

2013 No. 1469 (W. 140) (C. 57)

HOUSING, WALES

**The Housing and Regeneration Act
2008 (Commencement No. 3 and
Transitional, Transitory and Saving
Provisions) (Wales) Order 2013**

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order appoints 10 July 2013 as the day on which section 318 (protected mobile home sites to include sites for gypsies and travellers) of the Housing and Regeneration Act 2008 (“the 2008 Act”) and related repeals in Schedule 16 to that Act are brought into force in relation to Wales.

The commencement of section 318 will result in agreements in respect of pitches on local authority gypsy and traveller sites in Wales becoming subject to the Mobile Homes Act 1983 (“the 1983 Act”). This replicates what was achieved in England by the Housing and Regeneration Act 2008 (Commencement No. 8 and Transitional, Transitory and Saving Provisions) Order 2011⁽¹⁾ which commenced section 318 of the 2008 Act in relation to England on 30 April 2011.

Articles 3 to 7 are transitional, transitory and saving provisions in relation to agreements for pitches on local authority gypsy and traveller sites. Article 3 saves the disapplication of certain provisions in relation to agreements for transit pitches. Broadly these disapplications mean that the 28 day time limit for providing a written statement, the right to seek a tribunal order in relation to the giving of a written statement, and the right to apply to the tribunal to amend the terms of such an agreement, do not apply to these agreements.

Article 4 provides that the 1983 Act shall apply to all agreements to station a mobile home on a local

⁽¹⁾ S.I. 2011/1002.

authority gypsy and traveller site in Wales which exist on the commencement of section 318 of the 2008 Act as it would apply to any such agreement made after the commencement. As a result, the terms set out in Schedule 1 to the 1983 Act, as inserted by the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2013 will be implied to such agreements.

Article 5 disapplies, in relation to an existing agreement, certain provisions of sections 1 and 2 of, and Schedule 1 to, the 1983 Act (inserted into that Act by the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2013).

Article 6 is a transitory provision which requires local authorities to give a written statement to the occupiers of permanent pitches within 28 days of the appointed day and it (and the Schedule to the Order) sets out what such a statement must include.

Article 7 is a general saving provision to ensure that rights and liabilities under existing agreements are not affected by the application of the 1983 Act to existing agreements.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the Housing and Regeneration Act 2008 (“the 2008 Act”) in the table below have been brought into force in relation to Wales by Commencement Orders made before the date of this Order.

Various provisions of the 2008 Act have also been brought into force in relation to England only by the following Statutory Instruments:

S.I. 2008/3068, S.I. 2009/803, S.I. 2009/2096 and S.I. 2011/1002.

See also section 325(6) of the 2008 Act for the provisions which came into force on 22 July 2008 (the day on which the 2008 Act was passed).

See also section 325(2) of the 2008 Act for the provisions which came into force on 22 September 2008 (at the end of 2 months from when the 2008 Act was passed).

| <i>Provision</i> | <i>Date of Commencement</i> | <i>of S.I. No</i> |
|-----------------------|-----------------------------|-------------------------|
| section 308 | 19 August 2011 | S.I. 2011/1863 (W.201) |
| section 309 (in part) | 26 July 2011 | S.I. 2011/1863 (W. 201) |
| section 309 (in part) | 19 August 2011 | S.I. 2011/1863 |

| | | |
|-----------------------|---------------|--------------------------|
| full) | | (W.201) |
| section 315 (in part) | 30 March 2009 | S.I. 2009/773 (W. 65) |

The provisions in the 2008 Act in the table below have been brought into force in relation to England and Wales by the Secretary of State before the date of this Order.

