

EXPLANATORY MEMORANDUM TO
THE MOBILE HOMES (SITE RULES) (ENGLAND) REGULATIONS 2014
2014 No. 5

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These Regulations set out the detail of the new procedure for making site rules, and the new requirements with which site rules must comply, under provisions inserted into the Mobile Homes Act 1983 (“the 1983 Act”) by the Mobile Homes Act 2013 (“the 2013 Act”). The Regulations aim to increase transparency in relation to site rules and prevent site owners from being able to use site rules inappropriately to the disadvantage of home owners (called “occupiers” in the 1983 Act).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The 2013 Act amends the law in relation to mobile homes, by making amendments to the Caravan Sites and Control of Development Act 1960, the Caravan Sites Act 1968 and the 1983 Act. These Regulations are one of a number of implementing statutory instruments. The Mobile Homes (Selling and Gifting) (England) Regulations¹ (“the Selling and Gifting Regulations”) came into force on 26th May 2013 and the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations² came into force on 26th July 2013. A further statutory instrument will follow in order to implement the details of the new provision in relation to site licensing, in time for the coming into force of the licensing provisions in sections 1 to 7 of the 2013 Act on 1st April 2014.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

¹ SI 2013/981

² SI 2013/1505

7. Policy background

7.1 There are approximately 2000 park home sites in England accommodating about 85,000 owner occupied homes. Although some sites do not have rules, many do, often relating to the permitted age of home owners, and the keeping of pets as well as other matters.

7.2 Rules can be an important aid in maintaining good estate management and community cohesion. However, there is evidence that rules, usually unilaterally imposed by site owners, have been used to oppress home owners' rights and sometimes to give site owners unfair advantages or economic benefits. Most of these rules have little to do with estate management or community cohesion. There has also been some doubt about the extent to which site rules are binding on both home owners and site owners.

7.3 A particular problem in the past has been that site rules were used as a means to interfere with and help in the blocking of sales of homes by their owners. Any site rules which were made prior to commencement of the 2013 Act ("pre-commencement rules") that relate to sale blocking ceased to have effect on the coming into force of the Selling and Gifting Regulations on 26 May 2013. These Regulations will also ban site owners from making new rules such as those:

- (a) which grant home owners certain rights, subject to the exercise of discretion by the site owner;
- (b) about any matter that would contravene the implied terms of a home owner's pitch agreement under the 1983 Act;
- (c) which restrict a home owner from obtaining goods and services, for example, bottled gas;
- (d) which require additional charges or deposits to be paid to the site owner and
- (e) which restrict home owners' rights over the site, such as in relation to visitors and vehicular access.

7.4 The policy is not, however, only concerned with restricting a site owner's ability to make unfair and oppressive rules. It is about ensuring site rules are made fairly, that home owners are engaged in that process and that when made the rules are transparent and are available for public inspection, having been deposited with the local authority. The policy is to ensure that once these rules have been deposited they will form part of the express terms of the pitch agreement and, therefore, bind both the home owner and the site owner. If in future the site owner wants to change the rules this can only be done through following the procedure prescribed in the Regulations.

7.5 Site owners will have a year from the coming into force of these Regulations in which to propose new site rules and consult with home owners and any qualifying residents' association about these rules, which will replace any existing rules, which were made prior to the commencement of the 2013 Act. At the end of the consultation process the site owner will need to tell the home owners the outcome and what the new rules will be. Once any appeals to the tribunal have been dealt with, the site owner must deposit any site rules with the local authority, paying a fee for the deposit which the local authority may determine. The site rules then become part of the

express terms of the pitch agreements for the plots on the site and are therefore enforceable as a contract term. If the site owner does not deposit the rules within the required time period, a home owner and any qualifying residents' association has the right to seek an order from the tribunal requiring them to be deposited.

7.6 In the consultation process the site owner will be required to use statutory forms to consult on the proposals and when notifying home owners of the consultation outcome and of the deposit made with the local authority. The proposal consultation form will list matters that cannot be included in the proposed new rules (i.e. banned rules) to avoid any doubt about their inclusion in the new rules.

7.7 Home owners or a qualifying residents' association, who object to the proposed rules, or consider that they have not been made in accordance with procedure, can apply to the First Tier Tribunal (Property Chamber). The grounds on which an appeal can be made are:

- (a) the site rule makes provision in relation to a banned matter;
- (b) the site owner has not complied with the statutory procedure;
- (c) the site owner's decision was unreasonable, particularly with regard to (i) representations received; (ii) relevant factors relating to the site and (iii) relevant planning permissions or site rules.

