means of recovering expenses. Subsections (4) and (5) set out the time when a charge may be imposed in respect of emergency action, which is dependent upon whether an appeal is brought. Subsection (6) sets out that the power to impose a charge in this way is exercisable by serving on the owner a demand for the expenses that the local authority seeks to recover (including any interest), and explaining the right of appeal to a residential property tribunal (see also section 23).

Section 23 - Appeals

68. Section 23 provides the period of time in which an appeal may be made, how the hearing will be held and the orders which the tribunal may make.

Section 24 - When compliance notice or expenses demand becomes operative

69. This section deals with when a compliance notice or expenses demand becomes operative. Subsection (2) provides that where no appeal is brought forward, both the notice and the accompanying demand becomes operative at the end of the 21 day appeal period (see section 23(1)). Subsections (4) to (6) provide that where an appeal is brought forward and a decision on the appeal confirms the compliance notice, or the demand, the notice and /or the demand becomes operative at the time of the decision.

Section 25 - Recovery of expenses demanded under section 19 or 22

70. When a demand to recover expenses becomes operative in accordance with section 24, the relevant expenses may attract interest at a rate which is set by the local authority. Such interest will be accrued until all the sums are recovered. The expenses and interest are recoverable as a debt and are a charge on the land to which the compliance notice or emergency action relates. The local authority may appoint a receiver one month after the charges take effect. The local authority can rely on such powers as stated in the Law of Property Act 1925.

Section 26 - Revocation on death, change of occupation or cessation of use

71. This section provides for a site licence to be revoked upon the death of the licence holder, or where the licence holder ceases to be the owner of the land. Similarly if the land ceases to be used as a regulated site, the licence will also be revoked.

Section 27 - Duty of licence holder to allow site licence to be altered

72. Section 27 is restated from sections 11(1) and (2) of the 1960 Act as amended by the Mobile Homes Act 2013.
73. It requires the licence holder to do whatever is necessary to allow the local authority to enter in a licence any variation of the conditions of the licence. Failure to comply with this requirement is an offence liable to a fine no more than level 1 on the standard scale (which at the current time is £200).

Section 28 - Requirement for manager of site to be fit and proper person

74. This section establishes a “fit and proper person test” that applies to site owners, and site managers if these have been appointed by either the owner or the local authority.
75. Each site owner/manager must satisfy the local authority that they are a fit and proper person to manage the site. Where a local authority finds that a manager is not a fit and proper person they may apply to Residential Property Tribunal for the licence to be revoked. Further, a person who is not a “fit and proper person” to the satisfaction of the local authority is guilty of an offence and liable to a fine. Site owners who have been convicted of this offence by a magistrates court, and have been convicted on 2 or more previous occasions of the same offence, may have their site licence revoked by the magistrates court (if the local authority has applied for this action to be taken).

Section 29 - Decision whether person is fit and proper

76. The relevant evidence a local authority must have regard to is any evidence under subsection (3) or (4), where the site owner/manager or any person associated or formerly associated with them has
- a. committed any offences involving fraud or other dishonesty, violence, firearms or drugs, or any offence requiring notification 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 protected under section 4 of the Equality Act 2012 in, or in connection with in the carrying on of any business;
 - c. breached housing or landlord and tenant law.
77. Welsh Ministers may by regulations amend Section 29 so that they may vary the evidence that a Local Authority must have regard to in deciding whether a person is a fit and proper person to manage a regulated site. Such regulations are to be made subject to the Affirmative procedure.

Sections 30 and 31- Relating to appointment of interim manager

78. When the local authority considers –

- i. the licence holder is, or has, seriously and repeatedly failed to comply with a licence condition; or
- ii. a fit and proper person is not managing the site; or
- iii. no one is managing the site

they may appoint an interim manager (under section 30). The decision to appoint an interim manager may be appealed by an aggrieved person (for example the licence holder) to a report.

79. The appointment of the interim manager is not an indefinite appointment, and in accordance with section 30(6) will end on a specified date, the ending or revocation of the site licence.
80. Some mobile home sites have residents associations, which are groups of people from a specific site who come together to address issues within their site and act as a voice for residents. The majority of associations are structured to include a chair, vice-chair, secretary, treasurer and committee members. These positions are decided by way of nominations at an annual meeting when they can be altered.
81. A resident association may request the local authority to consider exercising its powers to appoint an interim manager. This would happen, for example, in circumstances when the residents association do not consider the site manager is a fit and proper person.
82. Section 31 makes provision about the terms of the appointment of the interim manager (for example in relation to conditions of remuneration), and the powers of the interim manager.

