



# Mobile Homes (Wales) Act 2013

2013 anaw 6

## PART 2

### LICENSING OF MOBILE HOME SITES ETC.

#### *Introduction*

#### **4 Overview of Part**

- (1) This Part makes provision about the licensing of regulated sites and related matters.
- (2) In this Part—
  - (a) sections 5 to 8 make provision for site licences,
  - (b) sections 9 to 25 make provision about conditions of site licences,
  - (c) sections 26 and 27 make provision about revocation and surrender of site licences,
  - (d) sections 28 and 29 require site managers to be fit and proper persons,
  - (e) sections 30 and 31 make provision for the appointment of interim managers,
  - (f) sections 32 and 33 contain other enforcement provisions, and
  - (g) sections 34 to 39 contain miscellaneous and supplementary provisions.

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#### **Commencement Information**

**II** S. 4 in force at 1.10.2014 by S.I. 2014/11, **art. 3(1)(b)** (with **art. 4**)

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*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

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### *Site licences*

## 5 Prohibition on use of land as regulated site without site licence

- (1) The owner of a regulated site must not cause or permit the site to be used as a regulated site unless the owner holds a licence under this Part in relation to the land (a “site licence”).
- (2) A person who contravenes subsection (1) commits an offence.
- (3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine.

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#### **Commencement Information**

**I2** S. 5 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## 6 Application for site licence

- (1) An application for the issue of a site licence in respect of any land is to be made by the owner of the land to the local authority in whose area the land is situated.
- (2) An application under this section—
  - (a) must specify the land in respect of which the application is made,
  - (b) must identify the applicant,
  - (c) if the applicant is not to be the manager of the site, must identify the person who is to be the manager of the site, and
  - (d) must comply with such other requirements as the local authority may specify.
- (3) An applicant must, either at the time of making the application or subsequently, give to the local authority such other information as the local authority may reasonably require.
- (4) The application must be accompanied by a declaration by the applicant that—
  - (a) in a case in which the applicant is not to be the manager of the site, the person identified in accordance with subsection (2)(c), or
  - (b) in any other case, the applicant,
 is a fit and proper person to manage the site.
- (5) A local authority may require an application for a site licence to be accompanied by a fee fixed by the local authority (on which see section 36).

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#### **Commencement Information**

**I3** S. 6 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## 7 Issue of site licence

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

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- (2) If, on the date when the applicant gives the information required by virtue of section 6, the applicant is entitled to the benefit of such planning permission, the local authority may issue a site licence in respect of the land within 2 months of that date or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to grant a site licence, within the period agreed.
- (3) If the applicant becomes entitled to the benefit of planning permission at some time after giving the information required by virtue of section 6, the local authority may issue a site licence in respect of the land within 6 weeks of the date on which the applicant becomes entitled to the benefit of planning permission or, if the applicant and the local authority agree in writing that the local authority is to be allowed a longer period within which to grant a site licence, within the period agreed.
- (4) Where a local authority decides not to issue a site licence under subsection (2) or (3)—
  - (a) the local authority must notify the applicant of the reasons for the decision and of the applicant's right of appeal under paragraph (b),
  - (b) the applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision, and
  - (c) no compensation may be claimed for loss suffered in consequence of the decision pending the outcome of the appeal.
- (5) A local authority must not at any time issue a site licence to a person whom the local authority knows has held a site licence which has been revoked under section 18 or 28 less than 3 years before that time.
- (6) Where a local authority fails to determine an application for a site licence within the period within which it is required to do so, no offence under section 5 is committed in respect of the land by the person by whom the application for the site licence was made at any time after the end of that period until the application is determined.

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**Commencement Information**

**I4** S. 7 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## **8 Duration of site licence**

- (1) A site licence comes into operation at the time specified in or determined under the licence and, unless terminated by its revocation, continues in force for the period specified in or determined under the site licence.
- (2) That period must end not later than 5 years after the day on which the site licence comes into operation.

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**Commencement Information**

**I5** S. 8 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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### *Conditions of site licences*

## **9 Power to attach conditions to site licence**

- (1) A site licence issued by a local authority in respect of any land may be issued subject to such conditions as the local authority may consider it necessary or desirable to impose on the owner of the land in the interests of—
  - (a) persons dwelling on the land in mobile homes,
  - (b) any other class of persons, or
  - (c) the public at large.
  
