

## **Explanatory Memorandum to the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007**

This Explanatory Memorandum has been prepared by the Private Sector Unit Housing Directorate and is laid before the National Assembly for Wales.

### **Description**

1. This Order amends the terms implied into agreements for the stationing of mobile homes on protected sites in Wales by section 2 of the Mobile Homes Act 1983. These implied terms are contained in Schedule 1 of that Act.

### **Matters of special interest to the Subordinate Legislation Committee**

2. The amendments made by this Order to Schedule 1 apply to all agreements for the stationing of mobile homes on protected sites in Wales, whether they are made before or after the Order comes into force.
3. This Order amends Schedule 1 of the 1983 Act. It, therefore, amends primary legislation.

### **Legislative Background**

4. Schedule 1 to the 1983 Act sets out the terms which are implied by section 2 of that Act into the agreements to which section 1 of the Act applies. These are agreements which entitle a person, the occupier, to station a mobile home on a protected site and occupy it as his only or main residence. Part 1 of Schedule 1 sets out the terms that are automatically implied into agreements; Part 2 sets out the terms that the court can imply; Part 3 contains supplementary provisions.
5. This Order is made under section 2A of the 1983 Act, which was inserted into that Act by section 208(1) of the Housing Act 2004 and specifically provides for the amendment of Schedule 1. Subsection (4) further provides that the first Order made under this section may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the Order comes into force (as well as in relation to such agreements made on or after that day). This is the first Order made under section 2A and the amendments made by this Order apply in relation to any agreement to which the 1983 Act applies whether made before, on or after 30th November 2007 (the day on which this Order is intended to come into force).
6. Other amendments to Schedule 1 have been made by section 207 of the Housing Act 2004.
7. The powers to make this Order pursuant to section 2A of the 1983 Act were conferred on the National Assembly for Wales, and are now vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

8. This Order will follow the affirmative resolution procedure which means that it is required to be approved by a resolution of the Assembly before it can be made.
9. When an agreement is entered into, the owner is required by section 1(2) of the 1983 Act to give the occupier a written statement. The contents of this are prescribed by the Mobile Homes (Written Statement) Regulations 1983 (No. 749) (“the Written Statement Regulations”). These include the implied terms contained in Schedule 1. These Regulations are also being amended to reflect the changes made by this Order and it is intended that they should come into force simultaneously.

## **Background**

10. The particulars of park home residents’ contractual agreements are governed by the Mobile Homes Act 1983. The 1983 Act gives the following rights to residents who have an agreement with the park owner allowing them to occupy their home on the park as their main residence:
  - security of tenure for as long as their agreement with the park owner or the park owner's planning permission, lasts. The park owner can terminate the agreement on certain specified grounds and then only if a court considers it reasonable to do so;
  - the right to sell their home, and assign the agreement to a person approved by the park owner, whose approval can not be unreasonably withheld;
  - the right to gift the home and assign the agreement to another family member;
  - inheritance rights; and
  - if the park owner is entitled to require a home to be moved to another part of the park, the pitch must be broadly comparable and the park owner should pay all costs arising.
11. This security has brought significant benefits, it has helped protect up to 200,000 park home residents in England and Wales and helped to create sustainable, diverse communities.
12. However, a high volume of complaints continued to be made about the system throughout the 1990's. The Government therefore set up the Park Homes Working Party (PHWP) in 1998 made up of representatives from residents’ and trade associations, local government and other stakeholders. It was set up to examine how the existing legislation could be made to work more effectively, to consider whether there was a need to change it in the longer term, and to ensure the industry’s regulatory framework helped to meet the growing need for quality and choice in housing.
13. The working party was asked to make recommendations to:
  - deal with 'cowboy' park owners who breach the law;
  - use current best practice in the industry and secure its adoption as widely as possible;

