



OFFERYNNAU STATUDOL
CYMRU

2012 Rhif 899 (Cy.119)

**CARTREFI SYMUDOL,
CYMRU**

Gorchymyn Deddf Cartrefi
Symudol 1983 (Awdurdodaeth
Tribiwnlysoedd Eiddo Preswyl)
(Cymru) 2012

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn, sy'n gymwys yng Nghymru'n unig, yn rhoi i dribiwnlys eiddo preswyl ("tribiwnlys") awdurdodaeth o dan Ddeddf Cartrefi Symudol 1983 (p. 34) ("Deddf 1983") drwy addasu darpariaethau sydd wedi eu cynnwys yn y Ddeddf honno a Deddf Tai 2004 ("Deddf 2004"). Mae Deddf 1983, sy'n rhychwantu Cymru a Lloegr, a'r Alban, yn gymwys i unrhyw gytundeb y mae gan berson hawl oddi tano i osod cartref symudol ar dir sy'n rhan o safle gwarchoddedig ac i feddiannu'r cartref symudol fel ei unig neu brif breswylfa.

Mae Deddf 1983 a Deddf 2004 wedi eu haddasu yn Lloegr gan Ddeddf Cartrefi Symudol 1983 (Awdurdodaeth Tribiwnlysoedd Eiddo Preswyl) (Lloegr) 2011 (O.S. 2011/1005) o ganlyniad i roi awdurdodaeth i dribiwnlysoedd mewn perthynas â Lloegr. Mae'r Gorchymyn hwn yn gwneud diwygiadau cyfatebol i Ddeddf 1983 fel y'i haddaswyd ac i Ddeddf 2004 o ganlyniad i roi awdurdodaeth i dribiwnlysoedd mewn perthynas â Chymru.

Mae erthygl 3 yn gwneud diwygiadau i Ddeddf 1983 sy'n ganlyniad i roi awdurdodaeth i dribiwnlysoedd. Yn benodol, mae erthygl 3(5) yn diwygio adran 4 o Ddeddf 1983 (sy'n rhoi awdurdodaeth i'r llysoedd) fel bod gan dribiwnlys awdurdodaeth i benderfynu unrhyw gwestiwn sy'n codi o dan Ddeddf 1983 neu unrhyw gytundeb y mae'r Ddeddf honno yn gymwys iddo ac i ystyried unrhyw achos a ddygir o dan y Ddeddf honno neu unrhyw gytundeb o'r fath mewn perthynas â safle gwarchoddedig sydd wedi ei leoli yng

WELSH STATUTORY
INSTRUMENTS

2012 No. 899 (W.119)

**MOBILE HOMES,
WALES**

The Mobile Homes Act 1983
(Jurisdiction of Residential
Property Tribunals) (Wales) Order
2012

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

Nghymru. Yr unig gwestiynau y bydd awdurdodaeth drostynt yn parhau i berthyn i'r llys yw'r rhai sy'n ymwneud â phenderfynu a ganiateir i gytundeb gael ei derfynu ar unrhyw un neu rai o'r seiliau ym mharagraffau 4, 5 neu 5A(2)(b) o Bennod 2 o Ran 1 o Atodlen 1 i Ddeddf 1983 ("y darpariaethau terfynu"). Yn ychwanegol, pan fo cytundeb cymrodeddu eisoes yn bod, mae adran 4 yn darparu mai gan y tribiwnlys, yn hytrach na'r cymrodeddwr, y bydd awdurdodaeth i benderfynu cwestiynau, gan gynnwys y rhai sy'n codi o dan y darpariaethau terfynu.

Mae erthygl 3(7) yn diwygio'r telerau sydd ymhlyg ym Mhennod 2 o Ran 1 o Atodlen 1 i Ddeddf 1983. Telerau ymhlyg yw'r rhain sy'n gymwys i leiniau ar bob safle gwarchoddedig yng Nghymru a Lloegr ac eithrio safleoedd sipsiwn a theithwyr awdurdodau lleol. Yn benodol—

- (a) mae diwygiadau wedi eu gwneud i baragraff 5A o Bennod 2 o Ran 1 o Atodlen 1, o ran safleoedd gwarchoddedig yng Nghymru, sy'n darparu bod y llys yn cadw'r awdurdodaeth i benderfynu a yw'n rhesymol i berchennog safle, o ystyried canfyddiadau ffeithiol y tribiwnlys, derfynu cytundeb pan fo'r cartref symudol yn cael effaith niweidiol ar amwynder safle; a
- (b) mae paragraffau 8 a 17 o Bennod 2 o Ran 1 o Atodlen 1 wedi eu diwygio i osod terfyn amser ar hawl meddiannydd i wneud apêl i'r tribiwnlys o dan y darpariaethau hynny. Caiff y tribiwnlys dderbyn ceisiadau y tu allan i'r terfyn amser os oes rhesymau da dros wneud hynny.