Section 32 - Power of entry of officers of local authorities

83. This section restates section 26 of the 1960 Act.
84. This section provides any authorised officer or agent of the local authority with powers of entry to enter a regulated site at all reasonable hours if there are reasonable grounds for entry, upon the production of a duly authenticated document of authority (if required) for the purposes outlined under subsection 1 (a) – (d)
85. Admission to the regulated site is only permitted as of right if 24 hours notice has been given to the owner. There are exceptions, prescribed in the Bill, when less than 24 hours notice may be given – see section 21(7) in relation to emergency action.

86. A justice of the peace may, by warrant grant entry to the local authority to the site, if need be by force. This will happen if a magistrate concludes that, amongst other reasons, access to land has been refused, or the owner is temporarily absent and the case for entry is urgent.
87. This section adds a provision so that any person who wilfully obstructs a person exercising the power of entry (whether or not under a warrant) commits an offence and is liable to a fine of up to level 4 on the standard scale (which at the current time is £2,500.)

Section 33 - Repayment orders

88. Where a mobile home site is established without a licence, the site owner/manager may be subject to a repayment order made by a Residential Property Tribunal to repay any payments that have been received from residents of the mobile home(s) stationed on the site.
89. A “repayment order” is defined in subsection (5) as an order requiring the owner or manager of the site to pay the residents of the mobile home and/or other persons what is specified in the order. The order may include purchase sums, a commission paid in relation to the sale of a mobile home, pitch fees and any periodical payments paid in respect of a mobile home.
90. In applying a repayment order the Residential Property Tribunal must be satisfied that the owner is guilty of an offence under section 5 of this Act (prohibition on use of land as a regulated site without a licence), that payments were made during the period the offence was committed and that an application for the repayment order has been made within 12 months of conviction.
91. The amount payable under a repayment order must be reasonable to the Tribunal in the circumstances. Amounts payable to an owner of a mobile home under a repayment order are debts owed which are recoverable.

Section 34 - False or misleading statements or information

92. This is a new provision creating an offence where a person makes a false or misleading statement knowing it to be so or makes a false or misleading declaration in respect of a site licence application. An offence is liable on summary conviction to an unlimited fine.

Section 35 - Guidance by Welsh Ministers

93. By virtue of section 35, the Welsh Ministers may issue guidance to local authorities as on the performance of their functions under Part 2 of this Bill.

Section 36 - Responsibility of owner of land subject to a licence or tenancy

94. This section is restated from section 12 of the 1960 Act and provides that the site owner may terminate a tenancy agreement should the tenant commit an offence during the period as the licence holder. The site owner may also enter on the land to undertake any works that ensure compliance with the licence agreement held by the tenant.

Section 37 - Powers to charge fees: supplementary

95. This is a new provision and applies where a local authority exercises its power to charge a fee in respect of a site licence application (section 6) or varying conditions of a site licence (section 13). It provides that a local authority must prepare and publish a fees policy before charging any fees of the kind provided for in sections 3 and 13. Fees policies may be revised, but any revised policy must be published.

Section 38 - Registers of site licences

96. This section is restated from section 25 of the 1960 Act and requires all local authorities to keep a register of residential mobile home site licences available to the public by way of inspection.

Section 39 - Crown land

97. This is restated from section 29 of the 1960 Act and disapplies Part 2 of the Act to Crown Land.

PART 3: PROTECTION FROM EVICTION

98. This Part derives from the Caravan Sites Act 1968 (“the 1968 Act”) and has been amended to provide additional clarity and consistency so that the Bill is more workable in practice.

Section 41 – Application of Part

99. This section is derived from section 1(1) of the 1968 Act and ensures that the protections in Part 3 are applied to anyone who has a licence or a contract under which a person is entitled to:

- a. station a mobile home on a protected site to occupy it as the person's residence, or,
- b. move into a mobile home that was already on site.

Section 42 – Minimum length of notice

100. This section is restated from section 2 of the 1968 Act and provides that where a residential contract is determinable by notice, that notice must be not less than 4 weeks from the date it is to take effect.

Sections 43 - Protection of owners against eviction and harassment, false information etc.

