

**EXPLANATORY MEMORANDUM TO
THE MOBILE HOMES (WRITTEN STATEMENT) (ENGLAND)
REGULATIONS 2011**

2011 No. 1006

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 This Instrument specifies the form of, and the additional matters which must be included in, a written statement which must be given to a person who enters into an agreement to which the Mobile Homes Act 1983 (“the 1983 Act”) applies entitling the person to station a mobile home and occupy it on a protected site. It revokes the Mobile Homes (Written Statement) (England) Regulations 2006.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 1(2) of the 1983 Act provides that before making an agreement to which the 1983 Act applies, the owner of the protected site shall give to the proposed occupier of the site a written statement of the agreement. Section 1(2) (a) to (d) sets out what the agreement should include and in section 1(2)(e) that the statement must comply with other such requirements as may be prescribed by regulations.

4.2 The provisions in this instrument make changes to the form and content of the written statement that are consequential to the Order commencing section 318 of the Housing and Regeneration Act 2008 (“the 2008 Act”), the Mobile Homes Act 1983 (Amendments of Schedule 1 and Consequential Amendments) (England) Order 2011, the Housing and Regeneration Act 2008 (Consequential Amendments to the Mobile Homes Act 1983) Order 2011 and the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011.

4.3 Section 318 of the 2008 Act removes the exclusion of local authority Gypsy and Traveller sites from the 1983 Act. On the commencement of section 318 of the 2008 Act new sets of implied terms will be inserted into Schedule 1 to the 1983 Act by the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) Order 2011, although the set of implied terms for sites other than local authority sites is substantively

unchanged. The Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011 transfers most of the jurisdiction to determine proceedings and disputes under the 1983 Act from county courts to Residential Property Tribunals.

4.4 The instrument revokes the Mobile Homes (Written Statement) (England) Regulations 2006 and will come into force on 30 April 2011.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales but applies to written statements given in relation to agreements to which the 1983 Act applies entitling a person to station a mobile home and occupy it on a protected site in England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The 1983 Act provides that before entering into an agreement to station a mobile home on a site, the site owner is required to give the potential occupier a written statement setting out certain information and the core terms of the agreement.

7.2 The written statement must contain certain information, including the names and addresses of the parties to the agreement; the particulars of the land to which it applies; the express terms of the agreement and those implied into it by the 1983 Act and such other information that may be prescribed by regulations. The form of the statement may also be prescribed by the instrument.

7.3 The Schedule to the Regulations sets out the form in which the statement must be given so that the occupier is made aware of the contractual terms and information on their rights. It contains the additional information that needs to be provided to the occupier explaining the occupier's rights; what is meant by "implied" and "express" terms; the right to seek additional terms and the rules about unfair terms, disputes and arbitration.

7.4 On 30 January three affirmative orders were laid in Parliament, two of which made amendments to the 1983 Act that will apply when its provisions are applied to local authority Gypsy and Traveller sites by section 318 of the Housing and Regeneration Act 2008. The third order transfers most dispute resolution under the 1983 Act (including those that arise on privately owned mobile home sites as well as local authority Gypsy and Traveller sites) from county courts to residential property tribunals. These orders¹ will come into

¹ These orders are:

force on 30 April 2011 following the commencement of section 318 of the 2008 Act. Separate explanatory memorandum and impact assessments were prepared in connection with those orders.

7.5 The changes to these Regulations (as compared to the 2006 Written Statement Regulations) are consequential on those Orders, having been made to reflect that written statements must be provided to occupiers of local authority Gypsy and Traveller sites, who are subject to different implied terms, and that a new system for dispute resolution will be in place- i.e. through residential property tribunals. Most of these consequential changes apply to the information provided in Part 1 of the Schedule to the Regulations.

8. Consultation outcome

8.1 There was no specific consultation on this Instrument. As noted in paragraph 7.5 above the changes from the 2006 Regulations are consequential on the amendments made to the 1983 Act by the related secondary legislation mentioned in paragraph 7.4 above, for which there were a number of separate consultations.

9. Guidance

9.1 There is no proposal to issue any guidance for this instrument.

10. Impact

10.1 No impact assessment has been prepared for the instrument since it does not place any regulatory burden on businesses or local authorities. It is the application of the 1983 Act to local authority Gypsy and Traveller sites which imposes the additional burden on local authorities to provide a written statement. This has been considered in the impact assessment which was prepared for the related Gypsy and Traveller Orders referred to in paragraph 7.4 above.

11. Regulating small business

11.1 Many privately owned mobile home sites are operated by small businesses. In the case of privately owned sites the requirement to give a written statement only arises when the site owner enters into an agreement with an occupier himself. It does not apply to second hand sales ie where an existing resident sells his mobile home and the right to station it on the pitch to a third party. As first hand sales are a relatively small proportion of the overall turnover of homes on a site the burden on owners to provide this information is not significant. However, as mentioned in paragraph 10.1 the burden, such that it is, is placed by the requirement in the 1983 Act to provide

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- the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 and The Housing and Regeneration Act 2008 (Consequential Amendments to the Mobile Homes Act 1983) Order 2011
 - the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011

the statement - not the Instrument per se, which merely makes a number of small changes to the form and content of the written statement.

12 Monitoring & review

12.1 The Department will review the continuing need for these regulations three years after the application of the 1983 Act to Gypsy and Traveller sites.

13. Contact

Philip Davies at the Department for Communities and Local Government Tel: 0303 444 2081 or e-mail: philip.davies@communities.gov.uk can answer any queries regarding the instrument.