- (2) The conditions subject to which a site licence may be issued include (but are not limited to) conditions—
  - (a) for restricting the occasions on which mobile homes are stationed on the land for the purposes of human habitation, or the total number of mobile homes which are stationed on the land for those purposes at any one time,
  - (b) for controlling (whether by reference to their size, the state of their repair or, subject to subsection (3), any other feature) the types of mobile home which are stationed on the land,
  - (c) for regulating the positions in which mobile homes are stationed on the land for the purposes of human habitation (in particular in order to minimise risk from flooding and coastal erosion) and for prohibiting, restricting or otherwise regulating the placing or erection on the land, at any time when mobile homes are stationed on the land for those purposes, of structures and vehicles of any description and of tents,
  - (d) for securing the taking of any steps for preserving or enhancing the amenity of the land, including the planting and replanting of the land with trees and bushes,
  - (e) for securing that, at all times when mobile homes are stationed on the land, appropriate measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained,
  - (f) for securing that, at all times when mobile homes are stationed on the land, appropriate measures are taken for guarding against risk from flooding and coastal erosion and for communicating any known risk from flooding or coastal erosion to persons dwelling on the land in mobile homes,
  - (g) for securing that adequate sanitary facilities, and such other facilities, services or equipment as may be specified, are provided for the use of persons dwelling on the land in mobile homes and that, at all times when mobile homes are stationed on the land for the purposes of human habitation, any facilities and equipment provided for their use are properly maintained, and
  - (h) for requiring that where there is a change in the person by whom the site is managed, a declaration is made by the holder of the site licence to the local authority that the new manager is a fit and proper person to manage the site.
  
- (3) No condition may be imposed controlling the types of mobile homes which are stationed on the land by reference to the materials used in their construction.
  
- (4) Where the Regulatory Reform (Fire Safety) Order 2005 applies to land, no condition may be imposed in a site licence relating to the land in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.

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- (5) A site licence issued in respect of any land must, unless it is issued subject to a condition restricting to 3 or fewer the total number of mobile homes which may be stationed on the land at any one time, contain a condition that, at all times when mobile homes are stationed on the land for the purposes of human habitation, a copy of the site licence as for the time being in force, together with copies of the most recent utility bills relating to the site and of any current certificate of public liability insurance relating to the site, must be displayed on the land in a prominent place.
- (6) In subsection (5) “utility bills” means bills for the provision of gas, electricity, water, sewerage or other similar services.
- (7) A condition of a site licence may, if it requires the carrying out of any works on the land in respect of which the site licence is issued, prohibit or restrict the bringing of mobile homes on to the land for the purposes of human habitation until such time as the local authority has certified in writing that the works have been completed to its satisfaction.
- (8) Where the land to which the site licence relates is at the time in use as a mobile home site, a condition requiring the carrying out of any works on the land may, whether or not it contains any prohibition or restriction mentioned in subsection (7), require the works to be completed to the satisfaction of the local authority within a stated period.
- (9) A condition of a site licence is valid even if it can be complied with only by the carrying out of works which the holder of the site licence is not entitled to carry out as of right.

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**Commencement Information**

**I6** S. 9 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## **10 Model standards**

- (1) The Welsh Ministers may specify for the purposes of section 9 model standards with respect to the layout of, and the provision of facilities, services and equipment for, regulated sites or particular types of regulated sites.
- (2) In deciding what (if any) conditions to impose in a site licence, a local authority must have regard to any model standards which have been specified.
- (3) No model standards may be specified in relation to land to which the Regulatory Reform (Fire Safety) Order 2005 applies in so far as the standards relate to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.
- (4) The duty of a local authority to have regard to standards specified under this section is to be construed, as regards standards relating to fire precautions, as a duty to have regard to them subject to any advice given by the fire and rescue authority under section 11.
- (5) In this section and section 11 “fire precautions” means precautions to be taken for any of the purposes specified in section 9(2)(e).

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**Commencement Information**

**I7** S. 10 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**11 Fire precautions**

- (1) The local authority must, in considering what conditions to impose in a site licence relating to any land, consult the fire and rescue authority as to the extent to which any model standards relating to fire precautions which have been specified under section 10 are appropriate to the land.
- (2) If—
  - (a) no such standards have been specified, or
  - (b) any standard that has been specified appears to the fire and rescue authority to be inappropriate to the land,
 the local authority must consult the fire and rescue authority as to what conditions relating to fire precautions ought to be imposed instead.
- (3) This section does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

**Commencement Information**

**I8** S. 11 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**12 Appeal against conditions of site licence**

- (1) Where a local authority decides to issue a site licence subject to conditions (other than the condition required by section 9(5)), the local authority must notify the applicant of the reasons for doing so and of the applicant's right of appeal under subsection (2).
- (2) The applicant may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.
- (3) The tribunal may vary or cancel the condition if satisfied (having regard, among other things, to any standards which may have been specified by the Welsh Ministers under section 10) that the condition is unduly burdensome.
- (4) In a case where a residential property tribunal varies or cancels a condition under subsection (3), it may also attach a new condition to the site licence.
- (5) In so far as the effect of a condition subject to which a site licence is issued in respect of any land is to require the carrying out on the land of any works, the condition does not have effect—
  - (a) during the period within which the person to whom the site licence is issued is entitled to appeal against the condition, or
  - (b) while an appeal against the condition is pending.