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No</i> |
|---------------------------------------|--|--|
| sections 1 to 3 and Schedule 1 | 8 September 2008 | S.I. 2008/2358 |
| section 4 | 8 September 2008, 1 December 2008 and 1 April 2010 | S.I. 2008/2358, S.I. 2008/3068 and S.I. 2010/862 |
| sections 5 to 18 and Schedules 2 to 4 | 1 December 2008 | S.I. 2008/3068 |
| section 19 | 1 December 2008 and 1 April 2010 | S.I. 2008/3068 and S.I. 2010/862 |
| sections 20 to 30 | 1 December 2008 | S.I. 2008/3068 |
| section 31 | 1 April 2010 | S.I. 2010/862 |
| section 32 and 33 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| section 34 | 1 April 2009 | S.I. 2009/803 |
| section 35 | 1 April 2010 | S.I. 2010/862 |
| section 36 | 1 April 2009 | S.I. 2009/803 |
| section 37 | 8 September 2008 | S.I. 2008/2358 |
| section 38 to 43 | 1 December 2008 | |
| section 44 | 8 September 2008 | S.I. 2008/2358 |
| section 45 | 1 December 2008 | |
| section 46 and 47 | 8 September 2008 | S.I. 2008/2358 |
| section 48 | 1 December 2008 | S.I. 2008/3068 |
| section 49 | 8 September 2008 | S.I. 2008/2358 |
| section 50 and Schedule 5 | 8 September 2008, 1 December 2008 and 1 April 2009 | S.I. 2008/2358, S.I. 2008/3068 and S.I. 2009/803 |
| section 51 and Schedules 6 and 7 | 8 September 2008 | S.I. 2008/2358 |

| | | |
|---|--|---|
| sections 52 to 55 | 8 September 2008 | S.I. 2008/2358 |
| section 56 and Schedule 8 | 8 September 2008, 1 December 2008, 1 April 2009 and 1 April 2010 | S.I. 2008/2358, S.I. 2008/3068, S.I. 2009/803 and S.I. 2010/862 |
| section 57 | 8 September 2008, 1 December 2008 and 1 April 2010 | S.I. 2008/2358, S.I. 2008/3068 and S.I. 2010/862 |
| section 58 | 8 September 2008, 1 December 2008, 1 April 2009 and 1 April 2010 | S.I. 2008/2358, S.I. 2009/803 and S.I. 2010/862 |
| section 59 | 8 September 2008 | S.I. 2008/2358 |
| sections 60 to 63 | 1 April 2010 | S.I. 2010/862 |
| section 64 | 16 February 2009 and 1 April 2010 | S.I. 2009/363 and S.I. 2010/862 |
| sections 65 to 71 and Schedules 6 and 7 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 72 | 8 September 2008 | S.I. 2008/2358 |
| sections 73 to 80 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 81 to 85 | 8 September 2008 | S.I. 2008/2358 |
| section 86 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 87 to 92 | 8 September 2008 | S.I. 2008/2358 |
| Section 93 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2009/803 |
| section 94 | 1 April 2010 | S.I. 2010/862 |
| sections 95 to 98 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 99 to 104 | 8 September 2008 | S.I. 2008/2358 |
| section 105 | 8 September 2008 | S.I. 2008/2358 |
| sections 106 to 111 | 1 April 2010 | S.I. 2010/862 |
| sections 112 and | 8 September | S.I. 2008/2358 |

| | | |
|-------------------------|---|---|
| 113 | 2008 and 1 April 2010 | and S.I. 2010/862 |
| section 114 | 8 September 2008 and 7 September 2009 | S.I. 2008/2358 and S.I. 2009/2096 |
| section 115 | 1 April 2010 | S.I. 2010/862 |
| section 116 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 117 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 118 | 1 April 2010 | S.I. 2010/862 |
| section 119 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 120 to 126 | 1 April 2010 | S.I. 2010/862 |
| section 127 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 128 to 130 | 1 April 2010 | S.I. 2010/862 |
| section 131 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 132 to 143 | 1 April 2010 | S.I. 2010/862 |
| sections 144 and 145 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| sections 146 to 173 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| section 174 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 175 to 191 | 1 April 2010 | S.I. 2010/862 |
| sections 192 to 197 | 8 September 2008 | S.I. 2008/2358 |
| section 198 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 199 to 201 | 1 April 2010 | S.I. 2010/862 |
| section 202 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| sections 203 to 211 | 1 April 2010 | S.I. 2010/862 |
| section 212 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 213 | 1 April 2010 | S.I. 2010/862 |