Mae erthygl 4 yn gwneud diwygiadau i Ddeddf 2004. Mae adran 230(1) a (2) o Ddeddf 2004 yn rhoi i dribiwnlys eiddo preswyl bŵer cyffredinol drwy orchymyn i roi unrhyw gyfarwyddiadau y mae'r tribiwnlys yn barnu eu bod yn angenrheidiol neu'n ddymunol i sicrhau bod yr achos neu unrhyw fater sy'n cael ei godi ynddo neu mewn cysylltiad ag ef yn cael ei benderfynu'n gyfiawn, yn hwylus ac yn ddarvoudus. Mae erthygl 4(2) yn mewnosod adran 230(5A) newydd yn Neddf 2004 sy'n darparu, pan fo awdurdodaeth yn cael ei harfer o dan Ddeddf 1983, bod y cyfarwyddiadau y caiff tribiwnlys eu rhoi yn cynnwys y rhai a restrir yn yr is-adran honno. Mae erthygl 4(3) yn diwygio Atodlen 13 i Ddeddf 2004, ac yn benodol mae lefel y costau y caiff tribiwnlys eu dyfarnu mewn achosion eithriadol wedi ei diwygio fel bod yr uchafswm am gais o dan Ddeddf Cartrefi Symudol 1983 yn £5,000.

Mae erthygl 5 yn gwneud darpariaethau trosiannol a darpariaethau arbed.

Mae asesiad effaith wedi ei baratoi mewn cysylltiad â'r offeryn hwn. Gellir cael copi gan y Gyfarwyddiaeth Tai, Llywodraeth Cymru, Swyddfa Merthyr Tudful, Rhyd-y-car, Merthyr Tudful, CF48 1UZ.

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.

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, Rhydy-car, Merthyr Tydfil, CF48 1UZ.

2012 Rhif 899 (Cy.119)

2012 No. 899 (W.119)

**CARTREFI SYMUDOL,
CYMRU**

**MOBILE HOMES,
WALES**

Gorchymyn Deddf Cartrefi
Symudol 1983 (Awdurdodaeth
Tribiwnlysoedd Eiddo Preswyl)
(Cymru) 2012

The Mobile Homes Act 1983
(Jurisdiction of Residential
Property Tribunals) (Wales) Order
2012

Gwnaed 20 Mawrth 2012
Yn dod i rym 21 Mawrth 2012

Made 20 March 2012
Coming into force 21 March 2012

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adrannau 229(3) a (4) a 250(2) o Ddeddf Tai 2004(1) yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred on them by sections 229(3) and (4) and 250(2) of the Housing Act 2004(1) make the following Order.

Mae drafft o'r offeryn hwn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy benderfyniad ganddo yn unol ag adran 250(6) o Ddeddf Tai 2004 a pharagraff 34 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

A draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales in accordance with section 250(6) of the Housing Act 2004 and paragraph 34 of Schedule 11 to the Government of Wales Act 2006.

Enwi, cychwyn a dehongli

Title, commencement and interpretation

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Cartrefi Symudol 1983 (Awdurdodaeth Tribiwnlysoedd Eiddo Preswyl) (Cymru) 2012 a daw i rym ar 21 Mawrth 2012.

1.—(1) The title of this Order is the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012 and it comes into force on 21 March 2012.

(2) Yn y Gorchymyn hwn—

(2) In this Order—

ystyr "Deddf 1983" ("*the 1983 Act*") yw Deddf Cartrefi Symudol 1983(2); ac

"the 1983 Act" ("*y Ddeddf 1983*") means the Mobile Homes Act 1983(2); and

(1) 2004 p. 34. Mae'r pwerau a roddwyd gan adran 229(3) a (4) o Ddeddf Tai 2004 yn arferadwy, yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 gan Weinidogion Cymru. *Gweler* y diffiniad o'r "appropriate national authority" yn adran 261(1) o Ddeddf 2004.

(1) 2004 c. 34. The powers conferred by section 229(3) and (4) of the Housing Act 2004 are exercisable, by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 by the Welsh Ministers. *See* the definition of the "appropriate national authority" in section 261(1) of the 2004 Act.

(2) 1983 p. 34. Mae Deddf 1983 yn rhychwantu Cymru a Lloegr a'r Alban. Mae wedi ei diwygio'n sylweddol, o ran Cymru a Lloegr, gan adrannau 206 i 208 o Ddeddf Tai 2004 a chan Orchymyn Deddf Cartrefi Symudol 1983 (Diwygio Atodlen 1) (Cymru) 2007 (O.S. 2007/3151 (Cy.268)) o ran Cymru.

(2) 1983 c. 34. The 1983 Act extends to England and Wales and Scotland. It has been substantially amended, in relation to England and Wales, by sections 206 to 208 of the Housing Act 2004 and by the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I. 2007/3151 (W. 268)) in relation to Wales.

ystyr "y dyddiad cychwyn" ("*the commencement date*") yw'r dyddiad y mae'r Gorchymyn hwn yn dod i rym.

"the commencement date" ("*y dyddiad cychwyn*") means the day on which this Order comes into force.

Awdurdodaeth tribiwnlysoedd eiddo preswyl mewn perthynas â chartrefi symudol

2. Mae'r awdurdodaeth o dan Ddeddf 1983 a bennir yn rhinwedd y diwygiadau a wnaed i'r Ddeddf honno ac i Ddeddf Tai 2004 gan y Gorchymyn hwn wedi ei rhoi i dribiwnlys eiddo preswyl.

Jurisdiction of residential property tribunals in relation to mobile homes

2. A residential property tribunal has conferred on it such jurisdiction under the 1983 Act as is specified by virtue of the amendments made to that Act and to the Housing Act 2004 by this Order.

Diwygio Deddf 1983

3.—(1) Mae Deddf 1983 wedi ei diwygio yn unol â'r paragraffau canlynol.

(2) Yn adran 1(5) a (6) (manyllion cytundebau) yn lle "court" rhodder "appropriate judicial body".

(3) Yn adran 2 (telerau cytundebau) yn is-adrannau (2), (3) a (4) yn lle "court", pryd bynnag y mae'n ymddangos, rhodder "appropriate judicial body".

(4) Yn adran 2A (pŵer i ddiwygio telerau ymhlwg) yn is-adran (3)(a) ar ôl "the court", yn y ddau le, mewnosoder "or a tribunal".

(5) Yn adran 4 (awdurdodaeth tribiwnlys neu'r llys: Cymru a Lloegr)—

(a) yn is-adrannau (1) a (3), ar ôl "England" mewnosoder "or in Wales";

(b) hepgorer is-adran (7).

(6) Yn is-adran (1) o adran 5 (dehongli)—

(a) o flaen y diffiniad o "the appropriate national authority" mewnosoder—

""the appropriate judicial body" means whichever of the court or a tribunal has jurisdiction under section 4;"

(b) ar ôl y diffiniad o "the appropriate national authority" mewnosoder—

""arbitration agreement" means an agreement in writing to submit to arbitration any question arising under this Act or any agreement to which it applies;"

(c) yn y diffiniad o "the court" ym mharagraff (a) yn lle'r geiriau o "agreed" i "arbitration" rhodder "entered into an arbitration agreement that applies to the question to be determined", ac

(ch) ar ôl y diffiniad o "protected site" mewnosoder—

Amendments to the 1983 Act

3.—(1) The 1983 Act is amended in accordance with the following paragraphs.

(2) In section 1(5) and (6) (particulars of agreements) for "court" substitute "appropriate judicial body".

(3) In section 2 (terms of agreements) in subsections (2), (3) and (4) for "court", wherever it appears, substitute "appropriate judicial body".

(4) In section 2A (power to amend implied terms) in subsection (3)(a) after "the court", in both places, insert "or a tribunal".

(5) In section 4 (jurisdiction of a tribunal or the court: England and Wales)—

(a) in subsections (1) and (3), after "England" insert "or in Wales";

(b) omit subsection (7).