7.8 If an appeal is made, the rules cannot be deposited with the local authority until the appeal has been disposed of. If the tribunal allows an appeal, it can direct that the rules be re-made in accordance with the prescribed procedure (where the procedure was not followed) or quash or modify a proposal made by the site owner.

7.9 Any existing rules made before 26 May 2013 (called in the 1983 Act "pre-commencement rules") will continue to have effect for twelve months following the coming into force of these Regulations. However, where new site rules are deposited with the local authority before the end of this twelve month period, the existing rules will cease to have effect on the coming into force of the new site rules. Alternatively, if at the end of the twelve month period, there is still an outstanding appeal in relation to the site rules, the existing rules will continue to have effect until the appeal has been dealt with and thereafter new site rules come into force. Where there is not an appeal outstanding but a site owner has simply not managed to complete the consultation process before the end of the twelve month period, the existing rules will still cease to have effect at the end of the twelve month period. In that case the site will no longer have any rules, until such time as any new rules are made, in accordance with the prescribed procedure.

7.10 Regulation 19(3) repeals regulation 11 of the Selling and Gifting Regulations. That regulation provided that existing rules continued in force until 25 May 2014. It is superseded by regulation 15 of these regulations, which gives site owners a year in which to make new site rules, following the coming into force of these Regulations. This is in order to ensure that site owners have sufficient time in which to make any site rules, in accordance with the prescribed procedure.

7.11 The Regulations make provision for making site rules for sites where none are currently in force and also for varying, adding to or deleting existing site rules, through consultation with home owners and deposit with the local authority.

7.12 Regulation 18 amends Part 1 of Schedule 1 to the Mobile Homes (Written Statement) (England) Regulations 2011 (SI 2011/1006) to require that the notes in that part of the Schedule make relevant references to site rules.

7.13 Regulation 19 amends the Selling and Gifting Regulations to enable private registered providers of social housing to apply to the tribunal for a refusal order where the site has a policy in place for the allocation of pitches to gypsies and travellers, which the home owner would be contravening through the proposed sale or gift of the home. The right to seek a refusal order only applies in relation to home owners who moved onto their pitches before 26 May 2013. The purpose of this provision is to protect the private registered providers' allocation policy by preventing homes from being sold in situ in the open market.

8. Consultation outcome

8.1 In 2012, the Communities and Local Government Select Committee held an inquiry into the park homes sector. In its report published in June, the committee made recommendations about site rules and how they are made.

8.2 The Government consulted in the spring of 2012 on site rules. The consultation was aimed at park home owners, site owners and local authorities. Amongst other matters it sought views on whether (a) existing site owners should need to consult before changing rules; (b) new site owners should be prevented from imposing unilaterally new rules and (c) certain rules should be banned from being made. 266 responses were received to (a) of which only one site owner thought there should not be consultation. 275 consultees responded to (b) with only one site owner indicating that a new site owner should be able to impose rules. Of the 223 responses to (c) 212 consultees thought certain types of rules should be banned. We also asked whether site rules should be deposited with the local authority. 249 respondents thought they should and nine thought not

8.3 The consultation response document can be downloaded from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11086/2238637.pdf .

8.4 We consulted informally with home owners, industry and local authority on the details of the Regulations during the late summer of 2013. We received 74 responses which have significantly helped inform the detailed provisions for applying the site rule scheme as set out in the Regulations drafting his.

9. Guidance

9.1 No formal guidance is planned to be published. However, DCLG published leaflets in June, targeted at all home owners, explaining the changes introduced by 2013 Act, including that the law on site rules was to change. We will shortly be publishing a fact sheet on the scheme for making site rules on the Government website. DCLG has also launched a telephone advice line

operated by the Leasehold Advisory Service through which site owners and home owners will be able to obtain initial advice on their rights and responsibilities.

10. Impact

10.1 No separate Impact Assessment has been prepared for this instrument because an Impact Assessment has been prepared for the changes introduced by the 2013 Act. This envisages an overall net benefit of £1.87 million per annum and cost to business by measures directly impacting of £0.2 million. A copy of the Impact Assessment can be downloaded from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15288/121120_4_MHA_83_IA_for_publication_final_3.pdf.

11. Regulating small business

11.1 The measures in these Regulations will have an impact upon small businesses as most mobile home site owners are small or micro businesses. Clearance from BIS and HM Treasury was obtained to bring into force certain sections of the Act ahead of the end of the moratorium on regulation of micro businesses on 31st March 2014.

12. Monitoring & review

12.1 A review of all the amendments brought in by 2013 Act will be carried out in 2017, three years after commencement of the licensing provisions in sections 1 to 7 of the 2013 Act, on 1st April 2014.

13. Contact

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Tel: 0303 444 3701 or email: Robert.skeoch@communities.gsi.gov.uk can answer any queries regarding the instrument.