| | | |
|---------------------------------------|--|---|
| section 214 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 215 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358 and S.I. 2010/862 |
| section 216 | 8 September 2008 | S.I. 2008/2358 |
| sections 217 to 227 | 1 April 2010 | S.I. 2010/862 |
| section 228 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| sections 229 to 233 | 1 April 2010 | S.I. 2010/862 |
| section 234 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| sections 235 to 239 | 1 April 2010 | S.I. 2010/862 |
| section 240 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| sections 241 to 243 | 1 April 2010 | S.I. 2010/862 |
| section 244 | 1 April 2009 and 1 April 2010 | S.I. 2009/803 and S.I. 2010/862 |
| sections 245 to 274 | 1 April 2010 | S.I. 2010/862 |
| sections 275 and 276 | 8 September 2008 and 1 April 2010 | S.I. 2008/2358, S.I. 2010/862 |
| section 277 and Schedule 9 | 8 September 2008, 1 December 2008, 1 April 2009 and 1 April 2010 | S.I. 2008/2358, S.I. 2008/3068, S.I. 2009/803 and S.I. 2010/862 |
| section 278 | 1 April 2010 | S.I. 2010/862 |
| section 299 and Schedule 11 | 1 December 2008 and 20 May 2009 | S.I. 2008/3068, S.I. 2009/1261 |
| section 311 and Schedule 14 | 1 December 2008 | S.I. 2008/3068 |
| section 314 and Schedule 15 (in part) | 2 March 2009 | S.I. 2009/415 |
| section 316 | 7 September 2009 | S.I. 2009/2096 |
| section 317 | 22 September 2008 | S.I. 2008/2358 |
| section 321 and Schedule 16 (in part) | 22 September 2008, 1 December 2008, 2 March 2009, 1 | S.I. 2008/2358, S.I. 2008/3068, S.I. 2009/415, S.I. 2009/803, |

April 2009, 20 S.I. 2009/1261
May 2009 and 7 and S.I.
September 2009 2009/2096

2013 No. 1469 (W. 140) (C. 57)

HOUSING, WALES

**The Housing and Regeneration Act
2008 (Commencement No. 3 and
Transitional, Transitory and Saving
Provisions) (Wales) Order 2013**

Made

12 June 2013

The Welsh Ministers, in exercise of the powers conferred by sections 322(2) and 325(3) and (4) of the Housing and Regeneration Act 2008⁽¹⁾, make the following Order.

Title and interpretation

1.—(1) The title of this Order is the Housing and Regeneration Act 2008 (Commencement No. 3 and Transitional, Transitory and Saving Provisions) (Wales) Order 2013.

(2) In this Order—

“the 1983 Act” (“*Deddf 1983*”) means the Mobile Homes Act 1983⁽²⁾;

“the 2008 Act” (“*Deddf 2008*”) means the Housing and Regeneration Act 2008;

“appointed day” (“*diwrnod penodedig*”) is the day appointed by article 2;

“existing agreement” (“*cytundeb presennol*”) means a local authority agreement which is made before the appointed day;

“gypsies and travellers” (“*sipsiwn a theithwyr*”) means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showpeople, or

(1) 2008 c.17.
(2) 1983 c.34.

persons engaged in travelling circuses, travelling together as such⁽¹⁾;

“local authority agreement” (“*cytundeb awdurdod lleol*”) means an agreement under which a person is entitled to station a mobile home on a local authority gypsy and traveller site in Wales;

“local authority gypsy and traveller site” (“*safle sipsiwn a theithwyr awdurdod lleol*”) means any land which is occupied by a local authority as a caravan site providing accommodation for gypsies and travellers;

“permanent pitch” (“*llain barhaol*”) means a pitch on which a person is entitled to station a mobile home under the terms of an agreement to which the 1983 Act applies and which is not a transit pitch;

“pitch” (“*llain*”) means land, forming part of a local authority gypsy and traveller site in Wales and including any garden area, on which a person is entitled to station a mobile home; and

“transit pitch” (“*llain bontio*”) means a pitch on which a person is entitled to station a mobile home, under the terms of an agreement to which the 1983 Act applies, for a fixed period of up to 3 months.

(3) Other expressions used, but not defined, in this Order and which are used in the 1983 Act have the same meaning in this Order as they have in the 1983 Act.