(6) In subsection (1) of section 5 (interpretation)—

(a) before the definition of "the appropriate national authority" insert—

""the appropriate judicial body" means whichever of the court or a tribunal has jurisdiction under section 4;"

(b) after the definition of "the appropriate national authority" insert—

""arbitration agreement" means an agreement in writing to submit to arbitration any question arising under this Act or any agreement to which it applies;"

(c) in the definition of "the court" in paragraph (a) for the words from "agreed" to "arbitration" substitute "entered into an arbitration agreement that applies to the question to be determined", and

(d) after the definition of "protected site" insert—

""a tribunal" means a residential property tribunal(1) or, where the parties have entered into an arbitration agreement that applies to the question to be determined and that question arose before the agreement was made, the arbitrator."

(7) Ym Mhennod 2 o Ran 1 o Atodlen 1 (cytundebau sy'n ymwneud â lleiniau yng Nghymru a Lloegr ac eithrio lleiniau yn Lloegr ar safleoedd sipsiwn a theithwyr awdurdodau lleol a safleoedd sipsiwn a theithwyr cynghorau sir)—

- (a) ym mharagraff 1 (cyfnod y cytundeb) yn lle "or 6" rhodder "or 5A",
- (b) ym mharagraff 4 (terfynu gan y perchennog) yn lle "court" rhodder "appropriate judicial body",
- (c) ym mharagraff 5 (terfynu gan y perchennog) yn lle "court" rhodder "appropriate judicial body",
- (ch) ym mharagraff 5A, hepgorer is-baragraff (1),
- (d) hepgorer paragraff 6,
- (dd) ym mharagraff 8 (gwerthu cartref symudol i berson a gymeradwywyd gan y perchennog)—
 - (i) yn is-baragraff (1E), yn lle "court", pryd bynnag y mae'n ymddangos, rhodder "appropriate judicial body", a
 - (ii) ar ôl is-baragraff (1G), mewnosoder—

"(1H) Subject to sub-paragraph (1I), an application to a tribunal under sub-paragraph (1E) by an occupier must be made—

- (a) within the period of three months beginning with the day after the date on which the occupier receives notice of the owner's decision under sub-paragraph (1B); or
- (b) where the occupier receives no notice from the owner as required by sub-paragraph (1B), within the period of three months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1A).

(1I) A tribunal may permit an application under sub-paragraph (1E) to be made to the tribunal after the applicable period specified in sub-paragraph (1H) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply before the end of that period and for any delay since then in applying for permission to make the application out of time."

""a tribunal" means a residential property tribunal(1) or, where the parties have entered into an arbitration agreement that applies to the question to be determined and that question arose before the agreement was made, the arbitrator."

(7) In Chapter 2 of Part 1 of Schedule 1 (agreements relating to pitches in England and Wales except pitches in England on local authority gypsy and traveller sites and county council gypsy and traveller sites)—

- (a) in paragraph 1 (duration of agreement) for "or 6" substitute "or 5A",
- (b) in paragraph 4 (termination by owner) for "court" substitute "appropriate judicial body",
- (c) in paragraph 5 (termination by owner) for "court" substitute "appropriate judicial body",
- (d) in paragraph 5A, omit sub-paragraph (1),
- (e) omit paragraph 6,
- (f) in paragraph 8 (sale of mobile home to a person approved by the owner)—
 - (i) in sub-paragraph (1E), for "court", wherever it appears, substitute "appropriate judicial body", and
 - (ii) after sub-paragraph (1G), insert—

"(1H) Subject to sub-paragraph (1I), an application to a tribunal under sub-paragraph (1E) by an occupier must be made—

- (a) within the period of three months beginning with the day after the date on which the occupier receives notice of the owner's decision under sub-paragraph (1B); or
- (b) where the occupier receives no notice from the owner as required by sub-paragraph (1B), within the period of three months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1A).

(1I) A tribunal may permit an application under sub-paragraph (1E) to be made to the tribunal after the applicable period specified in sub-paragraph (1H) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply before the end of that period and for any delay since then in applying for permission to make the application out of time."

(1) Drwy adran 229 o Ddeddf Tai 2004 (p. 34) caniateir i unrhyw awdurdodaeth tribiwnlys eiddo preswyl gan neu o dan ddeddfiad gael ei harfer gan bwyllgor asesu rhenti sydd wedi ei gyfansoddi'n unol ag Atodlen 10 i Ddeddf Rhenti 1977 (p. 42).

