

Bill summary
Regulated Mobile Home Sites
(Wales) Bill

November 2012

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Regulated Mobile Home Sites (Wales) Bill

1. Introduction

Introduction date: 24 October 2012

Member in charge: Peter Black AM

Assembly Committee undertaking Stage 1 scrutiny of the Bill: Communities, Equality and Local Government Committee

Stage 1 reporting deadline: 22 February 2013

Mobile homes are often used by their owners all year round as a permanent home on residential caravan sites. According to recent research by Consumer Focus Wales, there are around 3,500 mobile homes in Wales which are located on 92 sites, housing an estimated 5,000 residents.¹

In recent years however, problems experienced by residents on some mobile home sites have come to public attention through campaigns and research conducted in different parts of the UK. In particular, a number of mobile home owners have expressed concerns relating to the appearance of their site, issues relating to selling and buying mobile homes, concerns about contracts with the site operator and the level of pitch fees.

The *Regulated Mobile Home Sites (Wales) Bill*² (“the Bill”) aims to address these concerns by updating the legal framework that regulates mobile home occupation in Wales and by modernising the current licensing regime. The Bill is the first Member proposed Bill to be introduced during the fourth Assembly.

This paper includes some historical background information about the current legal framework that regulates mobile home occupation in Wales; it provides an overview of the Bill’s main objectives and provisions; and summarises some initial reactions.

¹ Consumer Focus Wales, *Park life: residential mobile home living in Wales*, October 2012

² *Regulated Mobile Homes Sites (Wales) Bill*

2. Background

2.1. *Current licensing regime for mobile homes*

The rights and protections of mobile home owners are not currently covered by general housing law, but by specific mobile homes legislation. This is because while the mobile home is owned by the owner, a site operator owns the land it stands upon and the mobile home owner pays ground rent to the site operator. In practice, this means that the site operators are responsible for providing the electricity, gas and water supply, and for all park maintenance and improvements.

Mobile home occupation is currently regulated in England and Wales by the following three statutes:

- The *Caravan Sites and Control of Development Act 1960*³ requires that site owners obtain a site licence from the local authority before any land can be used as a caravan site. Local authorities have powers to impose conditions in site licences and enforce them if breached. The types of conditions that authorities are empowered to impose under the Act relate to the number of caravans allowed on the site, spacing between the vans and the provision of amenities on the site.
- The *Caravan Sites Act 1968*⁴ gives basic protection to all mobile home occupiers living on protected sites (i.e. on land which the owner has planning permission and is entitled to obtain a site licence). This Act prevents site owners from evicting occupiers with residential contracts other than by obtaining a court order.
- The *Mobile Homes Act 1983*⁵ gives security of tenure to residents of mobile home sites who own the home in which they live and who rent the pitch from the site owner. As with the 1968 Act, the 1983 Act only covers owners and occupiers of protected sites. This Act places an obligation on the site owner to maintain the site and gives them a right to claim commission on the sale of homes stationed on the site.⁶

2.2. *Calls for change*

In **May 2009**, the UK Government's Department for Communities and Local Government and the Welsh Government undertook a joint consultation⁷ on modernising the licensing regime for mobile home sites. A paper outlining the responses to the consultation was subsequently published by both the UK and

³ [Caravan Sites and Control of Development Act 1960](#) (Chapter 62)

⁴ [Caravan Sites Act 1968](#) (Chapter 52)

⁵ [Mobile Homes Act 1983](#) (Chapter 34)

⁶ Currently the commission level is set at 10 per cent of the sale price

⁷ Department for Communities and Local Government/Welsh Government, [Improving the Management of Residential Park Home Sites](#), May 2009

Welsh Governments in **March 2010**.⁸ The paper stated the policy intentions of both governments, which included introducing a “fit and proper person” test for site operators, and a range of other proposals to strengthen the licensing regime.

Although the paper outlined how proposals could be taken forward, none of them were implemented. As a result, many of the 2010 paper’s proposals have been incorporated into the Bill.