- give home owners the confidence that their parks will be run responsibly and considerately;
  - ensure enforcement is fair, rigorous and consistent;
  - ensure home and park owners know their rights and obligations; and
  - ensure costs and bureaucracy imposed on reputable park owners should be kept to a minimum.
14. The Working Party's report presented recommendations for change that were consulted on in July 2000. A formal response was issued in November 2001 and accepted 25 of the 30 recommendations. Two of these were to amend the written statement and implied terms.
15. The 2003 consultation on the draft Housing Bill resulted in nearly 3,000 calls for primary legislation on park homes. In the 9 months up to April 2003 representations on this issue were received from 145 MPs. During the debate following the second reading of the Housing Bill, nine MPs called for amendments on park homes. Having considered these representations, the UK Government decided to add five park home measures, to the Bill. These reflected a consensus amongst stakeholders. The provisions:
- require a written statement of terms to be given to a prospective purchaser before the sale of a park home;
  - create a power by which the appropriate national authority (which in Wales was, at that time the National Assembly can add additional implied terms to the agreement and repeal and vary those in the Mobile Homes Act 1983;
  - help deter a park owner from unreasonably withholding approval of a prospective purchaser;
  - remove "age" of a home as a criterion for ending an agreement and to give discretion to courts to adjourn termination proceedings on the grounds of the condition of a park home to allow for repairs to be carried out; and
  - increase protection of residents from harassment and illegal eviction.
16. Stakeholders were invited to comment on any proposals for a statutory instrument, which adds to, repeals, or varies the terms implied into the agreement between the park owner and residents.

#### Rationale for government intervention

17. The best information on the prevalence of problems in this sector comes from the report on the Economics of the Park Homes Industry (ODPM, 2002). This estimated that there were about 114,000 adults living in park homes sites comprising 3 or more homes in England and Wales. Of residents surveyed across a representative set of parks, 7% - or about 8,000 people - had personal experience of undue pressure to leave the site from the park owner. Indeed, the 7% level may understate the perceived pressure, because some residents who had been under pressure previously, and left the park because of it, could not, by definition express their views
18. If the legislation is not amended rogue park owners will still have the current opportunities for exploitation. They will be able to continue to delay the sale of

park homes, end agreements on the basis of the property being detrimental to the site in five years regardless of its current condition, and include unfair clauses in contractual agreements with residents, knowing that park home residents are unlikely to take them to court.

19. The provisions contained in the Order will further clarify and strengthen the agreements made between home owners and site owners so that each is aware of their duties and responsibilities. Many residents currently face problems in the market and the legislation is aimed at reducing these problems.
20. The purpose of the implied terms in Schedule 1 is to ensure that these agreements strike a fair balance between the interests of the owners of protected sites and the interests of the occupiers of the mobile homes.
21. The implied terms currently cover duration of the agreement, termination by the occupier of the mobile home, termination by the owner of the protected site, recovery of overpayments by the occupier, sale of mobile home, gift of the mobile home and re-siting of the mobile home. The Order would add terms dealing with the following: quiet enjoyment, the owner's right of entry to the pitch, the pitch fee, the occupier's obligations, the owner's obligations, the owner's name and address, residents' associations and interpretation.
22. Research estimates that around 120,000 people, predominantly elderly, live on more than 1680 residential sites in England and Wales.
23. The PHWP was given the following Terms of Reference and asked to make recommendations:

To Review the statutory framework of park homes legislation, and, in particular, the Caravan Sites & Control of Development Act 1960, Caravan Sites Act 1968, and Mobile Homes Act 1983, and consider

- a) What is the best current practice in the application and enforcement of these controls by local authorities, and how it might best be disseminated;
  - b) Whether there is further scope to achieve the effective operation of existing controls through initiatives generated by the park homes industry; and
  - c) Whether there are significant weaknesses in the content of the existing controls which might be remedied, without disproportionate increases in public expenditure and in costs to operators and residents, through changes to secondary and, if appropriate and when Parliamentary time allows, primary legislation.
24. The PHWP's recommendations were the subject of consultation in July 2000. The Department for Communities and Local Government (DCLG) issued its formal response on an England and Wales basis in November 2001 accepting 25 of the 30 recommendations. Two of these were to amend the written statement given by owners to occupiers and the implied terms set out in Schedule 1.