(1) By section 229 of the Housing Act 2004 (c. 34) any jurisdiction of a residential property tribunal by or under an enactment may be exercised by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).

- (e) ym mharagraff 9 (rhodd cartref symudol), yn is-baragraff (2) yn lle "(1G)" rhodder "(1I)",
- (f) ym mharagraff 10 (ail-leoli cartref symudol), yn is-baragraffau (1)(a) a (2), yn lle "court" rhodder "appropriate judicial body",
- (ff) ym mharagraff 16 (y ffi llain), ym mharagraff (b), yn lle "court" rhodder "appropriate judicial body",
- (g) ym mharagraff 17 (adolygu'r ffi llain)—
 - (i) yn lle "court", pryd bynnag y mae'n ymddangos, rhodder "appropriate judicial body",
 - (ii) yn is-baragraff (5) hepgorer y geiriau "in the case of an application in relation to a protected site in England",
 - (iii) yn is-baragraff (9) hepgorer y geiriau "in the case of an application in relation to a protected site in England", a
 - (iv) yn is-baragraff (9A) hepgorer y geiriau "in relation to a protected site in England",
- (ng) ym mharagraff 18 (penderfynu ffi llain), yn is-baragraff (1)(a)(iii), yn lle "court" rhodder "appropriate judicial body",
- (h) ym mharagraff 19 (penderfynu ffi llain), yn is-baragraff (2) hepgorer y geiriau "In the case of a protected site in England", ac
- (i) ym mharagraff 28 (cymdeithas preswylwyr cymwys), yn is-baragraff (1)(h), yn lle "court" rhodder "appropriate judicial body".

(8) Ym mhennawd Rhan 2 o Atodlen 1 (materion y gall telerau gael eu hymhlygu amdanynt gan lys) yn lle "court" rhodder "appropriate judicial body".

Diwygio Deddf Tai 2004

4.—(1) Mae Deddf Tai 2004 wedi ei diwygio yn unol â'r paragraffau canlynol.

(2) Yn adran 230 (pwerau a gweithdrefn tribiwnlysoedd eiddo preswyl) ar ôl is-adran (5) mewnosoder—

"(5A) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by a tribunal under its general power include (where appropriate)—

- (a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;
- (b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as can be specified in the directions;
- (c) directions requiring cleaning, repairs, restoration, re-positioning or other works

- (g) in paragraph 9 (gift of mobile home), in sub-paragraph (2) for "(1G)" substitute "(1I)",
- (h) in paragraph 10 (re-siting of mobile home), in sub-paragraphs (1)(a) and (2), for "court" substitute "appropriate judicial body",
- (i) in paragraph 16 (the pitch fee), in paragraph (b), for "court" substitute "appropriate judicial body",
- (j) in paragraph 17 (pitch fee review)—
 - (i) for "court", wherever it appears, substitute "appropriate judicial body",
 - (ii) in sub-paragraph (5) omit the words "in the case of an application in relation to a protected site in England",
 - (iii) in sub-paragraph (9) omit the words "in the case of an application in relation to a protected site in England", and
 - (iv) in sub-paragraph (9A) omit the words "in relation to a protected site in England",
- (k) in paragraph 18 (pitch fee determination), in sub-paragraph (1)(a)(iii), for "court" substitute "appropriate judicial body",
- (l) in paragraph 19 (pitch fee determination), in sub-paragraph (2) omit the words "In the case of a protected site in England", and
- (m) in paragraph 28 (qualifying residents' association), in sub-paragraph (1)(h), for "court" substitute "appropriate judicial body".

(8) In the heading of Part 2 of Schedule 1 (matters concerning which terms can be implied by court) for "court" substitute "appropriate judicial body".

Amendments to the Housing Act 2004

4.—(1) The Housing Act 2004 is amended in accordance with the following paragraphs.

(2) In section 230 (powers and procedure of residential property tribunals) after subsection (5) insert—

"(5A) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by a tribunal under its general power include (where appropriate)—

- (a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;
- (b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as can be specified in the directions;
- (c) directions requiring cleaning, repairs, restoration, re-positioning or other works

to be carried out in connection with a mobile home, pitch or the protected site in such manner as may be specified in the directions;

- (d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.