**Commencement Information**

**I9** S. 12 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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

- (1) The conditions of a site licence may be varied at any time (whether by the variation or cancellation of existing conditions, by the addition of new conditions, or by a combination of any such methods) by the local authority if—
  - (a) the holder of the site licence makes an application to the local authority for it to do so, or
  - (b) the local authority discovers new information or considers that there has been a change of circumstances.
- (2) Before varying the conditions of a site licence under subsection (1)(b), the local authority must give to the holder of the site licence an opportunity to make representations.
- (3) Where the Regulatory Reform (Fire Safety) Order 2005 applies to the land to which the site licence relates, no new condition may be added to a site licence under subsection (1) in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under that Order.
- (4) A local authority may require an application for a variation of the conditions of the site licence to be accompanied by a fee fixed by the local authority (on which see section 36).
- (5) The variation by a local authority of the conditions of site licence is not to have effect until written notification of it has been received by the holder of the site licence.
- (6) In exercising the powers conferred by subsection (1), a local authority must have regard (among other things) to any standards which may have been specified by the Welsh Ministers under section 10.
- (7) The local authority must consult the fire and rescue authority before exercising the powers conferred by subsection (1) in relation to a condition of a site licence imposed for the purposes set out in section 9(2)(e).
- (8) Subsection (7) does not apply where the Regulatory Reform (Fire Safety) Order 2005 applies to the land.

#### **Commencement Information**

**I10** S. 13 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

### **14 Appeal against variation of conditions of site licence**

- (1) Where the holder of a site licence is aggrieved by any variation of the conditions of the site licence under section 13(1)(b) or by the refusal of the local authority of an application for the variation of those conditions, the holder may, within the period of 28 days beginning with the day following that on which notification of the alteration or refusal is received by the holder, appeal to a residential property tribunal.
- (2) The tribunal, may, if it allows the appeal, give to the local authority such directions as may be necessary to give effect to the tribunal's decision.
- (3) In so far as a variation of a site licence imposes a requirement on the holder of the site licence to carry out on the land to which the site licence relates any works which the holder of the site licence would not otherwise be required to carry out, the variation

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is not to have effect during the period within which the holder is entitled to appeal against the variation or while an appeal against the variation is pending.

- (4) In exercising the powers conferred by subsection (2) a residential property tribunal must have regard amongst other things to any standards which may have been specified by the Welsh Ministers under section 10.

**Commencement Information**

**I11** S. 14 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

*Breach of condition*

**15 Breach of condition**

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

**Commencement Information**

**I12** S. 15 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**16 Fixed penalty notice**

- (1) A fixed penalty notice is a notice which—
- (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to pay a specified amount to the local authority at an address specified in the notice, and
  - (c) specifies the period within which the specified amount must be paid.
- (2) The amount specified in a fixed penalty notice given at any time must not exceed the amount specified at that time as level 1 on the standard scale for summary offences.
- (3) Without prejudice to payment by any other method, payment of an amount specified in a fixed penalty notice may be made by pre-paying and posting a letter containing the amount (in cash or otherwise) to the local authority at the address specified in the



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notice; and in that case payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

**Commencement Information**

**I13** S. 16 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**17 Compliance notices**

- (1) A compliance notice is a notice which—
  - (a) sets out the condition in question and details of the failure to comply with it,
  - (b) requires the owner of the land to take such steps as the local authority considers appropriate and as are specified in the notice in order to ensure that the condition is complied with,
  - (c) specifies the period within which those steps must be taken, and
  - (d) explains the right of appeal conferred by subsection (2).
- (2) An owner of land who has been served with a compliance notice may appeal to a residential property tribunal against that notice (see section 23).
- (3) A local authority may—
  - (a) revoke a compliance notice, or
  - (b) vary a compliance notice by extending the period specified in the notice under subsection (1)(c).
- (4) The power to revoke or vary a compliance notice is exercisable by the local authority—
  - (a) on an application made by the owner of land on whom the notice was served, or
  - (b) on the local authority's own initiative.
- (5) Where a local authority revokes or varies a compliance notice, it must notify the owner of the land to which the notice relates of the decision as soon as is reasonably practicable.
- (6) Where a compliance notice is revoked, the revocation comes into force at the time when it is made.
- (7) Where a compliance notice is varied—
  - (a) if the notice has not become operative when the variation is made, the variation comes into force at such time (if any) as the notice becomes operative in accordance with section 24, and
  - (b) if the notice has become operative when the variation is made, the variation comes into force at the time when it is made.

**Commencement Information**

**I14** S. 17 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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## 18 Compliance notice: offence and multiple convictions

- (1) An owner of land who has been served with a compliance notice which has become operative commits an offence if the owner fails to take the steps specified in the notice under section 17(1)(b) within the period specified in the notice under section 17(1)(c).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (3) In proceedings against an owner of land for an offence under subsection (1), it is a defence that the owner had a reasonable excuse for failing to take the steps referred to in subsection (1) within the period referred to in that subsection.
- (4) Subsection (5) applies where—
  - (a) an owner of land is convicted of an offence under subsection (1), and
  - (b) the owner has been convicted on two or more previous occasions of an offence under subsection (1) in relation to the site licence to which the conviction mentioned in paragraph (a) relates.
- (5) On an application by the local authority which served the compliance notice, the court before which the owner of the land was convicted may make an order revoking the site licence on the date specified in the order.
- (6) An order under subsection (5) must not specify a date which is before the end of the period within which notice of appeal (whether by case stated or otherwise) may be given against the conviction mentioned in subsection (4)(a).
- (7) Where an appeal against the conviction mentioned in subsection (4)(a) is made by the owner of the land before the date specified in an order under subsection (5), the order does not take effect until—
  - (a) the appeal is finally determined, or
  - (b) the appeal is withdrawn.
- (8) On an application by the owner of the land or by the local authority who issued the site licence, the court which made the order under subsection (5) may make an order specifying a date on which the revocation of the site licence takes effect which is later than the date specified in the order under subsection (5).
- (9) But the court must not make an order under subsection (8) unless it is satisfied that adequate notice of the application has been given to the owner (if the applicant is the local authority) or to the local authority (if the applicant is the owner).

### Commencement Information

**I15** S. 18 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## 19 Compliance notice: power to demand expenses

- (1) When serving a compliance notice on an owner of land, a local authority may impose a charge on the owner as a means of recovering expenses incurred by the local authority—
  - (a) in deciding whether to serve the notice, and
  - (b) in preparing and serving the notice or a demand under subsection (3).

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- (2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).
- (3) The power under subsection (1) is exercisable by serving the compliance notice together with a demand which sets out—
  - (a) the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
  - (b) a detailed breakdown of the relevant expenses, and
  - (c) where the local authority propose to charge interest under section 25, the rate at which the relevant expenses carry interest.
- (4) Where a tribunal allows an appeal under section 17 against the compliance notice with which a demand was served, the tribunal may make such order as it considers appropriate—
  - (a) confirming, reducing or quashing any charge under this section made in respect of the notice, and
  - (b) varying the demand as appropriate in consequence.

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**Commencement Information**

**I16** S. 19 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## **20 Power to take action following conviction of owner**

- (1) Where an owner of land is convicted of an offence under section 18(1), the local authority which issued the compliance notice may—
  - (a) take any steps required by the compliance notice to be taken by the owner but which have not been taken, and
  - (b) take such further action as the authority considers appropriate for ensuring that the condition specified in the compliance notice is complied with.
- (2) Where a local authority proposes to take action under subsection (1), it must serve on the owner of the land a notice which—
  - (a) identifies the land and the compliance notice to which it relates,
  - (b) states that the local authority intends to enter the land,
  - (c) describes the action the local authority intends to take on the land,
  - (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) sets out the dates and times on which it is intended that the action will be taken (including when the local authority intends to start taking the action and when it expects the action to be completed).
- (3) The notice must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (4) In a case where the local authority authorises a person other than an officer of the local authority to take the action on its behalf, the reference in section 32(1) to an authorised officer of the local authority includes that person.

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- (5) The requirement in section 32(2) to give 24 hours' notice of the intended entry, in its application to a case within this section, applies only in relation to the day on which the local authority intends to start taking the action on the land.

**Commencement Information**

**I17** S. 20 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**21 Power to take emergency action**

- (1) A local authority which has issued a site licence may take action in relation to any of the land comprising the site if it appears to the local authority that—
- (a) the owner of the land is failing or has failed to comply with a condition of the site licence, and
  - (b) as a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.
- (2) The action a local authority may take under this section (referred to in this section as “emergency action”) is such action as appears to the local authority to be necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b).
- (3) Where a local authority proposes to take emergency action, the local authority must serve on the owner of the land a notice which—
- (a) identifies the land to which it relates,
  - (b) states that the local authority intends to enter the land,
  - (c) describes the emergency action the local authority intends to take on the land,
  - (d) if the person whom the local authority proposes to authorise to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) specifies the powers under this section and section 32 as the powers under which the local authority intends to enter the land.
- (4) A notice under subsection (3) may state that, if entry to the land were to be refused, the local authority would propose to apply for a warrant under section 32(3).
- (5) A notice under subsection (3) must be served sufficiently in advance of when the local authority intends to enter the land as to give the owner of the land reasonable notice of the intended entry.
- (6) In a case where the local authority authorises a person other than an officer of the local authority to take the emergency action on its behalf, the reference in section 32(1) to an authorised officer of the local authority includes that person.
- (7) Section 32, in its application to a case within this section, has effect as if—
- (a) the words “at all reasonable hours” in subsection (1), and
  - (b) subsection (2),
- were omitted.
- (8) Within the period of 7 days beginning with the date when the local authority starts taking the emergency action, the local authority must serve on the owner of the land a notice which—

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- (a) describes the imminent risk of serious harm to the health or safety of persons who are or may be on the land,
  - (b) describes the emergency action which has been, and any emergency action which is to be, taken by the local authority on the land,
  - (c) sets out when the local authority started taking the emergency action and when the local authority expects it to be completed,
  - (d) if the person whom the local authority has authorised to take the action on its behalf is not an officer of the local authority, states the name of that person, and
  - (e) explains the right of appeal conferred by subsection (9).
- (9) The owner of land in respect of which a local authority has taken or is taking emergency action may appeal to a residential property tribunal against the taking of the action by the local authority (see section 23).
- (10) An appeal may be brought—
- (a) on the grounds that that there was no imminent risk of serious harm as mentioned in subsection (1)(b) (or, where the action is still being taken, that there is no such risk), or
  - (b) on the grounds that the action the authority has taken was not necessary to remove the imminent risk of serious harm mentioned in subsection (1)(b) (or, where the action is still being taken, that it is not necessary to remove the risk).
- (11) The ways in which a notice under this section may be served include by fixing it in a prominent place at or near the main entrance to the land.