Appointed day: local authority gypsy and traveller sites

2.—(1) 10 July 2013 is the appointed day for the coming into force of the following provisions so far as relating to Wales—

- (a) section 318 (protected mobile home sites to include sites for gypsies and travellers) of the 2008 Act;
- (b) section 321(1) (repeals) of, and Schedule 16 to, the 2008 Act so far as they relate to the following repeals—

(1) Section 5 of the Mobile Homes Act 1983, before amendment by section 318 of the Housing and Regeneration Act 2008 (c.17), provides that the 1983 Act does not apply to land occupied by a local authority as a caravan site providing accommodation for gypsies. The definition of ‘gypsies’ which this exclusion relied upon was repealed by section 80 of the Criminal Justice and Public Order Act 1994 (c. 33), though it was saved for the purpose of interpreting section 5. This definition of ‘gypsies and travellers’ derives from that saved definition.

| <i>Title</i> | <i>Repeal</i> |
|---|--|
| Mobile Homes Act 1983 (c.34) | In section 5(1), in the definition of “protected site”, the words from “does not include” to “that”; |
| Criminal Justice and Public Order Act 1994 (c.33) | In section 80(4), the words from “in the definition” to “1983 or”. |

(2) Paragraph (1) is subject to articles 3 to 7.

Transit pitches: saving for certain purposes of the 1983 Act

3. The repeals made by the provisions brought into force by article 2 do not apply for the purposes of sections 1(3), (4) and (6) and 2(2) to (4) of the 1983 Act(1), in so far as they relate to a transit pitch.

Existing agreements: general transitional provision

4. The 1983 Act applies to an existing agreement as it would apply to a local authority agreement made after the coming into force of the provisions brought into force by article 2 and The Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (Wales) Order 2013(2), but this is subject to article 5.

Existing agreements: transitional disapplication of certain terms and obligations

5.—(1) Sections 1(2) to (9) and 2(2) to (4) of the 1983 Act do not apply to an existing agreement.

(2) In relation to an existing agreement—

- (i) where proceedings are commenced before the appointed day in which termination of the agreement is at issue, paragraphs 3 and 4 (termination) of Chapter 3, or paragraphs 3 to 6 of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act (whichever is applicable in the particular case) do not apply;
- (ii) paragraph 8 (re-siting of mobile home) of Chapter 4 of Part 1 of that Schedule does not apply to a requirement that the occupier’s right to station the mobile home is exercisable for any period in relation to another pitch where the

(1) 1983 c.34. In England and Wales, section 1 was substituted, and section 2 was amended, by sections 206 and 265 of, and paragraph 9 of Schedule 15 to, the Housing Act 2004 (c.34).
(2) S.I. 2012/xxxx. (W.)

- requirement is made before the appointed day;
- (iii) paragraph 15(2) and (6) to (11) (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply in relation to the first pitch fee review under that agreement where the pitch fee review date for that review is within 28 days of the appointed day;
 - (iv) paragraph 16 (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to an improvement were carried out before the appointed day;
 - (v) paragraph 19(c) and (d) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule may not be enforced in relation to any breach of the agreement which occurs within 3 months of the appointed day;
 - (vi) paragraph 19(e) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to costs and expenses incurred before the appointed day;
 - (vii) paragraph 20(f) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to the improvements start before, or within the period of 28 days beginning with, the appointed day; and
 - (viii) paragraph 20(g) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to any matter which arises before, or within the period of 28 days beginning with, the appointed day.

Existing agreements: local authority's duty to provide a written statement

6.—(1) In relation to an existing agreement in respect of a pitch which, by virtue of this Order, becomes a permanent pitch, the local authority must within the period of 28 days beginning with the appointed day give to the other party to the agreement a written statement which complies with the following paragraphs.

- (2) The written statement must—
 - (a) specify the names and addresses of the parties;
 - (b) include particulars of the pitch that are sufficient to identify it;
 - (c) set out the express terms contained in the agreement;

- (d) set out the terms to be implied terms by virtue of the application of the 1983 Act to the agreement; and
- (e) be in the form set out in the Schedule to this Order or a form substantially to the same effect.

(3) Subject to paragraph (4), any express term contained in the agreement is unenforceable by a local authority or any person within section 3(1) of the 1983 Act if it was not set out in a written statement given to the other party in accordance with paragraph (1).

(4) Where the local authority fails to give the other party to the agreement a written statement in accordance with paragraph (1), the other party may, at any time after the 28 days mentioned in that paragraph has expired, apply to a tribunal for an order requiring the local authority—

- (a) to give the party a written statement which complies with paragraph (2)(a) to (e), and
- (b) to do so not later than such date as is specified in the order.

(5) In paragraph (4) “tribunal” has the same meaning as in the 1983 Act and a tribunal’s jurisdiction under that paragraph is to be treated as jurisdiction under the 1983 Act.