(5B) In subsection (5A)—

"mobile home" and "protected site" have the same meaning as in the Mobile Homes Act 1983 (see section 5 of that Act);

"pitch" has the meaning given by paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to that Act;

"pitch fee" has the meaning given in paragraph 29 of Chapter 2, paragraph 13 of Chapter 3, or paragraph 27 of Chapter 4, of Part 1 of Schedule 1 to that Act, as the case may be."

(3) Yn Atodlen 13 (tribiwnlysoedd eiddo preswyl: y weithdrefn)—

- (a) yn lle'r pennawd mewn llythrennau italig sydd o flaen paragraff 2, rhodder "Applications and appeals",
- (b) ym mharagraff 3 (trosglwyddiadau) yn is-baragraff (6) ar ôl "this Act" mewnosoder "or the Mobile Homes Act 1983",
- (c) ym mharagraff 8 (rhyddhad ychwanegol) yn is-baragraff (2) ar ôl y geiriau "this Act" mewnosoder "or any provision of the Mobile Homes Act 1983", ac
- (ch) ym mharagraff 12 (costau) yn is-baragraff (3)(a) ar ôl "£500" mewnosoder "or, in the case of an application to a tribunal under the Mobile Homes Act 1983, £5,000".

Darpariaethau trosiannol a darpariaethau arbed

5.—(1) Yn ddarostyngedig i'r canlynol, mae'r diwygiadau a wnaed gan y Gorchymyn hwn yn gymwys o ran cytundeb mewn cysylltiad â thir sy'n rhan o safle gwarchoddedig yng Nghymru y mae Deddf 1983 yn gymwys iddo a hwnnw'n gytundeb a wnaed cyn i'r Gorchymyn hwn ddod i rym yn ogystal ag o ran cytundeb o'r fath a wnaed ar y dyddiad y daeth y Gorchymyn hwn i rym neu ar ôl hynny.

(2) Nid yw unrhyw ddiwygiad a wnaed gan y Gorchymyn hwn yn effeithio ar ddilysrwydd unrhyw beth a wnaed gan y llys cyn i'r Gorchymyn ddod i rym.

(3) Nid yw'r diwygiadau a wnaed gan y Gorchymyn hwn yn gymwys—

- (a) at ddibenion unrhyw achos a gychwynwyd,

to be carried out in connection with a mobile home, pitch or the protected site in such manner as may be specified in the directions;

- (d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.

(5B) In subsection (5A)—

"mobile home" and "protected site" have the same meaning as in the Mobile Homes Act 1983 (see section 5 of that Act);

"pitch" has the meaning given by paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to that Act;

"pitch fee" has the meaning given in paragraph 29 of Chapter 2, paragraph 13 of Chapter 3, or paragraph 27 of Chapter 4, of Part 1 of Schedule 1 to that Act, as the case may be."

(3) In Schedule 13 (residential property tribunals: procedure)—

- (a) for the italic heading before paragraph 2 substitute "Applications and appeals",
- (b) in paragraph 3 (transfers) in sub-paragraph (6) after "this Act" insert "or the Mobile Homes Act 1983",
- (c) in paragraph 8 (additional relief) in sub-paragraph (2) after the words "this Act" insert "or any provision of the Mobile Homes Act 1983", and
- (d) in paragraph 12 (costs) in sub-paragraph (3)(a) after "£500" insert "or, in the case of an application to a tribunal under the Mobile Homes Act 1983, £5,000".

Transitional and saving provisions

5.—(1) Subject as follows, the amendments made by this Order apply in relation to an agreement in respect of land forming part of a protected site in Wales to which the 1983 Act applies which was made before the coming into force of this Order as well as in relation to such an agreement made on or after the coming into force of this Order.

(2) No amendment made by this Order affects the validity of anything done by the court before the coming into force of the Order.

(3) The amendments made by this Order do not apply—

- (a) for the purposes of any proceedings begun, or

nac unrhyw geisiadau a wnaed i'r llys cyn i'r Gorchymyn hwn ddod i rym, neu

- (b) o ran unrhyw fater sy'n destun unrhyw achos a gychwynwyd, nac unrhyw geisiadau a wnaed i'r llys, cyn i'r Gorchymyn hwn ddod i rym.