**Commencement Information**

**I18** S. 21 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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

- (1) Where a local authority takes action under section 20 or emergency action under section 21, the local authority may impose a charge on the owner of the land as a means of recovering expenses incurred by the local authority—
- (a) in deciding whether to take the action,
  - (b) in preparing and serving any notice under section 20 or 21 or a demand under subsection (6), and
  - (c) taking the action.
- (2) The expenses referred to in subsection (1) include (but are not limited to) the costs of obtaining expert advice (including legal advice).
- (3) In the case of emergency action under section 21, no charge may be imposed under subsection (1) until such time (if any) as is determined in accordance with subsection (4).
- (4) For the purposes of subsection (3), the time when a charge in respect of emergency action may be imposed is—
- (a) if no appeal against the local authority's decision to take the emergency action is brought under section 21(9) within the appeal period under section 23, the end of that period, and

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- (b) if such an appeal is brought and a decision on the appeal confirms the local authority's decision—
  - (i) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, the end of that period, and
  - (ii) where an appeal to the Upper Tribunal is brought, when a decision is given on the appeal confirming the local authority's decision.
- (5) For the purposes of subsection (4)—
  - (a) the withdrawal of an appeal against a decision by the local authority has the same effect as a decision on the appeal confirming the local authority's decision, and
  - (b) references to a decision on the appeal confirming the local authority's decision are to a decision which confirms that decision with or without variation.
- (6) The power under subsection (1) is exercisable by serving on the owner of the land a demand for the expenses which—
  - (a) sets out the total expenses the local authority seeks to recover under subsection (1) (“relevant expenses”),
  - (b) sets out a detailed breakdown of the relevant expenses,
  - (c) where the local authority proposes to charge interest under section 25, sets out the rate at which the relevant expenses carry interest, and
  - (d) explains the right of appeal conferred by subsection (7).
- (7) The owner of land who is served with a demand under this section may appeal to a residential property tribunal against the demand (see section 23).
- (8) A demand under this section must be served—
  - (a) in the case of action under section 20, before the end of the period of 2 months beginning with the date on which the action is completed, and
  - (b) in the case of emergency action under section 21—
    - (i) before the end of the period of 2 months beginning with the earliest date (if any) on which a charge may be imposed in accordance with subsection (4), or
    - (ii) if the action has not been completed by the end of that period, before the end of the period of 2 months beginning with the date on which the action is completed.

#### **Commencement Information**

**I19** S. 22 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

### **23 Appeals under section 17, 21 or 22**

- (1) An appeal under section 17, 21 or 22 must be made before the end of the period of 21 days beginning with the day on which the relevant document was served (referred to in this section and section 24 as “the appeal period”).
- (2) In subsection (1) “relevant document” means—
  - (a) in the case of an appeal under section 17, the compliance notice,

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- (b) in the case of an appeal under section 21, the notice under subsection (8) of that section, and
  - (c) in the case of an appeal under section 22, the demand under that section.
- (3) A residential property tribunal may allow an appeal under section 17, 21 or 22 to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).
- (4) An appeal under section 17, 21 or 22—
  - (a) is to be by way of a rehearing, but
  - (b) may be determined having regard to matters of which the local authority which made the decision was unaware.
- (5) The tribunal may by order—
  - (a) on an appeal under section 17, confirm, vary or quash the compliance notice,
  - (b) on an appeal under section 21, confirm, vary or reverse the decision of the local authority, or
  - (c) on an appeal under section 22, confirm, vary or quash the demand.

**Commencement Information**

**I20** S. 23 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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

- (1) The time when a compliance notice under section 17 or a demand under section 19 or 22 becomes operative (if at all) is to be determined in accordance with this section.
- (2) Where no appeal under section 17 is brought within the appeal period against the compliance notice, the notice and any demand under section 19 which was served with it become operative at the end of that period.
- (3) Where no appeal under section 22 is brought within the appeal period, the demand under that section becomes operative at the end of that period.
- (4) Where an appeal under section 17 is brought, and a decision on the appeal confirms the compliance notice, the notice and any demand under section 19 which was served with it become operative—
  - (a) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, at the end of that period, or
  - (b) where an appeal to the Upper Tribunal is brought and a decision on the appeal is given which confirms the notice, at the time of the decision.
- (5) Where an appeal under section 22 is brought, and a decision on the appeal confirms the demand under that section, the demand becomes operative—
  - (a) where the period within which an appeal to the Upper Tribunal may be brought expires without such an appeal having been brought, at the end of that period, or
  - (b) where an appeal to the Upper Tribunal is brought and a decision on the appeal is given which confirms the demand, at the time of the decision.



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- (6) For the purposes of subsections (4) and (5)—
- (a) the withdrawal of an appeal against a notice or demand has the same effect as a decision confirming the notice or demand, and
  - (b) references to a decision which confirms the notice or demand are to a decision which confirms the notice or demand with or without variation.