(6) A statement required to be given to a person under this article may be either delivered to them personally or sent by post.

(7) A written statement under this article is not to be treated as a written statement for the purposes of section 1 or 2 of the 1983 Act.

(8) A written statement under this article is to be treated as a written statement for the purposes of Chapter 4 of Part 1 of Schedule 1 to the 1983 Act.

Existing agreements: general saving

7. The repeals made by the provisions brought into force by article 2 do not affect any right or liability which has accrued in relation to an existing agreement or any remedy in respect of any such right or liability.

Huw Lewis

Minister for Minister for Communities and Tackling Poverty, one of the Welsh Ministers

12 June 2013

SCHEDULE Article 6(2)

Written Statement in relation to the
Mobile Homes Act 1983

IMPORTANT – PLEASE READ THIS STATEMENT CAREFULLY AND KEEP IT IN A SAFE PLACE. IT SETS OUT THE TERMS ON WHICH YOU ARE ENTITLED TO KEEP YOUR MOBILE HOME ON SITE AND TELLS YOU ABOUT THE RIGHTS WHICH ARE GIVEN TO YOU BY LAW. IF THERE IS ANYTHING YOU DO NOT UNDERSTAND YOU SHOULD GET ADVICE (FOR EXAMPLE FROM A SOLICITOR OR A CITIZENS ADVICE BUREAU).

PART 1

Express Terms (other than those specified in Part 4)

1. The Mobile Homes Act 1983 (“the 1983 Act”) applies to the agreement.

Parties to the agreement

2. The parties to the agreement are—

.....
.....

(Name and address of person entitled to station a mobile home on the pitch)

.....
.....

(Name and address of the local authority)

Start date

3. The agreement began on.....
(Insert date)

Particulars of the pitch

4. The particulars of the land on which you are entitled to station your mobile home are—

.....
.....
.....
.....
.....

Plan

5. Attached to this statement is a plan showing—

- (a) the size and location of the pitch;
- (b) the size of the base on which the mobile home is stationed; and
- (c) measurements between identifiable fixed points on the site and the pitch and base.

Local authority’s interest

6. The local authority’s estate or interest in the land will end on.....
(If this statement applies insert date); or

The local authority’s planning permission for the site will end on
(If this statement applies insert date)

This means that your right to stay on the site will not continue after either of these dates unless the local authority’s interest or planning permission is extended. *(If only one of these statements applies, cross out the words which do not apply. If neither of these statements apply, delete this paragraph).*

Pitch fee

7. The pitch fee is payable weekly/monthly/quarterly/annually.
(Cross out the words which do not apply)

The pitch fee is.....

The following services are included in the pitch fee—

Water

Sewerage

.....
.....

(Cross out the services which are not included and add any others which are included in the pitch fee)

Review of pitch fee

8. The pitch fee will be reviewed on

This date is the review date.

Additional charges

9. An additional charge is made for the following matters—

.....

.....
.....

(List the matters for which an additional charge is made)

PART 2

Information about your rights

The 1983 Act

1. Because you have an agreement with a local authority which entitles you to keep your mobile home on its site and live in it as your home, you have certain rights under the 1983 Act, affecting in particular your security of tenure and the review of the pitch fee.

Implied terms

2. These rights, which are contained in the implied terms set out in Part 3 of this statement, apply automatically and cannot be overridden, so long as your agreement continues to be one to which the 1983 Act applies.

Express terms

3. If you are not happy with any of the express terms of your agreement (as set out in Part 4 of this statement) you should discuss them with the local authority, who may agree to change them.

Unfair terms

4. If you consider that any of the express terms of the agreement (as set out in Part 4 of this statement) are unfair, you can, in accordance with the provisions of the Unfair Terms in Consumer Contracts Regulations 1999⁽¹⁾, complain to the Office of Fair Trading or any qualifying body.

PART 3

Implied Terms

Under the 1983 Act certain terms are automatically included in your agreement. These implied terms are set out in Part 1 of Schedule 1 to the 1983 Act.

(Implied terms to be inserted by the local authority)

(1) S.I. 1999/2083.

PART 4

Express terms of the agreement

This part of the written statement sets out other terms of the agreement which are agreed between you and the local authority in addition to the implied terms.

(Express terms to be inserted by the local authority)