(4) Mae paragraff (5) yn gymwys os yw unrhyw un o'r canlynol yn wir cyn i'r Gorchymyn hwn ddod i rym—

- (a) bod meddiannydd safle gwarchoddedig yng Nghymru wedi cyflwyno archiad i berchennog o dan baragraff 8(1A) o Bennod 2 o Ran 1 o Atodlen 1 i Ddeddf 1983 (neu'r paragraff hwnnw fel y'i cymhwysir gan baragraff 9(2) o'r Bennod honno) ond nad oes unrhyw gais ynglŷn â'r archiad hwnnw wedi ei wneud i'r llys o dan baragraff 8(1E) o Bennod 2 (neu'r paragraff hwnnw fel y'i cymhwysir gan baragraff 9(2) o'r Bennod honno),
- (b) bod perchennog safle gwarchoddedig yng Nghymru wedi cyflwyno hysbysiad o dan baragraff 17(2) o Bennod 2 ond nad oes unrhyw gais ynglŷn â'r hysbysiad hwnnw wedi ei wneud i'r llys o dan baragraff 17(4) o'r Bennod honno, neu
- (c) bod perchennog safle gwarchoddedig yng Nghymru wedi cyflwyno hysbysiad o dan baragraff 17(6)(b) o Bennod 2 yr Atodlen honno ond nad oes unrhyw gais ynglŷn â'r hysbysiad hwnnw wedi ei wneud i'r llys o dan baragraff 17(8) o'r Bennod honno.

(5) Os yw'r cais i'r llys a grybwyllwyd ym mharagraff (4)(a), (b) neu (c) wedi ei wneud ar neu cyn y dyddiad sy'n flwyddyn ar ôl y dyddiad cychwyn, ni fydd y diwygiadau a wnaed gan y Gorchymyn hwn yn gymwys mewn perthynas â'r cais hwnnw.

(6) Nid yw'r diwygiadau a wnaed gan erthygl 3(2) a (3), i'r graddau y maent yn ymwneud â darpariaethau Deddf 1983 a fewnosodwyd gan adran 206(1) neu (2) o Ddeddf Tai 2004, yn gymwys mewn perthynas â chytundebau cyn 2005.

(7) Ond, mewn perthynas â chytundebau cyn 2005, mae adrannau 1 a 2 o Ddeddf 1983, fel y maent yn gymwys i'r cytundebau hynny, yn cael effaith fel petai'r cyfeiriadau at y llys yn gyfeiriadau at dribiwnlys.

(8) Yn y modd y mae'n gymwys i gytundebau y mae Deddf 1983 yn gymwys iddynt a'r rheini'n gytundebau a wnaed cyn i'r Gorchymyn hwn ddod i rym, mae'r Gorchymyn hwn yn cael effaith fel petai'r canlynol wedi ei wneud—

- (a) yn adran 4(3)(a), a fewnosodwyd gan erthygl 3(5) yn Neddf 1983, bod y geiriau "paragraph 4, 5 or 5A(2)(b) of Chapter 2, or" a "Chapter 4 of" wedi eu hepgor, a
- (b) yng ngeiriau agoriadol erthygl 3(7), bod y geiriau "Chapter 2 of" wedi eu hepgor.

applications made to the court, before the coming into force of this Order, or

- (b) in relation to any matter which is the subject of any proceedings begun, or applications made to the court, before the coming into force of this Order.

(4) Paragraph (5) applies if, before the coming into force of this Order—

- (a) an occupier of a protected site in Wales has served a request on an owner under paragraph 8(1A) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act (or that paragraph as applied by paragraph 9(2) of that Chapter) but no application relating to that request has been made to the court under paragraph 8(1E) of Chapter 2 (or that paragraph as applied by paragraph 9(2) of that Chapter),
- (b) an owner of a protected site in Wales has served a notice under paragraph 17(2) of Chapter 2 but no application relating to that notice has been made to the court under paragraph 17(4) of that Chapter, or
- (c) an owner of a protected site in Wales has served a notice under paragraph 17(6)(b) of Chapter 2 of that Schedule but no application relating to that notice has been made to the court under paragraph 17(8) of that Chapter.

(5) If the application to the court mentioned in paragraph (4)(a), (b) or (c) is made on or before the date which is one year after the commencement date, then the amendments made by this Order do not apply in relation to it.