**Commencement Information**

**I21** S. 24 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**25 Recovery of expenses demanded under section 19 or 22**

- (1) As from the time when a demand under section 19 or 22 becomes operative, the relevant expenses set out in the demand carry interest at such rate as the local authority may fix until recovery of all sums due under the demand; and the expenses and any interest are recoverable by it as a debt.
- (2) As from that time, the expenses and any interest are, until recovery, a charge on the land to which the compliance notice or emergency action in question relates.
- (3) The charge takes effect at that time as a legal charge which is a local land charge.
- (4) For the purpose of enforcing the charge the local authority has the same powers and remedies under the Law of Property Act 1925 and otherwise as if it was a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (5) The power of appointing a receiver is exercisable at any time after the end of the period of 1 month beginning with the date on which the charge takes effect.
- (6) In this section “relevant expenses”—
  - (a) in the case of a demand under section 19, has the meaning given by subsection (3) of that section, and
  - (b) in the case of a demand under section 22, has the meaning given by subsection (6) of that section.

**Commencement Information**

**I22** S. 25 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

*Revocation and surrender of site licences*

**26 Revocation on death, change of ownership or cessation of use**

- (1) When the holder of a site licence in respect of any land dies or ceases to be the owner of the land, the site licence is revoked.
- (2) Where land in respect of which a site licence is in force ceases to be used as a regulated site, the site licence is revoked.



*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

#### Commencement Information

**I23** S. 26 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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

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

#### Commencement Information

**I24** S. 27 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

*Site managers to be fit and proper persons*

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

- (1) The owner of land may not cause or permit any part of the land to be used as a regulated site unless (in addition to the owner holding a site licence) the local authority in whose area the land is situated—
  - (a) is satisfied that the owner is a fit and proper person to manage the site or (if the owner does not manage the site) that a person appointed to do so by the owner is a fit and proper person to do so, or
  - (b) has, with the owner's consent, itself appointed a person to manage the site.
- (2) Where the owner of land who holds a site licence in respect of the land contravenes subsection (1), the local authority in whose area the land is situated may apply to a residential property tribunal for an order revoking the site licence.
- (3) A person who contravenes the requirement imposed by subsection (1) commits an offence.
- (4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine.
- (5) Where the owner of land who holds a site licence in respect of land is convicted of an offence under subsection (3) in relation to the land and the person has been convicted of that offence in relation to the land on 2 or more previous occasions, the magistrates' court before which the owner is convicted may, on an application by the local authority in whose area the land is situated, make an order revoking the owner's site licence on the day specified in the order.

*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

### Commencement Information

**I25** S. 28 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

## 29 Decision whether person is fit and proper

- (1) In deciding whether a person is a fit and proper person to manage a regulated site a local authority must have regard to all such matters as it considers appropriate.
- (2) Among the matters to which the local authority must have regard is any evidence within subsection (3) or (4).
- (3) Evidence is within this subsection if it shows that the person has—
  - (a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),
  - [<sup>F1</sup>(b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010, or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or]
  - (c) contravened any provision of the law relating to housing (including mobile homes) or landlord and tenant.
- (4) Evidence is within this subsection if—
  - (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (3), and
  - (b) it appears to the local authority that the evidence is relevant to the question whether the person is a fit and proper person to manage a regulated site.
- (5) The Welsh Ministers may by regulations amend this section to vary the evidence to which a local authority must have regard in deciding whether a person is a fit and proper person to manage a regulated site.
- (6) Where a local authority decides that a person is not a fit and proper person to manage a site—
  - (a) the local authority must notify the person of the reasons for the decision and of the person's right of appeal under paragraph (b), and
  - (b) the person may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.

### Textual Amendments

**F1** S. 29(3)(b) substituted (1.12.2014) by Housing (Wales) Act 2014 (anaw 7), s. 145(3), Sch. 3 para. 30(2); S.I. 2014/3127, art. 2(a), Sch. Pt. 1

### Commencement Information

**I26** S. 29 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

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*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

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### *Interim managers*

#### **30 Appointment of interim manager**

- (1) If any of the conditions specified in subsection (2) is met in relation to a regulated site, a local authority by which the site is licensed may appoint an interim manager of the site.
- (2) The conditions referred to in subsection (1) are—
  - (a) that the local authority considers that the holder of the site licence is failing or has failed, either seriously or repeatedly, to comply with a condition of the site licence,
  - (b) that the local authority considers that the site is not being managed by a person who is a fit and proper person to manage the site, and
  - (c) that the local authority considers that there is no-one managing the site.
- (3) A local authority must, if requested to do so by an association that is a qualifying residents' association in relation to a site, consider whether to exercise its power under this section.
- (4) Subsection (3) does not affect the discretion of a local authority to exercise its power under this section on its own initiative.
- (5) A person aggrieved by a decision to appoint an interim manager may, within the period of 28 days beginning with the day on which the decision is made, appeal to a residential property tribunal against the decision.
- (6) The appointment of an interim manager comes to an end with the earliest of the following—
  - (a) the expiry of the site licence,
  - (b) the revocation of the site licence, and
  - (c) a date specified in the appointment.
- (7) If a person ceases to be an interim manager before the appointment has come to an end, the authority may appoint a new interim manager in place of that person.