In **December 2011**, the Minister for Housing, Regeneration and Heritage, Huw Lewis AM, published *Meeting the housing challenge: building a consensus for action*,⁹ which was a consultation document to inform work on the forthcoming Welsh Government’s *Housing Bill*. Mobile homes were highlighted in the consultation as an area where there was a need for reform. In particular, the inadequacies of the current licensing regime and concerns about poor management on some sites were noted. The document also noted that:

[the Welsh Government] should consider a “fit and proper person” test for all site owners to ensure that sites are managed effectively and ensure fairness for residents.¹⁰

A subsequent White Paper, *Homes for Wales: A White Paper for Better Lives and Communities*¹¹, was issued by the Welsh Government in **May 2012**. The paper noted concerns about the current legislative framework for mobile homes which in its view “needs to be modernised”.¹² The White Paper went on to state that the Welsh Government’s goal is to:

Ensure that residents can enjoy their chosen style of home with reasonable protection against dubious practices.¹³

During the same month, a consultation on a *Mobile Homes (Wales) Bill* was issued by Peter Black AM.¹⁴ The consultation closed on 20 July 2012 and copies of all the responses received were published on the Assembly’s website in three parts.¹⁵

Concerns about dissatisfaction experienced by mobile home owners with their site were also raised in a report on residential mobile home living published in **October 2012** by Consumer Focus Wales.¹⁶ The report found that a significant number of mobile home owners who participated in the research expressed dissatisfaction with their site.¹⁷

⁸ Department for Communities and Local Government/Welsh Government, [Park homes site licensing reform: the way forward and next steps](#), March 2010

⁹ Welsh Government, [Meeting the housing challenge: building a consensus for action](#), December 2011

¹⁰ Ibid

¹¹ Welsh Government, [Homes for Wales, A White Paper for Better Lives and Communities](#), May 2012

¹² Ibid

¹³ Ibid, para 4.119

¹⁴ National Assembly for Wales, [Consultation on the proposed Mobile Homes \(Wales\) Bill: Peter Black AM](#), May 2012

¹⁵ National Assembly for Wales, [Mobile Homes \(Wales\) Bill: Consultation responses, Part 1, Part 2, Part 3](#), July 2012

¹⁶ Consumer Focus Wales, [Park life: residential mobile home living in Wales](#), October 2012

¹⁷ Ibid

2.3. *Developments in England and Scotland*

Both the House of Commons and the Scottish Government have issued consultations in relation to the licensing and regulation of mobile homes over the past few years.

At Westminster, the House of Commons' Communities and Local Government Select Committee recently conducted an inquiry into park homes in England and their June 2012 report made a range of recommendations for reform,¹⁸ including removing the requirement for site owners to approve a purchaser of a mobile home. On the issue of whether site operators should be required to satisfy a "fit and proper person" test, the Committee found that:

A fit and proper person test could be a useful addition to local authorities' armoury to exclude the worst offenders from owning and managing park home sites.¹⁹

The Committee specifically disagreed with the UK Housing minister, Grant Shapps MP, who argued that comparisons should not be made with Homes in Multiple Occupation ("HMO") licensing. However, it stopped short of recommending that a "fit and proper person" test be introduced, preferring instead to call for enabling legislation to be brought forward that would allow ministers to introduce a scheme in future if it proved necessary.

On 20 June 2012, a Private Members Bill by Peter Aldous MP was introduced in the House of Commons. The [*Mobile Homes Bill*](#) aims to amend existing legislation and brings the licensing regime that applies to mobile home sites in England more closely in line with other local authority licensing regimes. It also includes a power to enable the Secretary of State to introduce by way of secondary legislation a "fit and proper person" requirement for managers of sites.

The Bill aims to extend the scope of the offences, removes the requirement for site owners to approve a purchaser of a mobile home and makes new provisions instead for sales and assignments. It also introduces new requirements about site rules and provides a framework for better transparency on pitch fee reviews. The second reading of the Bill in the House of Commons was held on 19 October 2012. The Bill is currently at Committee stage.