101. This section restates section 3 of the 1968 Act with amendments. An offence is committed if a person withdraws or withholds services or facilities reasonably required for the occupation of the mobile home as a residence on the site. The word 'persistently' has been deleted here, so that an offence is committed if it happens once.
102. An offence is also committed if the owner of a protected site or his agent, either during the subsistence or after the expiration or determination of a residential contract, withdraws or withholds services or facilities reasonably required for the occupation of the mobile home as a residence on the site.
103. Subsection (6) inserts a new offence and provides that the owner of a protected site in Wales, or their agent, commits an offence if, during the subsistence of a residential contract, they knowingly or recklessly provides information or makes a representation to a person which is false or misleading in a material respect.
104. In addition, the owner or agent must know, or have reasonable cause to believe, that taking this action is likely to cause the owner to abandon occupation of the mobile home or remove it from the site, or to not exercise any right or pursue any remedy in relation to this; or that taking the action is likely to cause a person who is considering whether to purchase or occupy the caravan in question to decide not to do so.

Section 44 – Offences under Section 43: supplementary

105. This section is restated from section 3 of the 1968 Act. It is a defence in proceedings for an offence contravening section 43(2) or (3) to prove the accused believes and has reasonable cause to believe that the owner of the mobile home no longer lives on the site. In proceedings for an offence contravening

section 43(5) it is a defence to prove that the accused had reasonable grounds for withdrawing or withholding services or facilities.

106. The penalty for an offence under section 43 is on summary conviction to a fine or to imprisonment for a term not exceeding 12 months, or both, and on indictment, a fine, two years imprisonment or both.

Section 45 – Provision for suspension of eviction orders

107. This section is restated from section 4 of the 1968 Act and applies only to those who have site licences on Local Authority sites, subsection (6).
108. Subsection (1) gives the court power to suspend for up to twelve months an order made by a Court enforcing an eviction order. Subsection (2) allows the court to impose terms and conditions, including those regarding rent or other periodical payments as it considers reasonable. Subsection (4) sets out that the Court must consider:
- a. whether the mobile home resident has failed to meet the terms and conditions of their contract with the site owner;
 - b. whether the resident of the mobile home has refused a reasonable offer of a new contract by the site owner;
 - c. whether the site resident can find themselves a home elsewhere.
109. When the Court applies a suspension of eviction, it may impose reasonable conditions such as the payment of rent and may vary the suspension period, as long as it does not exceed 12 months. It may only award costs under subsection (5) in exceptional circumstances.
110. Under subsection (6) the court cannot suspend enforcement of the order if there is no site licence in force in respect of the site and the site is not occupied by a local authority.

PART 4: MOBILE HOME AGREEMENTS

Section 49 – Agreements to which Part applies

111. This Section is restated from the section 1(1) of the 1983 Mobile Homes Act and cross refers to section 56(2) which explains the definition of “owner” as the person who has an agreement with the site to live in a mobile home on a protected site as their main residence.

Sections 50 – Particulars of agreements

- 112. This section is restated from section 1 of the 1983 Act. Under this section owners of mobile home sites must provide prospective owners with a written statement.
- 113. It sets out what a written statement between the owner and the owner must contain, and provides a power for Welsh Ministers to prescribe other requirements in respect of written statements, by way of regulations.
- 114. The written statement must be issued at least 28 days prior to the sale or agreement being made between the site owner and the new resident. A lesser time may be agreed with the proposed owner, but the owner must consent to this in writing.
- 115. An amendment carried over from section 9 of the 2013 Act ensures that express terms are contained in the statement.

Section 51 – Terms of agreements

- 116. Section 51 is restated from section 2 of the 1983 Act as amended by section 9(4) of the 2013 Act. This section introduces Schedule 2 to the Bill (Terms of Mobile Home Agreements). A tribunal or court (see section 55) may make an order to amend any express term other than a site rule (see section 53).

Section 52 – Power to amend implied terms

- 117. This section is restated from section 2A of the 1983 Act. It provides Welsh Ministers and with powers, by way of an order, to amend implied terms for residential mobile home agreements (other than paragraph 10 of Schedule 2 of the Bill).

Section 53 - Site rules

- 118. This section is restated from section 2C and 2D of the 1983 Act and amended by provisions adopted from section 9(1) of the 2013 Act.
- 119. Site rules are rules relating to the management and conduct of the site, or other matters to be prescribed in regulations made by Welsh Ministers. Site rules are made by the owner by a procedure prescribed in regulations may by the Welsh Ministers. Site rules may be varied/or deleted, but again this will be in accordance with the procedure set out in regulations.

120. Under this section the Welsh Ministers have new regulation making powers, to make provision on a number of matters in relation to site rules including, for example, requiring local authorities to maintain a register of site rules for protected sites in its area.

Section 54 - Successors in title

121. This section is restated from section 3 of the 1983 Act and with some further amendments from section 10(7) of the 2013 Act.
122. This Section provides for a mobile home to be passed to a widow, widower or surviving civil partner who is residing with a mobile home owner who dies; or in the absence of such a person, any member of the deceased's family residing in the mobile home. In default of the above, the deceased's will or the law relating to intestacy will apply, (subject to subsection (4)).