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#### **Commencement Information**

**I27** S. 30 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

#### **31 Terms of appointment and powers of interim manager**

- (1) Appointment of an interim manager is to be on terms and conditions (including as to remuneration and expenses) specified in, or determined in accordance with, the appointment.
- (2) The interim manager has—
  - (a) any power specified in the appointment, and
  - (b) any other power in relation to the management of the site required by the interim manager for the purposes specified in the appointment (including the power to enter into agreements and take other action on behalf of the holder of the site licence).

*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

- (3) The local authority may give the interim manager general or specific directions.
- (4) The local authority may withdraw or amend any directions given.
- (5) The remuneration and expenses of an interim manager may be deducted by the interim manager from any income which the holder of the site licence is entitled to receive in respect of the site, but if that income is insufficient any balance must be paid by the local authority.
- (6) Any amounts paid by the local authority under subsection (5) may be recovered by the authority from the holder of the site licence.

#### **Commencement Information**

**I28** S. 31 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

#### *Other enforcement provisions*

### **32 Power of entry of officers of local authorities**

- (1) An authorised officer of a local authority, on producing (if required to do so), a duly authenticated document of authority, has a right at all reasonable hours to enter any land which is a regulated site or in respect of which an application for a site licence has been made for the purpose of—
  - (a) enabling the local authority to determine what conditions should be imposed on a site licence or whether the conditions of a site licence should be varied,
  - (b) ascertaining whether there is, or has been, on or in connection with the land, any contravention of the provisions of this Part,
  - (c) ascertaining whether or not circumstances exist which would authorise the local authority to take any action, or execute any work, under this Part, or
  - (d) taking any action, or executing any work, authorised by this Part to be taken or executed by the local authority.
- (2) But entry to any land must not be demanded as of right unless 24 hours' notice of the intended entry has been given to the owner.
- (3) If it is shown to the satisfaction of a justice of the peace—
  - (a) that any of the following sub-paragraphs apply—
    - (i) entry to any land has been refused,
    - (ii) refusal is apprehended,
    - (iii) the owner of the land is temporarily absent and the case is one of urgency,
    - (iv) an application for entry would defeat the object of the entry, and
  - (b) that there is reasonable ground for entering the land for any purpose mentioned in subsection (1),
 the justice of the peace may by warrant authorise the local authority by any authorised officer to enter the land, if need be by force.
- (4) But a warrant must not be issued unless the justice of the peace is satisfied—
  - (a) that notice of the intention to apply for the warrant has been given to the owner,

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- (b) that the owner is temporarily absent and the case is one of urgency, or
  - (c) that the giving of notice would defeat the object of the entry.
- (5) An authorised officer entering any land by virtue of this section, or of a warrant issued under it, may be accompanied by such other persons as may be necessary.
- (6) Every warrant issued under this section continues in force until the purpose for which the entry is necessary has been satisfied.
- (7) A person who intentionally obstructs any person acting in the execution of this section, or of a warrant under this section, commits an offence.
- (8) A person who is guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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**Commencement Information**

**I29** S. 32 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

### 33 Repayment orders

- (1) For the purposes of this section land is an “unlicensed site” if it is a regulated site in respect of which no site licence is in force.
- (2) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
- (a) any provision requiring the payment of a pitch fee or the making of any other periodical payment in connection with any agreement to which Part 4 applies relating to an unlicensed site, or
  - (b) any other provision of such an agreement.
- (3) But amounts paid in respect of certain payments made under and in connection with such an agreement may be recovered in accordance with subsection (4).
- (4) If—
- (a) an application in respect of an unlicensed site is made to a residential property tribunal by the occupier of a mobile home stationed on the site, and
  - (b) the tribunal is satisfied as to the matters mentioned in subsection (6),
- the tribunal may make an order (a “repayment order”).
- (5) A repayment order is an order requiring the owner or manager of the site to pay to the occupier of the mobile home such sums as are specified in the order in respect of—
- (a) any payment made by the occupier of the mobile home (or any person through whom the occupier of the mobile home has acquired ownership of the mobile home) to the owner or manager of the site in respect of the purchase of a mobile home stationed on the site,
  - (b) any commission paid to the owner or manager of the site by any person in respect of the sale of a mobile home stationed on the site,
  - (c) the pitch fee paid in respect of such a mobile home, and
  - (d) any periodical payments paid in respect of such a mobile home.
- (6) The tribunal must be satisfied as to the following matters—

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- (a) that owner of the site has been convicted of an offence under section 5 in relation to the site,
- (b) that the occupier of the mobile home (or, in the case of payments referred to in subsection (5)(a) or (b), the person through whom the occupier of the mobile home has acquired ownership of the mobile home) made the payment to the owner or manager of the site during any period during which it appears to the tribunal that such an offence was being committed in relation to the site, and
- (c) that the application is made within the period of 12 months beginning with the date of the conviction.

<sup>F2</sup>(7) .....

