
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies in Wales only, confers upon a residential property tribunal (“tribunal”) jurisdiction under the Mobile Homes Act 1983 (c. 34) (“the 1983 Act”) by modifying provisions contained in that Act and the Housing Act 2004 (“the 2004 Act”). The 1983 Act, which extends to England and Wales, and Scotland, applies to any agreement under which a person is entitled to station a mobile home on land forming part of a protected site and to occupy the mobile home as that person’s only or main residence.

The 1983 Act and the 2004 Act have been modified in England by the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011 (S.I. 2011/1005) as a consequence of conferring jurisdiction on tribunals in relation to England. This Order makes corresponding amendments to the 1983 Act as modified and to the 2004 Act as a consequence of conferring jurisdiction on tribunals in relation to Wales.

Article 3 makes amendments to the 1983 Act that are consequential to conferring jurisdiction on tribunals. In particular article 3(5) amends section 4 of the 1983 Act (which confers jurisdiction on courts) so that a tribunal has jurisdiction to determine any question arising under the 1983 Act or any agreement to which that Act applies and to entertain any proceedings brought under that Act or any such agreement in relation to a protected site situated in Wales. The only questions over which jurisdiction will remain with the court are those concerned with deciding whether an agreement may be terminated on any of the grounds in paragraphs 4, 5 or 5A(2)(b) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act (“the termination provisions”). Additionally, section 4 provides that where there is a pre-existing arbitration agreement the tribunal, rather than the arbitrator, will have jurisdiction to determine questions, including those arising under the termination provisions.

Article 3(7) amends the implied terms in Chapter 2 of Part 1 of Schedule 1 to the 1983 Act. These are the implied terms which apply to pitches on all protected sites in England and Wales except local authority gypsy and traveller sites. In particular—

- (a) amendments are made to paragraph 5A of Chapter 2 of Part 1 of Schedule 1 in relation to protected sites in Wales which provides for the court to retain jurisdiction to determine whether it is reasonable for a site owner, having regard to the tribunal’s findings of fact, to terminate an agreement where the mobile home is having a detrimental affect on the amenity of a site; and
- (b) paragraphs 8 and 17 of Chapter 2 of Part 1 of Schedule 1 are amended to place a time limit on an occupier’s right to make an appeal to the tribunal under those provisions. The tribunal may accept applications outside of the time limit if there are good reasons.

Article 4 makes amendments to the 2004 Act. Section 230(1) and (2) of the 2004 Act gives a residential property tribunal a general power by order to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue raised in or in connection with them. Article 4(2) inserts a new section 230(5A) into the 2004 Act which provides that when exercising jurisdiction under the 1983 Act the directions which may be given by a tribunal include those listed in that subsection. Article 4(3) amends Schedule 13 to the 2004 Act, in particular the level of costs which a tribunal may award in exceptional cases is amended so that the maximum for an application under the Mobile Homes Act 1983 is £5,000.

Article 5 makes transitional and saving provisions.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

An impact assessment has been prepared in respect of this instrument. A copy can be obtained from the Housing Directorate, Welsh Government, Merthyr Tydfil Office, Rhydycar, Merthyr Tydfil, CF48 1UZ.