PART 5 – Powers of Local Authorities

Section 57 – Power to provide sites for mobile homes

123. This section is restated from section 24 of the 1960 Act and sets out the power that Local Authorities has to provide mobile homes sites on land within their area. In doing so, local authorities may acquire land for such purposes, provide services for residents for their health and convenience and in the case of Gypsies and Travellers, provide facilities for the carrying on of activities that are normally applied to them.
124. Under subsection (3), in exercising its power, a local authority must have regard to the Model Standards under section 10 and under subsection (4) consult with the fire and rescue authority regarding fire precautions and measures for fire fighting.
125. A local authority may make such charges as it so determines in respect of the sites it manages and the facilities and services it subsequently provides. Where it appears that a mobile home site is required in an area or land should be taken over by a local authority as a mobile home site, that land may be acquired compulsorily with the authorisation of Welsh Ministers.

Section 58 – Power to prohibit mobile homes on commons

126. This section is restated from section 23 of the 1960 Act and applies to any land within Wales that forms part of a common as defined in law by the Law of Property Act 1925 and the Commons Act 1889, and also for this section land enclosed under the enclosure Acts 1842 to 1882 and any town or village green, with some exceptions.
127. A local authority may make an order prohibiting the stationing of a mobile home on commons. Any person who contravenes such an order is guilty of an offence, and liable to a fine not exceeding level 1 on the standard (at the current time this is £200).
128. A local authority must ensure that copies of such an order are prominently displayed on the land to provide appropriate warnings. An order may be revoked by the local authority at any time or an order may be varied to exclude any land or to provide an exception.

PART 6 – Supplementary and General

Part 6 introduces technical schedules such as Schedule 4 - consequential amendments and Schedule 5 - transitional and transitory provisions. Section 66 introduces the short title of the Act.

Schedule 4 makes consequential amendments to the 1960 Act, the 1968 Act, the Rating (Caravan Sites) Act 1976, the Mobile Homes Act 1983, the Local Government Finance Act 1988, the Local Government (Wales) Act 1994, the Environment Act 1995 and the Housing Act 2004.

Schedule 5 makes transitional provisions in respect of existing site licences and the continuation of existing model standards. Sections 60, 61 and 62 are explained further below.

Section 60 – Liability of officers of bodies corporate

129. This section applies to any offence under the Act committed in relation to land in Wales. It mirrors the provision contained in section 14 of the 1968 Act, where an offence has been committed by a body corporate. The section provides that a body corporate commits an offence and it is proved that the offence was committed with the consent or connivance of an officer of that body, or the offence was attributable to neglect on the part of this person, then the person is guilty of the offence as well as the body corporate. Proceedings can be brought against the person as well as the body corporate and both may be punished accordingly. Subsection (2) defines what is meant by an officer of a body corporate.

Section 61 – Meaning of ‘mobile home’

130. This section provides a definition of a ‘mobile home’. Subsection (1) derives from section 29(1) of the 1960 Act and subsections (2)-(4) derive from section 13(1)-(3) of the 1968 Act.

Section 62 – Meaning of “qualifying residents’ association”

131. This section provides a definition of a qualifying residents' association and derives from paragraph 28 of Chapter 2 to Schedule 1 of Part 1 to the 1983 Act with some further amendments. An association must have at least 50% of the residents of a site as members to qualify and each association must not include the owner or any of the management of the site. This section also stipulates the rules and constitution requirements of an association.

132. Only one resident of each mobile home may be a member of the association and where there is more than one resident of a mobile home they must agree amongst themselves who's name is to be on the agreement. Local Authorities are required to keep an up to date list of residents' associations and must give notice to an association should its membership fall below the required 50% of residents.
133. Any disclosure to the public of the list of association members will be treated a breach of the Freedom of Information Act 2000, to ensure the confidentiality of the members of each association.

Section 64 – Orders and Regulations

134. By virtue of section 64 of the Bill orders and regulations are to be made by statutory instrument (with the exception of an order made under paragraph 14 of Schedule10).
135. Section 64 also requires the Welsh Ministers to consult in relation to exercise of their powers under sections 52 and 61(4) before the relevant orders are made.
136. Finally, section 64 sets out the National Assembly for Wales' procedure in respect of the statutory instruments.