25. A Consultation Paper on an England and Wales basis was issued in July 2004, which outlined further potential changes to the implied terms in Schedule 1 and the written statement, together with a draft Regulatory Impact Assessment. The responses to this Consultation Paper indicated general support for the proposed changes. Some adjustments have been made to the proposals in the light of the responses. A full discussion of the responses received can be found in Implied Terms and Written Statement for Park Homes, Consultation Summary of Responses, which is available at [www.odpm.gov.uk](http://www.odpm.gov.uk).

### **Purpose and intended effect of the legislation**

26. The amendments made by this Order to the implied terms in Schedule 1 to the Mobile Homes 1983 give effect to the proposals in the Consultation Paper, as adjusted in the light of the responses. In broad terms, they revise and add to the implied terms in order to provide greater protection and security to occupiers and to make the relationship between occupiers and the owners of protected sites more transparent and to clarify their respective rights and obligations.
27. In addition to minor and other drafting amendments, the following are the main changes and additions to the implied terms in Schedule 1 made by this Order—

**Article 2(2)** states that the court, before it makes an order under paragraph 5 (termination of the agreement by the owner on the basis that the occupier is not occupying the mobile home as his only or main residence), must be satisfied that it is reasonable for the agreement to be terminated. This ground for terminating the agreement is retained since it serves a useful purpose in that it enables the owner to stop the site disintegrating into disrepair or holiday use. However, in some instances there may be good reasons as to why an occupier is not occupying the mobile home as their principal or main residence. The inclusion of the requirement that “the court considers it reasonable for the agreement to be terminated” enables the court to examine the reasons for the occupier’s absence and introduces a degree of flexibility.

**Article 2(3)** amends paragraph 6 (termination on the ground that the mobile home is having a detrimental effect on the amenity of the site) so as to enable owners to apply to the court to terminate an agreement forthwith, rather than at the end of the “relevant period”, if the mobile home is having a detrimental effect on the amenity of the site. The “relevant period” means the period of five years beginning with the commencement of the agreement and each succeeding period of five years. This is no longer considered a meaningful concept. In this context, the sole criterion that should be taken into account when deciding whether to terminate the agreement should be the detrimental effect on the amenity of the site caused by the condition of the mobile home.

**Article 2(4)** amends paragraph 8 (sale of mobile home) by substituting sub-paragraphs and including new sub-paragraphs: New sub-paragraphs are substituted for sub-paragraphs (1C) and (1D). These have the effect of removing all references to conditions and specifically state that, when the owner is approving a prospective purchaser of a mobile home, he cannot

attach conditions to his approval. Sub-paragraphs (1C) and (1D) were introduced by section 207(3) of the Housing Act 2004. However, in practice these provisions have complicated unnecessarily the process of approving the prospective buyers of mobile homes. This has resulted in delays. Owners have also abused these provisions to impose irrelevant conditions; and

- New sub-paragraph (2A) clarifies that, except to the extent provided in sub-paragraph (2), the owner may not require any payment in connection with the sale of the mobile home or the assignment of the agreement to be made to himself or anyone else.

**Article 2(5)** inserts a sub-paragraph (3), into paragraph 9 (gift of a mobile home), which makes it clear that the owner cannot require any payment, to himself or anyone else, in connection with a gift of a mobile home or the assignment of the agreement.

**Article 2(6)** substitutes new paragraphs 10 to 29: New paragraph 10 (re-siting of mobile home) clarifies the circumstances in which an owner can require a mobile home to be stationed on another pitch and gives the court the power to specify that the mobile home should be returned to the original pitch. The provision is intended to balance the owner's right to re-site the mobile home so that he can redevelop the site, or carry out essential repairs or emergency works, and the occupier's right to quiet enjoyment. "essential repairs or emergency works" are defined in sub-paragraph (4). These include work or repairs needed to comply with relevant legal requirements such as the conditions attached to the licences for mobile home sites and health and safety legislation and any changes to these;

