EXPLANATORY MEMORANDUM TO

THE MOBILE HOMES (WRITTEN STATEMENT) (ENGLAND) REGULATIONS

2006 No. [2275]

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These Regulations revoke and replace, in relation to England only, the Mobile Homes (Written Statement) Regulations 1983 (S.I. 1983/749).

2.2 The Schedule to these Regulations specifies the requirements for the written statement, which a site owner is required to give to proposed occupiers under section 1(2) of the Mobile Homes Act 1983 ("the 1983 Act").

2.3 The Schedule is made up of 5 Parts.

- Part 1 - specifies the parties to the proposed agreement, particulars of the pitch and express terms relating to the pitch fee, its review and any additional charges.
- Part 2 contains information about the different rights contained in or implied into the proposed agreement.
- Part 3 sets out the terms which will be implied into the agreement by section 2 of the 1983 Act.
- Part 4 contains supplementary provisions relevant to approvals to be given by the site owner.
- Part 5 is for any other express terms of the agreement, which are to be set out by the site owner.

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

3.1 The amendments made by the Mobile Homes (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1755) come into force on 1st October 2006; the same date as these Regulations come into force. That Order and these Regulations are linked as described in the following section.

4. Legislative Background

4.1 These Regulations are made under section 1(2)(e) of the 1983 Act. Section 1 was substituted by section 206(1) of the Housing Act 2004. Section 5(1) of the 1983 Act, which was amended by section 206(3) of the Housing Act 2004, provides that the Secretary of State is the "appropriate national authority" in relation to England.

4.2 Section 1(2) of the 1983 Act provides that, before an agreement to which section 1 of the 1983 Act applies is entered into, the owner of the protected site must give to the proposed occupier of the mobile home a written statement. The contents of the written statement are partially prescribed by section 1(2)(a) to (d) of the 1983 Act (as substituted by section 206 the Housing Act 2004). These include, among other things, the express terms of the agreement and the terms to be implied into all agreements by section 2 of the 1983 Act, (known as "implied terms"). An express term which is not included in a written statement is unenforceable by the owner of the site; see section 1(5) of the 1983 Act.

4.3 The Mobile Homes (Written Statement) Regulations 1983 (S.I. 1983/749). currently prescribe the form of the written statement.

4.4 The implied terms contained in Schedule 1 to the 1983 Act are the result of amendments—

(a) made by section 207 of the Housing Act 2004;

(b) made by the Mobile Homes Act 1983 (Amendment of Schedule 1)(England) Order 2006, which comes into force on 1st October 2006, the same date as these Regulations.

4.5 Regulation 4 of these Regulations revokes the Mobile Homes (Written Statement) Regulations 1983 in relation to England only. The National Assembly for Wales intends to make similar regulations for Wales.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 It is a legal requirement under section 1 of the 1983 Act, as amended by the Housing Act 2004, that every occupier of a home on a protected site should be given, by the owner of the site, a written statement not later than 28 days before the date on which any agreement, for the sale of the mobile to the proposed occupier, is made.

7.2 The provision ensures that before a proposed occupier enters into such an agreement they are supplied with full details of the mobile home, pitch and base, are fully aware of all the terms of the agreement (both express and implied) and are informed of their rights under the agreement.

7.3 The form of the written statement is currently prescribed by the Mobile Homes (Written Statement) Regulations 1983 ("the 1983 Regulations"). These provide that the written statement must contain:

- the name and address of the site owner and the mobile home occupier, and the date on which the agreement begins;
- a description of the pitch;
- as the circumstances require, a statement that the site owner's interest in the land or his or her planning permission for the site is temporary;
- information about the rights of the mobile home occupiers;
- the implied terms of the agreement; and
- the express terms of the agreement.

7.4 Recent research[1] estimates that around 120,000 people, predominantly elderly, live on more than 1,680 residential sites in England and Wales. Recent work carried out by the Department's predecessors suggests these estimates may be conservative with as many as 200,000 residents and in excess of 2,000 sites.

7.5 Owing to the fact that a large number of complaints were made about the operation of agreements to which the 1983 Act applied, particularly by the occupiers of mobile homes, the Government established the Park Homes Working Party ("the PHWP") in 1998. Its remit was to examine how the existing legislation could be made to work more effectively, and to consider whether there was a need to change it in the longer term while at the same time ensuring the industry's regulatory framework helps to meet the growing need for quality, affordable housing. It was made up of representatives from residents' and trade associations, local government and other stakeholders.

7.6 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

[1] *Economics of the Park Homes Industry*, 2002

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.

7.7 The PHWP's recommendations were the subject of consultation in July 2000. The Department's predecessor issued its formal response in November 2001 and accepted 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 to the 1983 Act.

7.8 The 2003 consultation on the draft Housing Bill resulted in nearly 4,000 calls for primary legislation in respect of mobile homes. In the 9 months up to April 2003 the Department's predecessor received representations on this issue from 145 different MPs. During the debate following the second reading of the Housing Bill, nine MPs called for amendments to the law relating to mobile homes. Having considered these representations, the Government decided to include in the Bill five provisions relating to mobile homes. These reflected a consensus amongst stakeholders.

7.9 A Consultation Paper was issued in July 2004, which outlined further potential changes to the implied terms in Schedule 1 to the 1983 Act 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.communities.gov.uk.

7.10 The implied terms have been amended by the Housing Act 2004 and the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006. These amendments needed to be incorporated into the written statement. The changes that needed to be made were so extensive that the Department decided to revoke the 1983 Regulations, in relation to England, and replace them with new Regulations.

7.11 In addition to reflecting the changes to the implied terms, the new Regulations set out (in Part 4) the supplementary provisions inserted as Part 3 of Schedule 1 to the 1983 Act by section 207(5) of the Housing Act 2004. The material in Parts 1 and 2 of the Schedule to the 1983 Regulations has been revised to ensure that proposed occupiers are given full details of the pitch and base and of their rights.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it does not impact on business, charities or voluntary bodies. These Regulations do not require the owners of protected sites to do anything significantly different to what they are already required to do under the 1983 Regulations and by section 1(2) of the 1983 Act.

8.2 A Regulatory Impact Assessment has been prepared for the changes made to the implied terms by the Housing Act 2004 and the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006.

9. Contact

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