Schedule 1 - Sites which are not regulated sites

137. Schedule 1 is restated from the 1960 Act and sets out the type of sites that are exempted from what constitutes a regulated mobile home site. It sets out exempted organisations and sites designed for agricultural and forestry workers, building and engineering sites and travelling showmen.
138. It also provides for cases when the site owner dies or there is a change in site ownership. For a period of 3 months from the date of death or from the date a new site owner takes over the site, it is treated as if a temporary exemption period applies to the site. If a licence holder's personal representative or a new owner of a site requests the local authority to grant a temporary exemption notice during the 3 month period after the date of the initial period, then the site is exempted from the licensing requirements. This 3 month initial period may be renewed for further periods of 3 months. If the local authority does not serve a temporary exemption notice having been requested to do so, it must promptly inform the person who made the request of the decision, the reasons, and date on which it was made.

Schedule 2 - Terms of Mobile Homes Agreements

139. Schedule 2 is restated from the 1983 Act and sets out the duration of agreements, terms of termination and the recovery of overpayments by owner where the agreement is terminated.
140. Paragraphs 8 to 10 of this Schedule set out the terms of agreements in relation to the sale of a mobile home. A new written agreement is made when a site operator sells a mobile home to a home owner, or allows a new person to bring their mobile home onto an existing pitch. Where a home owner chooses to sell their home, no new written agreement is made - the existing agreement is merely assigned to the new owner.
141. Paragraphs 11 and 12 set out the terms of agreement in relation to the gifting of mobile homes. Where there is a new agreement, a mobile home owner is entitled to give the mobile home to a member of their family without the approval of the owner, subject to the supply of evidence that the person concerned is a member of the family. Where there is not a new agreement, the mobile home owner serves a notice of proposed gift to the site owner informing them of their intention to gift their home and subject to the supply of evidence that the person concerned is a member of the family.

142. Paragraph 13 describes the terms of agreement in relation to the re-siting of a mobile home. A suggested alternative pitch must be broadly comparable to the original pitch. Should the site owner need to carry out essential works that can only be carried out if the mobile home is moved, the site owner is liable to pay all the costs and expenses where the home is moved due to works.
143. Paragraphs 16 to 19 describe the terms in relation to the pitch fee, when pitch fees are to be reviewed and the process for appeal should an owner not agree with the proposed pitch fee. Site operators must not pass on any costs incurred by them in complying with duty under the licensing requirements for regulated sites, or relating to any proceedings brought under the Bill. The pitch fee review and presumption that pitch fees can be increased or decreased annually is changed from being based on the Retail Price Index to the Consumer Prices Index.
144. Paragraph 20 sets out the owner's obligations and corresponding owner obligations as a resident of a park home including paying the required fees and utilities as agreed with the owner, maintaining the mobile home and the surrounding pitch in a sound state of repair. It also sets out the owner's obligations to not do anything or cause anything to be done which may adversely affect the mobile home owner's ability to perform their obligations, which may deter the owner from making internal improvements to the mobile home or interfere with the owner's ability to do so.
145. The owner's obligations include not doing anything or cause anything to be done which may adversely affect the mobile home owner's ability to perform their obligations, which may deter the owner from making internal improvements to the mobile home or interfere with the owner's ability to do so.
146. Paragraphs 21 and 22 set out further obligations of the owner in regard to the pitch, maintaining the utilities supplied to the pitch and the common parts of the site. The owner must also consult with the resident's association on all matters relating to the operation, management and improvement of the site. The owner must give the owner 28 days written notice of such changes. Amendments to the pitch fee must be consulted upon and are to be in accordance with the consumers price index.
147. Paragraph 23 sets out the obligations on the owner to notify the residents and the qualifying residents' association of the address at which notices may be served on the owner, for the purposes of dealing with pitch fees and payments.

Schedule 3 – Further provision about Orders relating to Commons

148. This schedule is restated from the 1983 Act and sets out the requirements placed on local authorities when making an order under section 58(2) prohibiting the siting of mobile homes on commons. Local authorities are required to publish any order made and allow 28 days for any objection to be made.

Schedule 4 – Consequential Amendments

149. This schedule sets out the consequential amendments that will be made to the following Acts as a result of this Bill:

- a. Caravan Sites and Control of Development Act 1960#
- b. Caravan Sites Act 1968
- c. Rating (Caravan Sites) Act 1976
- d. Mobile Homes Act 1983
- e. Local Government Finance Act 1988
- f. Local Government (Wales) Act 1994
- g. Environment Act 1995
- h. Housing Act 2004

Schedule 5 – Transitional and Transitory Provisions and Savings

150. This schedule sets out the transitional arrangements for the Bill coming into force.