



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 6

#### MOBILE HOMES

#### **169 Implied terms relating to termination of agreements or disposal of mobile homes**

- (1) Part 1 of Schedule 1 (terms implied in site agreements) to the 1983 Act is amended as follows.
- (2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—
  - (a) the words “age and” are repealed,
  - (b) after sub-paragraph (2) insert—
    - “(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—
      - (a) the court considers that—
        - (i) having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it; but
        - (ii) it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it; and
      - (b) the occupier indicates an intention to carry out those repairs.
- (4) In such a case the court may make an order setting out the repairs and adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.
- (5) If the court makes such an order, the application is not to be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out.”.

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*Status: This is the original version (as it was originally enacted).*

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(3) In paragraph 8 (sale of mobile home to person approved by owner)—

(a) after sub-paragraph (1) insert—

“(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.

(1B) The owner must, within 28 days of receipt of the request—

- (a) approve the person, unless it is reasonable for the owner not to do so; and
- (b) serve on the occupier notice of the decision whether or not to approve the person.

(1C) An approval may be made subject to conditions.

(1D) But any such conditions must be—

- (a) reasonable, and
- (b) capable of being satisfied without varying or deleting any express term of the agreement.

(1E) A notice under sub-paragraph (1B) above must specify—

- (a) if the approval is given subject to conditions, the conditions;
- (b) if the approval is withheld, the reasons for withholding it.

(1F) The occupier may appeal to the court if—

- (a) the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1E) above;
- (b) the owner decides not to approve the person; or
- (c) the occupier is aggrieved by any condition imposed in an approval.

(1G) The court may determine such an appeal by—

- (a) making an order declaring that the person is approved (subject to such conditions, if any, as may be specified in the order), or
- (b) making such other order as it thinks fit.

(1H) It is for the owner—

- (a) if the owner served a notice under sub-paragraph (1B) above and the question arises whether the notice was served within the required period of 28 days, to show that it was;
- (b) if the owner gave approval subject to any condition and the question arises whether the condition falls within sub-paragraph (1D) above, to show that it does;
- (c) if the owner withheld approval and the question arises whether it was reasonable for the owner to do so, to show that it was.

(1I) A request or notice under this paragraph—

- (a) must be in writing; and
- (b) may be either delivered personally or sent by post.”

- (b) in sub-paragraph (2) for “Secretary of State” substitute “Scottish Ministers”.
- (4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—
  - “(2) Sub-paragraphs (1A) to (1I) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.”.
- (5) The amendments made by this section apply in relation to an agreement to which the 1983 Act applies that was made before the day on which this section comes into force as well as in relation to one made on or after that day.
- (6) However—
  - (a) the amendments made by subsection (2) do not apply in relation to any application for the purposes of paragraph 6 of schedule 1 to the 1983 Act which is made before the date on which this section comes into force, and
  - (b) the amendments made by subsections (3)(a) or (4) do not apply in relation to any request for approval for the purposes of paragraph 8 or, as the case may be, 9 of that schedule which is made before that date.