(6) The amendments made by article 3(2) and (3), so far as they relate to provisions of the 1983 Act which were inserted by section 206(1) or (2) of the Housing Act 2004, do not apply in relation to pre-2005 agreements.

(7) But, in relation to pre-2005 agreements, sections 1 and 2 of the 1983 Act, as they apply to such agreements, have effect as if the references to the court were references to a tribunal.

(8) In its application to agreements to which the 1983 Act applies which were made before the coming into force of this Order, this Order has effect as if—

- (a) in section 4(3)(a), inserted by article 3(5) into the 1983 Act, the words "paragraph 4, 5 or 5A(2)(b) of Chapter 2, or" and "Chapter 4 of" are omitted, and
- (b) in the opening words of article 3(7), the words "Chapter 2 of" were omitted.

(9) Mae unrhyw gyfeiriad yn yr erthygl hon at wneud cytundeb y mae Deddf 1983 yn gymwys iddo yn cynnwys cyfeiriad at unrhyw amrywiad ar gytundeb sy'n peri bod y cytundeb yn dod yn un y mae'r Ddeddf honno'n gymwys iddo.

(10) Yn yr erthygl hon—

ystyr "cytundeb cymrodeddu" ("*arbitration agreement*") yw cytundeb ysgrifenedig i gyflwyno unrhyw gwestiwn a godir o dan Ddeddf 1983 neu unrhyw gytundeb y mae'n gymwys iddo i fynd drwy broses gymrodeddu;

ystyr "cytundebau cyn 2005" ("*pre-2005 agreements*") yw cytundebau mewn cysylltiad â thir sy'n rhan o safle gwarchoddedig yng Nghymru y mae Deddf 1983 yn gymwys iddo ond nad yw'r diwygiadau a wnaed gan adran 206(1) a (2) o Ddeddf Tai 2004 yn gymwys iddo yn rhinwedd adran 206(4) o'r Ddeddf honno;

mae "y llys" ("*the court*") a "perchennog" ("*owner*") i'w dehongli'n unol â Deddf 1983 fel yr oedd yn cael effaith ar yr adeg berthnasol;

ystyr "tribiwnlys" ("*a tribunal*") yw tribiwnlys eiddo preswyl neu, pan fo'r partïon wedi ymrwmo i gytundeb cymrodeddu sy'n gymwys i'r cwestiwn sydd i'w benderfynu a bod y cwestiwn hwnnw wedi codi cyn i'r cytundeb gael ei wneud, y cymrodeddwr.

(9) Any reference in this article to the making of an agreement to which the 1983 Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which that Act applies.

(10) In this article—

"arbitration agreement" ("*cytundeb cymrodeddu*") means an agreement in writing to submit to arbitration any question arising under the 1983 Act or any agreement to which it applies;

"the court" ("*y llys*") and "owner" ("*perchennog*") are to be construed in accordance with the 1983 Act as it had effect at the relevant time;

"pre-2005 agreements" ("*cytundebau cyn 2005*") means agreements in respect of land forming part of a protected site in Wales to which the 1983 Act applies but to which the amendments made by section 206(1) and (2) of the Housing Act 2004 do not apply by virtue of section 206(4) of that Act;

"a tribunal" ("*tribiwnlys*") means a residential property tribunal or, where the parties have entered into an arbitration agreement that applies to the question to be determined and that question arose before the agreement was made, the arbitrator.

Huw Lewis

Y Gweinidog Tai, Adfywio a Threftadaeth, un o Weinidogion Cymru

Minister for Housing, Regeneration and Heritage, one of the Welsh Ministers

20 Mawrth 2012

20 March 2012

© Hawlfraint y Goron 2012

© Crown copyright 2012

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

OFFERYNNAU STATUDOL
CYMRU

2012 Rhif 899 (Cy.119)

**CARTREFI SYMUDOL,
CYMRU**

Gorchymyn Deddf Cartrefi
Symudol 1983 (Awdurdodaeth
Tribiwnlysoedd Eiddo Preswyl)
(Cymru) 2012

WELSH STATUTORY
INSTRUMENTS

2012 No. 899 (W.119)

**MOBILE HOMES,
WALES**

The Mobile Homes Act 1983
(Jurisdiction of Residential
Property Tribunals) (Wales) Order
2012