A consultation on the licensing of caravan sites in **Scotland** was issued by the Scottish Government in May 2012 and closed in August 2012.²⁰ The proposals outlines in the consultation principally seeks to improve the standards of management on permanent residential caravan sites, but also seeks views on the

¹⁸ Communities and Local Government Committee, [*Park Homes*](#), 11 June 2012, HC 177-I, 2012-13, pp36-40

¹⁹ *Ibid*, paragraph 58

²⁰ Scottish Government, [*Consultation on the licensing of caravan sites in Scotland*](#), May 2012 [accessed 23/10/2012]

type of sites that should be covered by any new licensing regime (for example, mixed use sites or Gypsy Traveller sites).

The Scottish proposals include: introducing a statutory minimum application criteria and a “fit and proper person” test, a maximum licence duration of 3 years, giving the licensing authorities more power to refuse and revoke licences, more powers of enforcement and increasing fines.

3. The Bill

3.1. *Policy aims and objectives*

The Bill has three main overarching objectives:

- The introduction of a new licensing and enforcement regime for mobile home sites;
- The modernisation of the contractual relationship between mobile home owners and site operators; and
- The improvement of the management of mobile home and mixed use sites.

This Bill does not affect the law relating to holiday or touring caravan sites, although it will affect mixed use sites (i.e. sites used for a combination of residential and holiday purposes as far as the residential parts are concerned).

The Bill does not affect local authority Gypsy Traveller sites.

3.2. *Provisions*

The Bill contains 33 Sections, split into five Parts, and one Schedule. **Part 1** of the Bill provides an overview of the Bill's structure, interpretation and application. **Part 5** includes miscellaneous provisions relating to commencement, details of orders and regulations made under the Bill and the interpretation of certain terms.

Part 2 (Licensing of regulated sites) of the Bill lays down details of a new licensing regime for mobile home occupation. The main provisions included in this part are:

- **The introduction of a new licensing regime for mobile home occupation (Sections 3 to 16):** These provisions legally define local authorities as site licensing authorities, and require them to consider working collaboratively to discharge their functions under the Bill. In particular, the Bill sets out the specific requirements for applications; establishes tests for suitability and fitness of applicants (a "fit and proper person" test; imposes specific licence conditions (including setting a maximum licence duration of five years); requires licensing authorities to keep a register of licenses; and gives applicants the right to appeal to the Residential Property Tribunal.
- **The empowerment of licensing authorities to enforce licences (Sections 17 to 26):** This includes giving licensing authorities the power to execute works and appoint interim managers where necessary; giving authorities the power of entry; enabling authorities to issue fixed penalty notices for failing to comply with licence conditions; and allows the Residential Property Tribunal to make "repayment orders" requiring site operators to repay home owners certain costs if a site is required to be licensed but is not.

Part 3 (Amendments to the 1983 Act) of the Bill gives effect to Schedule 1 and makes amendments to the *Mobile Homes Act 1983*²¹ in relation to the contractual relationship between home owners and site operators and particularly the way in which mobile homes are bought and sold. These provisions aims to strengthen the succession rights of co-owners, couples, partners, family members and friends and establishes new provisions which allow owners to sell and assign²² mobile homes, including removing the requirement for site operators to approve the sale of a home.

Part 4 (Management of regulated sites) of the Bill empowers Welsh Ministers to issue codes of practice regarding the management of sites and imposes a duty on Welsh Ministers to make regulations to ensure that there are satisfactory management arrangements for sites.

²¹ *Mobile Homes Act 1983* (Chapter 34)

²² "Assignment" is when a mobile home owner sells their home directly to another person, rather than the buyer purchasing the home from a site operator.

4. Financial implications

The Explanatory Memorandum (“the EM”) states that the Bill may give rise to a number of additional costs. These are outlined below:

4.1. Impact on site operators

The Bill’s provisions are likely to have a financial impact on site operators, mainly through licence fees, the completion of “fit and proper person” tests, changes to pitch fees and various other administration costs. The EM estimates that this would equate to around £415,000 over the first five years of the Bill’s enactment.

4.2. Impact on local authorities

Under the Bill, local authorities would have enhanced responsibilities in relation to administering the licensing regime and the fee income of sites. The EM estimates that this would equate to around £67,500 over the first five years of the Bill’s enactment.

4.3. Impact on the Welsh Government and transitional costs

The EM states that there will be costs for the Welsh Government dependent on the level of regulations in the Bill and how much existing legislation needs to be amended or replaced. Transitional costs were estimated by the Welsh Government to be at least £270,000. This includes preparation, publication and publicity along with training for staff that would enforce these regulations and adhere to guidance.

5. Reactions

In response to Peter Black's legislative statement on the Bill on 7 November 2012, the Minister for Housing, Regeneration and Heritage, Huw Lewis AM, welcomed its publication but stressed the need for certain aspects to be considered further during the legislative process. The Minister's first concerns related to the number of subordinate legislation powers contained in the Bill:

The explanatory memorandum that accompanies the Bill lists 16 regulation, Order and guidance powers, including commencement, that the Welsh Government will need to make in order to fully describe and implement the new site licensing scheme—a hefty total. The question is whether scrutiny of the Bill will require more than merely empowering the Welsh Government to make these items of secondary legislation, and we would ask whether Peter has fully considered that.²³

The Minister added that more work needed to be done on the transitional arrangements contained in the Bill:

It is quite clear that there is still some work to be done around finalising the content of the Bill, and this is particularly the case where the transitional arrangements for movement from the existing site licensing regime to the new arrangements are concerned. It is not really apparent whether Mr Black intends the new licensing regime to involve revoking the existing site licensing system, or whether it should just apply to new applications for site licences. Clarification on that point would be very helpful.²⁴

Clarification was also sought by the Minister in relation to the costs included in the Bill's accompanying Explanatory Memorandum and on the potential effect that the proposed new licensing arrangements would have on mixed sites:

It might also be useful for colleagues to have more of an idea about the basis of how the figures in the explanatory memorandum associated with implementing the new site licensing regime have been arrived at. The Welsh Government would also value comments on the potential effect that the new site licensing arrangements are likely to have on mixed sites, where the existing licence covers holiday accommodation and a specified number of units that are licensed for permanent accommodation.²⁵

Amongst external stakeholders, the Bill was welcomed by a senior director at Consumer Focus Wales, Rhys Evans, who stated on 16 October 2012 that:

We believe that the Bill could make a real difference to thousands of people's lives, and we hope that our research, which is the first detailed study ever carried out in Wales, will contribute to this reform.

Our research shows that the threat of sale blocking affects park home residents across Wales and this must be eradicated by the removal of the site operator's veto on park home sales. We also strongly support the introduction of a fit and proper person test, and we would like to see proposals to give local authorities the right tools to do their job.

²³ National Assembly for Wales, *RoP: Plenary*, 7 November 2012

²⁴ Ibid

²⁵ Ibid

We would like any new Bill to overcome the current barriers preventing effective enforcement. Any new enforcement regime needs to be dynamic, robust and have the legal powers to punish unscrupulous site operators, protect residents and provide a greater incentive to raise the standards of the industry.

We know that many residents, when they have had problems in the past, simply do not know where to turn for help. So we are calling for clearer guidance and more information to be provided to residents, site operators and local authorities.²⁶

The Independent Park Homes Advisory Service, the body which advises park home residents and represents their interest throughout the UK, also welcomed the Bill's introduction as "Good news for residents in Wales".²⁷

²⁶ Consumer Focus Wales, [*Press Release: Protect mobile home owners from rogue site operators*](#), 16 October 2012

²⁷ The Independent Park Homes Advisory Service, [*Useful Information: Mobile Home Sites \(Wales\) Bill Introduced*](#), 24 October 2012