- New paragraphs 11 (quiet enjoyment), 12 (owner's right of entry to the pitch), 21 (occupier's obligations), 22 to 25 (owner's obligations) contain terms in respect of matters in which the court currently has a discretion to imply terms, by reason of Part II of Schedule 1;
- New paragraphs 16 – 20 (the pitch fee) contain provisions for reviewing and determining the new pitch fee, which are intended to make this process transparent, clarify what the pitch fee covers and ensure that a fair balance is struck between the interests of the owner and the occupier. In particular paragraph 18 lists the matters to which regard can be had when determining the amount of the new pitch fee. These include improvements for the benefit of the occupiers of mobile homes on the protected site which have been the subject of consultation and to which a majority of the occupiers have not disagreed;
- New paragraphs 24 and 25 describe what is meant by "consultation". When calculating what constitutes a majority, only one occupier for each mobile home will be counted and, in the event that there is more than one occupier, it will be the consent of the occupier whose name first appears on the agreement that is counted. The reason for this provision is that in this context the mobile home is considered the

relevant unit rather than the occupier(s). In practice the majority of agreements are only entered into by a single occupier. Similar provisions to this are to be found at paragraph 38 of Schedule 2 to the RTM Companies (Memorandum and Article of Association) (England) Regulations 2003 No. 2120 and paragraphs 27 and 28 of Schedule 2 to the Commonhold Regulations 2004 No. 1829.

- New paragraphs 26 and 27 provide that an owner must inform the occupier and any qualifying residents' association of the address where notices should be served on him, and must include their name and address in any demand which is served on an occupier;
- New paragraph 28 lists the criteria that a residents' association must meet if it is to be a qualifying residents' association for the purposes of Part 1 of Schedule 1; and
- New paragraph 29 contains definitions of key terms.

**Article 3** amends Part II of Schedule 1 by omitting paragraphs 1, 6 and 7 since terms in respect of these matters are now to be contained in Part I, namely new paragraphs 11 (quiet enjoyment), 12 (owner's right of entry to the pitch), 21 (occupier's obligations), 22 to 25 (owner's obligations) all of which are referred to above,

**Article 4** contains transitional provisions. These state that the terms implied by this Order will prevail over any previous express or implied terms which are inconsistent.

28. This Order amends all agreements for the stationing of mobile homes on protected sites, whether they are made before or after the Order comes into force. As a consequence, those who occupy mobile homes on protected sites under existing agreements will enjoy the same benefits from the new provisions as those who start to occupy homes after they come into force.

### **Implementation**

29. It is intended that the proposed Instrument will be made on 27 November 2007 and come into force on 30 November 2007. If these dates are not met, there will be further criticism from interested parties in Wales who are anxious for this legislation to be made. Parallel legislation came into force in England on 1 October 2006 and implementation has been delayed in Wales due initially to the need to introduce other subordinate legislation and later to the Assembly elections.

### **Consultation**

30. A formal twelve week consultation was undertaken on a joint England and Wales basis in July 2004, In addition, there was considerable informal consultation with stakeholders both prior to and since the formal consultation. Full details of the consultation are included in paragraphs 26 to 28 of the Regulatory Impact Assessment below.

## **Regulatory Impact Assessment**

31.A Regulatory Impact Assessment has been prepared for this Order and is included below.



## **Regulatory Impact Assessment**

### **Options**

1. Two options have been identified, for achieving the policy objectives set out in the Purpose and Intended Effect of the Legislation section in the Explanatory Memorandum above:
  - (A) Do nothing; and
  - (B) Proceed with the proposed amendments in the summary of responses.

#### **Option A: Do Nothing**

2. There would be problems if we did nothing as many residents would continue to face problems in the market.

#### **Option B: Proceed with the proposed amendments outlined in the summary of responses**

3. This option involves laying a draft Statutory Instrument before the Assembly, in the form of an Order, bringing into force the changes, which were recommended in the summary of responses and taking account of comments received on the consultation paper.

### **Alternative options considered: Best Practice**

4. Previously, best practice in the industry has failed to be implemented on a wide enough scale and those outside the scheme have continued to cause problems.

### **Costs and Benefits**

5. The following areas will be affected:
  - Residents;
  - Park Owners;
  - Refurbishers;
  - Insurers; and
  - Local Authorities.

### **Breakdown of costs and benefits of Option A: Do Nothing**

#### **Economic**

6. **Benefits:** No change in practice and thus no new costs for park owners

**Costs:** Continuing level of disputes and costs from litigation. Rogue Park owners will continue to benefit by being able to continue to delay the sale of park homes, end agreements on the basis of the property being detrimental to the site in five years regardless of its current condition, and include draconian clauses in contractual agreements with park homeowners, knowing that park home owners are unlikely to take them to court. Costs are hard to identify but in excess of £1million per year.<sup>2</sup>

### Environmental

7. **Benefits:** None  
**Costs:** None

### Social

8. **Benefits:** None  
**Costs:** Inequality in protection between park home residents and other tenure types.

## **Option B - Breakdown of costs and benefits of Option B: Proceed with the proposed amendments in the summary of responses**

### Economic

9. **Benefits:** The proposals will make the payment system more transparent. This is a key recommendation of the Economics of the Park Homes industry report (ODPM 2002). This will be of great benefit to consumers who will be able to gain information on what fees are payable, who they need to pay and when payment is due. This will also mean the industry will gain a better reputation. This will enable growth in the industry, as people who have previously been put off by the fear of unknown charges will be more likely to consider the benefits of park home living.
10. Marginal savings will also be created in the court system. This is due to the fact that residents will no longer have to go to court to have terms implied into their agreements. Although the number of cases that go to court on this basis is, evidence suggests, in single figures, the proposals would save (at estimate of £1,000 per case) £10,000.
11. Park owners will also no longer be able to go to court to end an agreement on such a wide range of issues regarding “the only or main residence” clause. Again this will result in only properly considered litigation occurring, which will again reduce the burden on the court and stress on all parties involved.

<sup>2</sup> Anecdotal evidence highlights a park of 60ish homes which was cleared by owners through rogue practices such as restricting sales and harassing residents who sold homes for prices estimated at £500- £10,000. Therefore cleared site for £600,000. 60 new homes now for sale with prices from £100,000. If homes were brought for £70,000 and taking into account extensive refurbishment of £200,000 still profit of £1,000,000

12. Local authorities will also have to get involved in fewer cases of harassment, as the terms in the contract will clearly spell out the procedure to be followed if there is a dispute. Also they will save money from less enforcement action under site licensing powers due to higher quality parks. This will be a consequential benefit of the reform because all park owners will be ensuring the amenity of their park remains high in order to have no reduction in pitch fees.

13. **Costs:** The consultation paper brought out the following comments:

- a) Residents groups thought these implied terms will have negligible effect on good park owners because they will be already complying with the good practices required. There is a one off cost to park owners per park of £16.80<sup>3</sup> due to owners sending residents copies of the new implied terms. This would consist of photocopying costs. However, some park owners may wish to issue new agreements to all their residents. This will be a minor administrative matter to the good park owners but the rogue owners will consider this to be an extra expense necessitating an additional charge on the pitch fee. As it is not a cost that is needed this is not acceptable. In reality this would only cost £210.40 per park;<sup>4</sup>
- b) There was concern from the trade associations that the Regulatory Impact Assessment fails to take account of the combined effect of the proposals on the profitability of park business. There was apprehension from the National Park Home Council (NPHC) as well that this will risk jeopardising the interests of park and residents alike, as well as ignoring any adverse effects on the value of existing homes;
- c) The NPHC felt that the combined effects of the proposals would make residential park ownership and management uneconomic and lead to a reduction in profit and in turn investment in the infrastructure on parks;
- d) There was widespread agreement that the consultation document failed to recognise that it will challenge the economic basis of the operation of the parks industry. It was felt that of the 22 proposed implied terms, a significant number, as previously drafted, would threaten the basis of a strengthened, modern park home industry. Arguments used included:
  - The upfront payments on first purchase would be lost to the park business by the proposed right for the replacement of homes, thereby denying the business the new sales that are currently achieved periodically when park homes are vacated at the end of their life. This clause has been removed;

<sup>3</sup> 8 pages at 5p per page \* 42 homes + £5 (30mins staff time at £10 per hour)

<sup>4</sup> 8 pages at 5p per page \* 42 homes + £210 (30mins staff time per home at £10 per hour)

- Although business costs rise in excess of inflation, it is proposed in essence that pitch fees "must rise no more than" the All Items RPI. This clause has been removed;
  - The proposal to "permit occupiers to gift their mobile home, and assign the agreement, to anyone" will inevitably impact on commission income since it provides the means and, therefore, the incentive to defraud the park owner of their commission. This clause has been removed;
  - The proposal to remove the park owner from the sale transaction and any involvement in the payment of funds was felt to be extremely dangerous and would place potential buyers at risk of not acquiring their full rights at law. The clause has been adapted;
  - If residents were permitted to replace their homes without proper safeguards, it was felt that this would have a significant impact on park owners' economic interests and would result in reduced investment in parks. This clause has been removed; and
  - The recognition of residents' associations was felt to place an unfair and unreasonable financial burden on all park owners. This clause has been adapted by making the qualifying criteria robust and limiting their rights to negotiate.
- e) Park owners felt that the combined effect of these was to create a picture of park businesses denied income from new sales and commission, whilst ongoing increases in costs would not be met through rises in the pitch fee. They also felt that over time, investment would cease and day-to-day maintenance would suffer through lack of funding. The overall effect would be the degradation of the quality and amenity of parks, which would, at the very minimum, compromise the social and economic interests of residents. Some park owners stated that up to 50% of their income could be lost through these proposals. Therefore as shown, we have taken out and adapted the proposals to ensure that these representations are accounted for. However there is likely to be a small increase in the amount of administration costs that is incurred by park owners for pitch fee breakdown, £4.20 per park per year.<sup>5</sup> This will be minimal as it has been suggested that all the information that is being required to be given to residents will be given with the yearly consultation of charges. Parks associated with trade associations already recognise the use the majority of these proposals through their park home charter and model statement. Many good park owners already offer the consultation with residents proposals, which we propose as standard. When the trade associations instigated a similar transparency measure they reported negligible costs to their members;

<sup>5</sup> 2 additional pages at 5p per page \* 42 homes

- f) The proposals will hit the bad park owners hardest and may also drive some of these owners out of the sector completely. However although some of the respondents saw this as a good thing, we believe the proposals have made it as easy as possible for the park owner to be model professionals. Therefore the proposals should not reduce the profits of park owners by being overly burdensome;
- g) The costs will be further minimised by bringing in this Statutory Instrument and consequential changes to the Written Statement Regulations instrument at the same time. Also the Statutory Instrument sets out that no new written statement is required and information can be given at the pitch fee review saving further money.

### Environmental

- 14. **Benefits:** The likely environmental benefit of the proposals is small. By implying the right to quiet enjoyment there is likely to be some savings from excessive noise. However there is no evidence that this was originally a big issue. More prominent is the benefit that park homes have to surrounding areas as opposed to bricks and mortar housing. They are low impact developments and so therefore by the good aspects of the industry being promoted through these proposals and the promoting of good park management for the rest mean that the reform will help the industry to grow. This will mean less detrimental expansion to rural communities, which may otherwise occur.
- 15. A newer aspect which these proposals promote is greater environmental performance of the industry. The industry already runs a David Bellamy Conservation Awards scheme, which over 500 parks are now members of. The scheme helps to protect and preserve the countryside and by pushing the standard of the industry up, these proposals ensure more owners will see the benefits for all involved in providing greener sites.

- 16. **Costs:** None

### Social

- 17. **Benefits:** The proposed amendments will aid greater cohesion on parks and wider local areas. By clearly setting out the terms and conditions and what will be provided before a person enters the park there will be fewer disagreements when these services, such as clubhouses, etc are altered. Well maintained homes and parks in an anti social behaviour free environment are an asset to the local community. These sites provide a positive contribution to the current market affordable housing shortages, which is more prominent in the rural locations where most parks are situated. As has been stated elsewhere in this paper these proposals promote the protection of a vulnerable sector of society who have very few resources and few explicit rights, which is a massive benefit in itself.

