

EXPLANATORY MEMORANDUM TO MOBILE HOMES (WALES) ACT 2013 (CONSEQUENTIAL PROVISIONS) ORDER 2016

This Explanatory Memorandum has been prepared by the Education & Public Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Mobile Homes (Wales) Act 2013 (Consequential Provisions) Order 2016.

Carl Sargeant

Cabinet Secretary for Communities and Children

30 September 2016

Description

1. Part 2 of the Mobile Homes (Wales) Act 2013 (“the 2013 Act”) introduced new site licensing provisions for residential mobile home sites. Prior to the 2013 Act being implemented, residential mobile home sites were regulated and licensed under the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”) and the Caravan Sites Act 1968 (“the 1968 Act”).
2. Consequential amendments to three pieces of secondary legislation are necessary as a result of the 2013 Act. If these consequential amendments are not made, the provisions they make will not apply to regulated mobile home sites under the 2013 Act. This Order subsequently amends the following:
 - (a) Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (S.I. 2007/339 W. 45), Schedule 1;
 - (b) Highways Noise Payments (Movable Homes) (Wales) Regulations 2001 (S.I. 2001/604 W. 27), regulation 2 and regulation 7; and
 - (c) Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418), Part 5 of Schedule 2

Matters of special interest to the Constitutional and Legislative Affairs Committee

3. None.

Legislative Background

4. Part 2 of the 2013 Act introduced new site licensing provisions for residential mobile home sites. Prior to the 2013 Act being implemented, residential mobile home sites were regulated and licensed under the 1960 Act and the 1968 Act.
5. The provisions of the Order and two sets of Regulations identified applied to mobile homes sites when they were regulated and licensed under the 1960 Act and the 1968 Act. The amendments are required to ensure the provisions that applied to mobile home sites prior to the introduction of the 2013 Act apply to regulated mobile home sites in Wales.
6. This Order is made in exercise of the power conferred on the Welsh Ministers under section 58(3)(a) of the 2013 Act.
7. This Order follows the negative resolution procedure.

Purpose & Intended Effect of the Legislation

8. Prior to the 2013 Act being implemented, residential mobile home sites were regulated and licensed under the 1960 Act and the 1968 Act. Three pieces of secondary legislation have been identified as needing to be amended in order for the provisions they make to continue to apply to regulated mobile home sites. The Order and two sets of Regulations that need to be amended are:

9. Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (S.I. 2007/339 W. 45), Schedule 1

Heading B of Schedule 1 (“Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)”) lists functions which are not the responsibility of an Authority’s executive and includes reference to section 3(3) of the 1960 Act. Under these Regulations, the function of issuing a site licence is not to be exercised by an Authority’s executive. A consequential amendment is required to include reference to the 2013 Act.

10. Highways Noise Payments (Movable Homes) (Wales) Regulations 2001 (S.I. 2001/604 W. 27), regulation 2 and regulation 7

These Regulations give highway authorities the power to make payments of up to £1,650 to the occupiers of movable homes such as caravans and house-boats where they are affected or are likely to be affected, to a significant degree, by noise caused by the construction or use of new or altered roads. Regulation 7 sets out what “an eligible home” is for the purpose of these regulations. It includes a caravan lawfully stationed on a protected site within the meaning of section 1(2) of the Caravan Sites Act 1968. A consequential amendment is required here to change the reference from section 1(2) of the Caravan Sites Act 1968 to section 2(2) of the Mobile Homes Wales Act 2013, and to change the reference to “caravan” in regulation 7(1)(a) to “mobile home”. The definition of “movable home” under regulation 2 (Interpretation) also needs to be amended to remove the definition of caravan under the 1960 Act and include a definition of “mobile home” under section 60 to the Mobile Homes (Wales) Act 2013.

11. Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418), Part 5 of Schedule 2

Part 5 of Schedule 2 to the 1995 Order contains Classes of Permitted Development for Caravan Sites (for information, the 1995 Order was amended twice in 2012). Class B refers to “Development required by the conditions of a site licence for the time being in force under the 1960 Act”. This is defined in article 1(2) of the 1995 Order as the

Caravan Sites and Control of Development Act 1960 and not the 2013 Act. Article 3 of the 1995 Order grants planning permission for the classes of development described as permitted development in Schedule 2 (subject to any relevant exception, limitation or condition specified in Schedule 2). An amendment is required to Part 5 to permit developments required by the conditions of a site licence in force under the 2013 Act. Currently, without the amendment, a formal planning application seeking the consent of the local planning authority is required for any works that would previously have received deemed consent by virtue of Class B of Part 5 of the GPDO.

Consultation

12. No consultation has taken place on the draft Order because it makes consequential amendments to existing subordinate legislation.

Regulatory Impact Assessment (RIA)

13. The Welsh Ministers' Code of Practice on carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with it. The impact Assessment prepared for the Mobile Homes (Wales) Act 2013 remains relevant and a copy may be obtained from the Housing Policy Division, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ.