EXPLANATORY MEMORANDUM TO

THE MOBILE HOMES ACT 1983 (JURISDICTION OF RESIDENTIAL PROPERTY TRIBUNALS) (ENGLAND) ORDER 2011

2011 No.

1. This explanatory memorandum has been prepared by The Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument confers on Residential Property Tribunals jurisdiction to determine most questions arising under the Mobile Homes Act 1983 (c. 34) ("the 1983 Act") or any agreement to which that Act applies, or to entertain any proceedings brought under that Act or any such agreement. That jurisdiction was previously exercised by county courts or, where the parties agreed in writing to submit a question to an arbitrator, the matter was settled by an arbitrator. The county courts will retain jurisdiction only in relation to applications by the owner of a mobile home (commonly known as a "park home") site to terminate the agreement that allows a person to station a park home on the site and to occupy it as his main residence.

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

None

4. Legislative Context

4.1 By section 229(3) of the Housing Act 2004 (c.34) ("the 2004 Act"), the Secretary of State may by order make provision for and in connection with conferring on Residential Property Tribunals, in relation to any such matters as are specified in the order, such jurisdiction as is so specified. Section 229(4) of the 2004 Act gives power to the Secretary of State to modify any primary or secondary legislation, including the 2004 Act itself.

4.2 By section 229(1), any jurisdiction conferred on a Residential Property Tribunal by, or under any enactment, is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c.42); but by section 229(2) of the 2004 Act where so constituted for exercising such jurisdiction, the rent assessment committee is known as a Residential Property Tribunal.

4.3 This is the first use of the power in section 229(3) of the 2004 Act. The Order amends the 2004 Act.

4.4 The provisions of this instrument will come into force after the order commencing section 318 of the Housing and Regeneration Act 2008 ("the Commencement Order"- a draft of which is attached to this memorandum for reference at Annex A) and the Mobile Homes Act 1983

(Amendments of Schedule 1 and Consequential Amendments) (England) Order 2011 have been brought into force.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales but the substantive provisions apply to protected sites in England.

6. European Convention on Human Rights

The Secretary of State for Communities and Local Government has made the following statement regarding Human Rights:

In my view the provisions of the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011 are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 This Instrument transfers most of the jurisdiction to determine proceedings and disputes under the 1983 Act from county courts to Residential Property Tribunals.

7.2 On 14 July 2010 the Minister for Housing and Local Government made a statement to the House of Commons announcing that subject to Parliamentary consent the Government intended to transfer most of the functions of county courts under the 1983 Act to Residential Property Tribunals. The aim of the transfer is to introduce a system for bringing proceedings, and resolving disputes under the Act which operates fairly between residents and site owners and which ensures both are treated on an equal footing, through access to low cost specialist non-adversarial tribunals that can use their expertise to resolve matters between parties relatively informally, cheaply and quickly.

7.3 Residential Property Tribunals (which were created under section 229 of the 2004 Act) are one of a group of tribunals administered by the Residential Property Tribunal Service which is a tribunal non-departmental public body currently sponsored by the Department for Communities and Local Government, but due to be transferred to the administration of the Tribunal Service soon (although it will retain its current identity for the time being).

7.4 The other tribunals which come under the umbrella of the Residential Property Tribunal Service are: Leasehold Valuation Tribunals, Rent Assessment Committees and Rent Tribunals. These, and Residential Property Tribunals, are specialist tribunals which adjudicate on a range of housing, residential valuation and landlord and tenant issues. Members are appointed, and are eligible, to sit on any of the tribunals within the group.

7.5 There are approximately 85,000 park homes located on about 2,000 sites in England which are protected by the 1983 Act. That Act (which was significantly amended by the 2004 Act), amongst other things, confers security of tenure on residents providing they occupy the home as

their only or main residence, regulates the amount of pitch fee (rent) payable and gives residents the right to assign their agreements and sell their homes, subject to the buyer being approved of by the site owner.

7.6 Subject to Parliamentary approval the 1983 Act, with certain modifications, will apply to approximately 195 local authority Gypsy and Traveller sites with 2,970 pitches in England, from 30 April 2011, as provided for by section 318 of the Housing and Regeneration Act 2008, and implemented through secondary legislation- see paragraph 4.4..

7.7 Under the 1983 Act, disputes between residents and site owners are to be determined by the county court or an arbitrator. If the agreement under which the park home is stationed on the pitch requires disputes to be referred to arbitration, this ousts the county court's jurisdiction. It has been a source of complaint for some time from park home residents that the use of county courts to resolve disputes under the Act often favours site owners and disadvantages residents, two thirds of whom are thought to be over the age of 60 and on limited and fixed incomes (see Economics of the Park Home Industry published by ODPM in October 2002).

7.8 Termination proceedings brought under the 1983 Act will remain within the jurisdiction of the county court. Where an agreement specifies that a dispute is to be determined by an arbitrator that requirement will not have effect and instead the disputes will be determined by a Residential Property Tribunal.

7.9 This Instrument is part of a package of measures that have been laid before Parliament to give effect to the transfer of this jurisdiction. The others are:

- The Residential Property Tribunal Procedures and Fees (England) Regulations 2011 and
- The Mobile Homes (Written Statement) (England) Regulations 2011.

These procedure and fee regulations set out, amongst other matters, the procedure to be adopted and fee charged in respect of applications to a tribunal brought under the 1983 Act. The written statement regulations prescribe the information to be included in a written statement under section 1 of the Act. .

Consolidation

7.10 Consolidation is not relevant in this instance.

8. Consultation outcome

8.1 There have been three related consultations on the transfer proposals. In addition, the Department for Communities and Local Government has consulted on and published an Equalities Impact Assessment on the impact the proposal will have on Gypsies and Travellers and the measures to be taken to mitigate that impact.

8.2 The main consultation was published in May 2008, "A new approach for resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended)". It contained three options on which consultees were invited to comment:

- Retaining the county court's jurisdiction under the Act (Option 1);
- Transferring the jurisdiction to Residential Property Tribunals (other than in respect of termination proceedings) (Option 2);

- Transferring the jurisdiction to a dedicated tribunal solely dealing with park home cases (other than those relating to termination proceedings) (Option 3).

8.3 In addition, the consultation sought views on whether agreements under which the use of an arbitrator to resolve disputes is mandatory should no longer be binding and whether this rule should apply to existing agreements containing such a provision.

8.4 The consultation also sought views on onward appeals and upon procedures to be adopted and fees to be charged by Residential Property Tribunals (if that were the adopted option) in dealing with cases under the 1983 Act.

8.5 There were 1760 responses to the consultation paper. 1650 were in the form of a campaign letter from residents; 80 were individual responses from residents; 12 were from residents' associations, including two of the national resident groups; 6 were from site owners, including the two national trade bodies and 12 were from other interested organisations, including local authorities, professional bodies and representatives of Gypsies and Traveller interests.

- Six consultees supported option 1.
- 96 consultees (and in addition those supporting the campaign) supported option 2.
- Four consultees supported option 3.

8.6 Most of the consultees who supported option 1 were a minority of site owners and those representing Gypsies and Traveller interests. The comments included that tribunal decisions were not binding; the courts could award costs; the use of the courts was of paramount importance; the case for change had not been made out and there was concern about ousting the courts in favour of administrative tribunals.

8.7 Those who supported option 3 (residents and site owners) thought this would be ideal, but considered it unlikely because it would not be cost effective.

8.8 The significant majority (almost all residents and their representatives, the majority of site owners and large proportion of the other interested organisations) supported option 2. Amongst others, some of the reasons given by consultees for supporting this option were: That proceedings would be quicker and cheaper than in the county court; tribunal proceedings would be less intimidating and stressful than those in the court; Residential Property Tribunals have a wealth of experience in landlord and tenant issues; access to justice was denied to residents in the courts because of expense and the threat of court action which residents could ill-afford was used as a means of intimidating and harassing residents. A minority of consultees, including those representing Gypsies and Traveller interests, opposed this option for, amongst other reasons, that legal representations may not be possible to obtain because legal aid is not available in tribunals, which could breach the human right to a fair trial; that tribunal proceedings could be complicated and time consuming and because of that, residents may not be able to represent themselves; tribunals do not award costs and it was thought their decisions could not be enforced.

8.9 In September 2008 the Department consulted with Gypsy and Traveller partners and local authorities on implementing the 1983 Act on local authority Gypsy and Traveller sites in England. That consultation referred to the proposed transfer of the county courts' jurisdiction under the Act to Residential Property Tribunals. Eight consultees (out of the 52 that responded) commented on it, six of whom raised concerns mainly concerning the lack of legal aid funding in the tribunal and the impact that would have on Gypsies and Travellers securing legal representation

8.10 The Department, in conjunction with the Ministry of Justice, the Legal Services Commission and the Residential Property Tribunal Service, also undertook an Equality Impact Assessment to determine the policy's impact upon Gypsies and Travellers. In April 2009 DCLG consulted, at a meeting with Gypsy and Traveller interested partners living, or representing those living on local authority sites, on the draft and the measures proposed be put in place to mitigate that impact. These included new regulations to ensure that Gypsies and Travellers are provided with assistance in presenting their cases at tribunal proceedings; guidance to Residential Property Tribunal Service staff on providing help and services in the reading and writing of applications, defences and other documentation as required and the availability of legal help for those eligible to receive it. The majority of the partners attending the meeting had no comments or concerns about the measures proposed to be in place. Some positively supported the proposed use of Residential Property Tribunals in dispute resolution. One was concerned that legal aid would not be available for tribunal decisions and this put Gypsies and Travellers at a disadvantage because local authorities would be represented by their legal officers. Partners thought this could to some extent be addressed if residents were represented by a residents' association. The Department was asked to provide advice and assistance for the formation of such associations.

8.11 In May 2009 the Department published the Equality Impact Assessment with the measures for mitigation listed in paragraph 8.10, as well as its undertaking to provide guidance to the formation of residents' associations on local authority sites. In addition, the Residential Property Tribunal Service will continuously monitor the number and outcome of cases before tribunals to which Gypsies and Travellers were parties and the Department will carry out a review of the impact of the measures and the effectiveness of the mitigation one year after the jurisdiction comes into force.

8.12 Also in May 2009 the Department for Communities and Local Government published its response to the May 2008 consultation. The paper announced the intention to transfer most disputes from the courts to Residential Property Tribunals and also to prohibit compulsory arbitration agreements, but to permit arbitration in post-dispute cases by agreement between the parties.

8.13 As part of the consultation response, the Department undertook a mini consultation on whether the "fact finding" role of the court in the termination of agreement cases should be transferred to Residential Property Tribunals; it being proposed that determination on whether it was reasonable to authorise termination remaining with the county court. The consultation period was shorter than normal (4 weeks) because it introduced no new policy principle and merely sought views on a discrete aspect of one of the jurisdictions of the Act. There were 18 responses to this consultation, including two from of the national residents' groups, the two national trade organisations, representatives of Gypsies and Travellers interests and other professional bodies. The majority of consultees (13) disagreed with the proposal, including the trade organisations and all those representatives of Gypsies and Traveller interests. A minority, including the national residents' group and some of the professional organisations (5) supported it.

8.14 In December 2009 the Department published the response to the mini consultation, announcing that the jurisdiction in respect of the "fact finding" role of the county courts in termination cases would not be transferred to Residential Property Tribunals, except in relation to proceedings for termination on account of disrepair, since we agreed with the minority of consultees who supported the transfer, that Residential Property Tribunals were better qualified than the courts to evaluate property conditions and repairs that might be required.

9. Guidance

9.1 The Department for Communities and Local Government does not intend to publish any Guidance in respect of this statutory instrument. It has had extensive discussions with senior members of the Residential Property Tribunal Service on its effective implementation and operation.

9.2 The Department intends to publish a fact sheet for guidance of tribunal users, outlining the regime for proceedings and disputes under the 1983 Act, including the jurisdiction of Residential Property Tribunal. This publication will complement the Residential Property Tribunal Service's proposed guidance on procedures for making and defending applications under the Act. Both publications will be available on the DCLG website.

10. Impact

10.1 The proposed transfer will impact on owners of park home sites in the private sector and on local authorities, county councils and registered social landlords who provide Gypsies and Traveller sites, in England. The cost of presenting or defending a case in the court is estimated to be in the region of £ 4,000 plus. The fee for presenting an application to a Residential Property Tribunal will not exceed £150 (where a fee is payable at all). A tribunal does not award costs to follow, i.e. parties bear their own costs, if any, win or lose. Consequently, proceedings in the tribunal can result in significant financial savings to parties as compared to those in the courts.

10.2 It is estimated that the annual cost to the Residential Property Tribunal Service in exercising this jurisdiction will be about £152,500 defrayed from its current budget of £10 million and, therefore, no additional cost to the public sector will be incurred.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business, as most sites in the private sector are owned by businesses that meet the definition. However, as indicated in the Impact Assessment, the Department does not believe the proposals have any significant impact upon them, other than to the extent of the potential savings outlined in paragraph 10.1.

12. Monitoring & review

12.1 The commitments for monitoring and reviewing the impact of the legislation on Gypsies and Travellers are set out in paragraph 8.11.

12.2 The Department for Communities and Local Government will undertake a review of the Residential Property Tribunals' jurisdiction three years after it has been implemented.

13. Contact

Robert Skeoch at the Department for Communities and Local Government Tel: 0303 444 3701 email: Robert.Skeoch@communities.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A

STATUTORY INSTRUMENTS

2011 No. (C.)

HOUSING, ENGLAND

The Housing and Regeneration Act 2008 (Commencement No. 8 and Transitional, Transitory and Saving Provisions) Order 2011

Made - - - -

The Secretary of State, in exercise of the powers conferred by sections 320, 322 and 325 of the Housing and Regeneration Act 2008(**1**), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Commencement No.8 and Transitional, Transitory and Saving Provisions) Order 2011.

(2) In this Order—

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

"the 2008 Act" means the Housing and Regeneration Act 2008;

"commencement date" means 30th April 2011;

"existing agreement" means a local authority agreement which is made before the commencement date;

"gypsies and travellers" means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showpeople, or persons engaged in travelling circuses, travelling together as such(**3**);

"local authority agreement" means an agreement under which a person is entitled to station a mobile home on a local authority gypsy and traveller site in England;

"local authority gypsy and traveller site" means any land which is occupied by a local authority as a caravan site providing accommodation for gypsies and travellers;

"permanent pitch" means a pitch on which a person is entitled to station a mobile home under the terms of an agreement to which the 1983 Act applies and which is not a transit pitch;

"pitch" means land, forming part of a local authority gypsy and traveller site in England and including any garden area, on which a person is entitled to station a mobile home; and

"transit pitch" means a pitch on which a person is entitled to station a mobile home, under the terms of an agreement to which the 1983 Act applies, for a fixed period of up to 3 months.

(3) Other expressions used, but not defined, in this Order and which are used in the 1983 Act have the same meaning in this Order as they have in the 1983 Act.

(**1**) 2008 c. 17.
(**2**) 1983 c. 34.
(**3**) Section 5 of the Mobile Homes Act 1983, before amendment by section 318 of the Housing and Regeneration Act 2008 (c. 17), provides that the 1983 Act does not apply to land occupied by a local authority as a caravan site providing accommodation for gipsies. The definition of 'gipsies' which this exclusion relied upon was repealed by section 80 of the Criminal Justice and Public Order Act 1994 (c. 33), though it was saved for the purpose of interpreting section 5. This definition of 'gypsies and travellers' derives from that saved definition.

Commencement: local authority gypsy and traveller sites

2.—(1) Section 318 (protected mobile home sites to include sites for gypsies and travellers) of the 2008 Act comes into force on the commencement date in relation to local authority gypsy and traveller sites in England.

(2) Section 321(1) (repeals) of, and Schedule 16 to, the 2008 Act come into force on the commencement date in relation to local authority gypsy and traveller sites in England so far as they relate to the following repeals—

Title	*Repeal*
Mobile Homes Act 1983 (c. 34)	In section 5(1), in the definition of "protected site", the words from "does not include" to "that,".
Criminal Justice and Public Order Act 1994 (c. 33)	In section 80(4), the words from "in the definition" to "1983 or".

(3) Paragraphs (1) and (2) are subject to articles 3 to 7.

Transit pitches: saving for certain purposes of the 1983 Act

3. The repeals made by the provisions brought into force by article 2 do not apply for the purposes of the operation of sections 1(3), (4) and (6) and 2(2) to (4) of the 1983 Act(**4**) in relation to a transit pitch.

Existing agreements: general transitional provision

4. Subject to article 5, the 1983 Act applies to an existing agreement as it would apply to a local authority agreement made after the coming into force of the provisions brought into force by article 2 and the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011(**5**).

Existing agreements: transitional disapplication of certain terms and obligations

5. Notwithstanding article 4—

(a) sections 1(2) to (9) and 2(2) to (4) of the 1983 Act do not apply to an existing agreement, and

(b) in relation to an existing agreement—

(i) paragraphs 3 and 4 (termination) of Chapter 3, or paragraphs 3 to 6 (termination) of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act(**6**), whichever Chapter may be applicable in a particular case, do not apply for the purposes of any proceedings commenced before the commencement date in which termination of the agreement is at issue;

(ii) paragraph 8 (re-siting of mobile home) of Chapter 4 of Part 1 of that Schedule does not apply to a requirement that the occupier's right to station the mobile home is exercisable for any period in relation to another pitch where the requirement is made before the commencement date;

(iii) paragraph 15(2) and (6) to (11) (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply in relation to the first pitch fee review under that agreement where the pitch fee review date for that review is within 28 days of the commencement date;

(iv) paragraph 16 (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to an improvement were carried out before the commencement date;

(v) paragraph 19(c) and (d) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule may not be enforced in relation to any breach of the agreement which occurs within 3 months of the commencement date;

(vi) paragraph 19(e) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to costs and expenses incurred before the commencement date;

(**4**) 1983 c. 34. In England and Wales, section 1 was substituted, and section 2 was amended, by sections 206 and 265 of, and paragraph 9 of Schedule 15 to, the Housing Act 2004 (c. 34).
(**5**) S.I. 2011/[????]
(**6**) Chapters 3 and 4 of Part 1 of Schedule 1 to the 1983 Act were inserted by the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011.

(vii) paragraph 20(f) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to the improvements start before, or within the period of 28 days beginning with, the commencement date; and

(viii) paragraph 20(g) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to any matter which arises before, or within the period of 28 days beginning with, the commencement date.

Existing agreements: local authority's duty to provide a written statement

6.—(1) In relation to an existing agreement in respect of a pitch which, by virtue of this Order, becomes a permanent pitch, the local authority must within the period of 28 days beginning with the commencement date give to the other party to the agreement a written statement which complies with the following paragraphs.

(2) The written statement must—

(a) specify the names and addresses of the parties,

(b) include particulars of the pitch that are sufficient to identify it,

(c) set out the express terms contained in the agreement,

(d) set out the terms to be implied terms by virtue of the application of the 1983 Act to the agreement, and

(e) be in the form set out in the Schedule to this Order or a form substantially to the same effect.

(3) Subject to paragraph (4), if any express term—

(a) is contained in the agreement, but

(b) was not set out in a written statement given to the other party in accordance with paragraph (1),

the term is unenforceable by the local authority or any person within section 3(1) of the 1983 Act.

(4) Where the local authority fails to give the other party to the agreement a written statement in accordance with paragraph (1), the other party may, at any time after the 28 days mentioned in that paragraph has expired, apply to a tribunal for an order requiring the local authority—

(a) to give the person a written statement which complies with paragraph (2)(a) to (e), and

(b) to do so not later than such date as is specified in the order.

(5) In paragraph (4) "tribunal" has the same meaning as in the 1983 Act and a tribunal's jurisdiction under that paragraph is to be treated as jurisdiction under the 1983 Act.

(6) A statement required to be given to a person under this article may be either delivered to them personally or sent by post.

(7) A written statement under this article is not to be treated as a written statement for the purposes of section 1 or 2 of the 1983 Act.

(8) A written statement under this article is to be treated as a written statement for the purposes of Chapter 4 of Part 1 of Schedule 1 to the 1983 Act.

Existing agreements: general saving

7. The repeals made by the provisions brought into force by article 2 do not affect any right or liability which has accrued in relation to an existing agreement or any remedy in respect of any such right or liability.

Signed by authority of the Secretary of State for Communities and Local Government

Name
Parliamentary Under Secretary of State
Date Department

SCHEDULE

Article 6(2)

Written Statement in relation to the Mobile Homes Act 1983

IMPORTANT – PLEASE READ THIS STATEMENT CAREFULLY AND KEEP IT IN A SAFE PLACE. IT SETS OUT THE TERMS ON WHICH YOU ARE ENTITLED TO KEEP YOUR MOBILE HOME ON SITE AND TELLS YOU ABOUT THE RIGHTS WHICH ARE GIVEN TO YOU BY LAW. IF THERE IS ANYTHING YOU DO NOT UNDERSTAND YOU SHOULD GET ADVICE (FOR EXAMPLE FROM A SOLICITOR OR A CITIZENS ADVICE BUREAU).

PART 1

Express Terms (other than those specified in Part 4)

1. The Mobile Homes Act 1983 ("the 1983 Act") applies to the agreement.

Parties to the agreement

2. The parties to the agreement are—

……

(*Name and address of person entitled to station a mobile home on the pitch*)

……

(*Name and address of the local authority*)

Start date

3. The agreement began on…….. (*insert date*)

Particulars of the pitch

4. The particulars of the land on which you are entitled to station your mobile home are—

……..……
……....……
……..……

Plan

5. A plan showing—

(a) the size and location of the pitch;

(b) the size of the base on which the mobile home is stationed; and

(c) measurements between identifiable fixed points on the site and the pitch and base;

is attached to this statement.

Local authority's interest

6. The local authority's estate or interest in the land will end on……..

(*If this statement applies insert date*); or

The local authority's planning permission for the site will end on…….

(*If this statement applies insert date*)

This means that your right to stay on the site will not continue after either of these dates unless the local authority's interest or planning permission is extended. (*If only one of these statements applies, cross out the words which do not apply. If neither of these statements apply, delete this paragraph.*)

Pitch fee

7. The pitch fee is payable weekly/monthly/quarterly/annually

(*Cross out the words which do not apply*)

The pitch fee is…….

The following services are included in the pitch fee—

Water

Sewerage

……

……

(*Cross out the services which are not included and add any others which are included in the pitch fee*)

Review of pitch fee

8. The pitch fee will be reviewed on…… (*Insert date*)

This date is the review date.

Additional charges

9. An additional charge is made for the following matters—

……

……

……

(*List the matters for which an additional charge is made*)

PART 2

Information about your rights

The 1983 Act

10. Because you have an agreement with a local authority which entitles you to keep your mobile home on its site and live in it as your home, you have certain rights under the 1983 Act, affecting in particular your security of tenure and the review of the pitch fee.

Implied terms

11. These rights, which are contained in the implied terms set out in Part 3 of this statement, apply automatically and cannot be overridden, so long as your agreement continues to be one to which the 1983 Act applies.

Express terms

12. If you are not happy with any of the express terms of your agreement (as set out in Part 4 of this statement) you should discuss them with the local authority, who may agree to change them.

Unfair terms

13. If you consider that any of the express terms of the agreement (as set out in Part 4 of this statement) are unfair, you can, in accordance with the provisions of the Unfair Terms in Consumer Contracts Regulations 1999(**7**), complain to the Office of Fair Trading or any qualifying body.

PART 3

Implied Terms

Under the 1983 Act certain terms are automatically included in your agreement. These implied terms are set out in Part 1 of Schedule 1 to the 1983 Act.

(*Implied terms to be inserted by the local authority*)

PART 4

Express terms of the agreement

This part of the written statement sets out other terms of the agreement which are agreed between you and the local authority in addition to the implied terms.

(*Express terms to be inserted by the local authority*)

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force section 318 (protected mobile home sites to include sites for gypsies and travellers) of the Housing and Regeneration Act 2008 and related repeals in Schedule 16 to that Act. The provisions commenced result in the application of the Mobile Homes Act 1983 to local authority gypsy and traveller sites in England.

Articles 3 to 7 are transitional, transitory and saving provisions in relation to agreements for pitches on local authority gypsy and traveller sites.

Article 3 saves the disapplication of certain provisions in relation to agreements for transit pitches. Broadly these disapplications mean that the 28 day time limit for providing a written statement, the right to seek a court or tribunal order in relation to the giving of a written statement, and the right to apply to the court or tribunal to amend the terms of such an agreement, do not apply to these agreements.

Article 4 provides that on or after the commencement date the 1983 Act, as amended by section 318 of the 2008 Act and the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011, applies to existing agreements in the same way it applies to a new agreement entered into on that date.

Article 5 disapplies, in relation to existing agreement, certain provisions of section 1 of, and Schedule 1 to, the 1983 Act (inserted into that Act by the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011).

Article 6 is a transitory provision which requires local authorities to give a written statement to the occupiers of permanent pitches within 28 days of the commencement date and it (and the Schedule to the Order) sets out what such a statement must include.

Article 7 is a general saving provision to ensure that rights and liabilities under existing agreements are not affected by the application of the 1983 Act to these agreements.

(**7**) S.I. 1999/2083.

An impact assessment has been prepared in respect of this Order. It has been deposited in the Library of each House of Parliament and is available from the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU or email gypsies@communities.gsi.gov.uk

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	*Date of Commencement*	*S.I. No.*
Sections 1 to 3 and Schedule 1	08.09.2008	2008/2358
Section 4	08.09.2008, 01.12.2008 and 01.04.2010	2008/2358, 2008/3068 and 2010/862
Sections 5 to 18 and Schedules 2 to 4	01.12.2008	2008/3068
Section 19	01.12.2008 and 01.04.2010	2008/3068 and 2010/862
Sections 20 to 30	01.12.2008	2008/3068
Section 31	01.04.2010	2010/862
Section 32 and 33	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Section 34	01.04.2009	2009/803
Section 35	01.04.2010	2010/862
Section 36	01.04.2009	2009/803
Section 37	08.09.2008	2008/2358
Sections 38 to 43	01.12.2008	2008/3068
Section 44	08.09.2008	2008/2358
Section 45	01.12.2008	2008/3068
Sections 46 and 47	08.09.2008	2008/2358
Section 48	01.12.2008	2008/3068
Section 49	08.09.2008	2008/2358
Section 50 and Schedule 5	08.09.2008, 01.12.2008 and 01.04.2009	2008/2358, 2008/3068 and 2009/803
Section 51 and Schedules 6 and 7	08.09.2008	2008/2358
Sections 52 to 55	08.09.2008	2008/2358
Section 56 and Schedule 8	08.09.2008, 01.12.2008, 01.04.2009 and 01.04.2010	2008/2358, 2008/3068, 2009/803 and 2010/862
Section 57	08.09.2008, 01.12.2008 and 01.04.2010	2008/2358, 2008/3068 and 2010/862
Section 58	08.09.2008, 01.12.2008, 01.04.09 and 01.04.2010	2008/2358, 2008/3068, 2009/803 and 2010/862
Section 59	08.09.2008	2008/2358
Sections 60 to 63	01.04.2010	2010/862
Section 64	16.02.2009 and 01.04.2010	2009/363 and 2010/862
Sections 65 to 71 and Schedules 6 and 7	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 72	08.09.2008	2008/2358
Sections 73 to 80	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Sections 81 to 85	08.09.2008	2008/2358
Section 86	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Sections 87 to 92	08.09.2008	2008/2358
Section 93	08.09.2008 and 01.04.2009	2008/2358 and 2009/803

Section 94	01.04.2010	2010/862
Section 95 to 98	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Sections 99 to 104	08.09.2008	2008/2358
Section 105	08.09.2008	2008/2358
Sections 106 to 111	01.04.2010	2010/862
Sections 112 and 113	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 114	08.09.2008 and 07.09.09	2008/2358 2009/2096
Section 115	01.04.2010	2010/862
Section 116	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 117	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 118	01.04.2010	2010/862
Section 119	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 120 to 126	01.04.2010	2010/862
Section 127	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 128 to 130	01.04.2010	2010/862
Section 131	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 132 to 143	01.04.2010	2010/862
Sections 144 and 145	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Sections 146 to 173	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Section 174	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 175 to 191	01.04.2010	2010/862
Sections 192 to 197	08.09.2008	2008/2358
Section 198	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 199 to 201	01.04.2010	2010/862
Section 202	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Sections 203 to 211	01.04.2010	2010/862
Section 212	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 213	01.04.2010	2010/862
Section 214	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 215	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 216	08.09.2008	2008/2358
Sections 217 to 227	01.04.2010	2010/862
Section 228	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Sections 229 to 233	01.04.2010	2010/862
Section 234	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Sections 235 to 239	01.04.2010	2010/862

Section 240	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Section 241 to 243	01.04.2010	2010/862
Section 244	01.04.2009 and 01.04.2010	2009/803 and 2010/862
Section 245 to 274	01.04.2010	2010/862
Sections 275 and 276	08.09.2008 and 01.04.2010	2008/2358 and 2010/862
Section 277 and Schedule 9	08.09.2008, 01.12.2008, 01.04.2009 and 01.04.2010	2008/2358, 2008/3068, 2009/803 and 2010/862
Section 278	01.04.2010	2010/862
Sections 295 and 296	01.12.2008	2008/3068
Section 297	01.01.2009	2008/3068
Section 298	01.12.2008 and 01.01.2009	2008/3068
Section 299 and Schedule 11	01.12.2008 and 20.05.2009	2008/3068 and 2009/1261
Section 300	07.09.09	2009/2096
Sections 301 and 302	01.12.2008 and 07.09.09	2008/3068 and 2009/2096
Section 303 and Schedule 12 (partially)	01.12.2008	2008/3068
Section 308	01.12.2008	2008/3068
Section 309	01.12.2008 and 06.04.2009	2008/2068 and 2009/803
Section 311 and Schedule 14	01.12.2008	2008/3068
Section 314 and Schedule 15 (partially)	02.03.09	2009/415
Section 315 (partially)	01.12.2008	2008/3068
Section 316	07.09.09	2009/2096
Section 317	22.09.2008	2008/2358
Section 321 and Schedule 16 (partially)	22.09.2008, 01.12.08, 02.03.09, 01.04.2009 20.05.2009 and 07.09.09	2008/2358, 2008/3068, 2009/415, 2009/803, 2009/1261 and 2009/2096