18. The other benefits are:

- The proposed amendments would help to set up a more equitable basis for the tenure, which at present is biased towards the site owner;
- This option is designed to bring the law governing park homes more in line with other housing tenures. It will help to prevent exploitation of park residents by rogue park owners;
- Lower instances of stress related illness and GP contact as better communication occurs on parks;
- Less demands on local housing authority as people stay on parks for longer;
- Improvements in community cohesion again due to better communication and increased transparency; and
- Helps to promote sustainable rural communities as positive side of the industry is promoted.

19. **Costs:** None.

### **Small Firms' Impact Test (SFIT)**

20. Many park owners own only one or two sites and would be regarded as small businesses. 132 site owners and trade organisations responded to the public consultation, the majority of whom are classed as small businesses and the majority expressed concern about the proposals. As shown above under economic costs of option 2, we have made significant changes to the proposals to lessen the financial burden on small business.

21. The proposed changes removed because of the impact on business include:

- Right for the replacement of homes;
- Permit occupiers to gift their mobile home, and assign the agreement, to anyone; and
- Remove park owner from sale transaction.

22. Several other clauses have been adapted to further address lesser concerns of business. The industry has expressed that these changes are widely welcomed and will ensure that the profitability of their industry is maintained. The trade associations were represented on the park homes working party, which made the recommendations for primary legislation.

## **Competition Assessment**

23. A competition filter has been completed. This requires that policy makers consider the market that will be affected: i.e. the firms that compete against one another to sell the same or similar products or services.
24. No site owner owns more than 10% of the 1,600+ parks in England and Wales; indeed only one operator has more than 25 parks. The report, Economics of the Park Homes Industry, concluded in 2002 that '...there is very little ownership concentration at the national level that would appear to inhibit market competition. It is probable that this is also true at the county level.'
25. If policy-makers answer 'yes' to fewer than half the questions asked in the filter, there is unlikely to be a negative competitive impact from the new regulation. Therefore no detailed competition assessment would be required.

**None of the nine questions might be answered in the affirmative for this market, so no detailed assessment is required.**

## **Consultation**

26. A formal twelve week consultation was issued in July 2004. In addition, there has been considerable informal consultation with stakeholders both prior to and since the formal consultation.
27. As required by section 2A(5), prior to the making of this Order, consultation has been undertaken with organisations representative of the interests substantially affected by the Order and other relevant persons. The British Holiday and Home Park Association and the National Caravan Council, who between them represent the owners of protected sites where more than 60% of the pitches in the industry are located, were consulted. Associations representing the occupiers of mobile homes, such as the National Association of Park Home Residents, the Independent Park Home Advisory Service, and the Park Home Resident Action Alliance, who together represent over 10% of occupiers, were also consulted. A list of consultees is attached at Annex A.
28. As previously stated, 132 site owners and trade organisations responded to the public consultation, and the majority expressed concern about the proposals. (A summary of the concerns expressed is given in paragraphs 13 (a) to (g).) As a result of these responses, we have made significant changes to the proposals to lessen the financial burden on these small business.

## **Post implementation review.**

29. Monitoring would take place through communications with residents' and trade associations and via the All Party Parliamentary Group for the Welfare of Park Home Owners.

## Summary and Recommendation

30.

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
A) Do Nothing	£1,000,000 plus for rogue park owners. Continuing high level of complaints	None
B) Proceed with the proposed amendments	Minimal economic cost to courts as may have more disputes on pitch fees as new system adjusted to which will be cancelled out in the medium term. Park owners face small increases in costs through pitch fee review clauses and additional consultation.	Massive economic and social benefits for all park owners as the reputation of the industry improves meaning greater demand, better supply (through changed perception of planners) Residents all have higher standard of minimum rights and a fair contract, benefit from changed perceptions of industry. Local authorities have less issues to resolve on parks and thus can reallocate resources.

### Recommendation

31. In light of the above, the following conclusion was reached:

- Option B should be implemented. Proceed with the proposed amendments



**List of Consultees**

All Local Authorities in England and Wales  
National Association of Park Home Residents  
Independent Park Home Advisory Service  
Park Home Residential Alliance  
National Caravan Council  
Local Government Association  
Small Business Service  
All Government Departments