- (8) The amount required to be paid by virtue of a repayment order under subsection (5) is (subject to subsections (9) to [<sup>F3</sup>(10)]) to be such amount as the tribunal considers reasonable in the circumstances.
- (9) The matters which the tribunal must take into account when determining the amount to be paid include (but are not limited to)—
  - (a) the total amount of relevant payments paid in connection with ownership of the site during any period during which it appears to the tribunal that an offence was being committed by the owner of the site under section 5,
  - (b) the extent to which that total amount was actually received by the owner or manager of the site,
  - (c) whether the owner of the site has [<sup>F4</sup>previously] been convicted of an offence under section 5 in relation to the site,
  - (d) the conduct and financial circumstances of the owner or manager of the site, and
  - (e) the conduct of the occupier of the mobile home;
 and in this subsection “relevant payments” means those payments referred to in subsection (5).
- (10) A repayment order may not require the payment of any amount which is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application, and the period to be taken into account under subsection (9)(a) is restricted accordingly.
- (11) Any amount payable to an occupier of a mobile home by virtue of a repayment order is recoverable as a debt due to the occupier of the mobile home from the owner or manager of the site.
- (12) In this section “occupier”, in relation to a mobile home and a regulated site, means a person who is entitled—
  - (a) to station the mobile home on the site, and
  - (b) to occupy the mobile home as the person's only or main residence.

#### Textual Amendments

- F2** S. 33(7) omitted (1.12.2014) by virtue of [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), [Sch. 3 para. 30\(3\)\(a\)](#); S.I. 2014/3127, art. 2(a), Sch. Pt. 1
- F3** Word in s. 33(8) substituted (1.12.2014) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), [Sch. 3 para. 30\(3\)\(b\)](#); S.I. 2014/3127, art. 2(a), Sch. Pt. 1
- F4** Word in s. 33(9)(c) substituted (1.12.2014) by [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), [Sch. 3 para. 30\(3\)\(c\)](#); S.I. 2014/3127, art. 2(a), Sch. Pt. 1

*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

**Commencement Information**

**I30** S. 33 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

*Miscellaneous and supplementary*

**34 False or misleading statements or information**

- (1) A person who—
- (a) makes a false or misleading declaration or other statement under this Part knowing or believing it to be false or misleading, or
  - (b) provides false or misleading information under this Part knowing or believing it to be false or misleading,
- commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.

**Commencement Information**

**I31** S. 34 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**35 Guidance by Welsh Ministers**

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

**Commencement Information**

**I32** S. 35 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**36 Powers to charge fees: supplementary**

- (1) This section applies where a local authority proposes to charge a fee under section 6 or 13.
- (2) Before charging the fee, the local authority must prepare and publish a fees policy.
- (3) When fixing a fee for the purposes of section 6 or 13 the local authority—
- (a) must act in accordance with its fees policy,
  - (b) may fix different fees for different cases or descriptions of case, and
  - (c) may determine that no fee is required to be paid in certain cases or descriptions of case.
- (4) When fixing a fee for any of those purposes, the local authority may not take into account any costs incurred by it in exercising—
- (a) its functions under any of sections 15 to 25, or

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- (b) any function under any provision of this Act in relation to a site which is not a regulated site.
- (5) The local authority may revise its fees policy and, where it does so, must publish the policy as revised.

**Commencement Information**

**I33** S. 36 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**37 Registers of site licences**

- (1) Every local authority must keep a register of site licences issued in respect of land situated in the local authority's area.
- (2) The register is to be open for inspection by the public at all reasonable times.
- (3) Where under section 27 a local authority enters on a site licence a variation of any of the conditions of the site licence, the local authority must record that fact in the register of site licences.

**Commencement Information**

**I34** S. 37 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**38 Crown land**

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

**Commencement Information**

**I35** S. 38 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(b) (with art. 4)

**39 Interpretation**

- (1) In this Part—
- “development order” (“*gorchymyn datblygu*”) means an order made under section 59 of the Town and Country Planning Act 1990;
- F5  
...
- (2) Where land amounting to not more than 400 square metres in area is let under a tenancy entered into with a view to the use of the land as a regulated site, for the purposes of this Part “owner”, in relation to the land, means the person who would be entitled to possession of the land but for the rights of any person under that tenancy.
- (3) Any reference in this Part to the carrying out of works includes a reference to the planting of trees and shrubs and the carrying out of other operations for preserving or enhancing the amenity of land.



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*Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2. (See end of Document for details)*

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- (4) Any reference in this Part to planning permission is to be taken as a reference to planning permission whether or not restricted in any way or subject to any condition or limitation, and any reference in this Part of this Act to planning permission includes a reference to planning permission deemed to be granted or granted on the designation of an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980.

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**Textual Amendments**

- F5** Words in s. 39(1) omitted (1.12.2014) by virtue of [Housing \(Wales\) Act 2014 \(anaw 7\)](#), s. 145(3), [Sch. 3 para. 30\(4\)](#); [S.I. 2014/3127](#), art. 2(a), Sch. Pt. 1

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**Commencement Information**

- I36** S. 39 in force at 1.10.2014 by [S.I. 2014/11](#), [art. 3\(1\)\(b\)](#) (with [art. 4](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, PART 2.