

# **PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT**

## **1. Title of Proposal**

The Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019

## **2. Purpose and intended effect**

### **Background**

Caravans and mobile homes are a small but important part of the housing mix in Scotland. While legally defined as caravans many modern mobile homes resemble small bungalows. They are usually situated on a “pitch” owned by a site owner, to whom a resident pays a pitch fee. Larger mobile homes are sometimes referred to as “park homes”, and can consist of twin-units that are bolted together on site.

The Caravan Sites Act 1968 sets out the maximum permitted size of a caravan in Scotland. The legislation also applies to mobile homes (park homes). The Scottish Government considers that given the number of changes in the use of caravans and mobile homes since 1968, including people now occupying them as their only home, the maximum permitted size of a caravan or mobile home should be increased to reflect these developments. The proposed change would increase the maximum permitted size of a caravan or mobile home by around 10%.

Those supporting the proposal point most frequently to the advantages of harmonising the maximum size in Scotland with that in England and Wales. The specific benefits identified are making a greater range of caravans and mobile homes available to purchasers, allowing manufacturers to standardise their product range, and recognising that people have increasing expectations around quality and space standards. The potential benefits of an increase in the dimensions of caravans and mobile homes allowing for improved insulation was raised. However, it was also noted that it would be important to ensure that requirements around the space between mobile homes are still respected.

Under section 29(1) of the Caravan Sites and Control of Development Act 1960, (“the 1960 Act”) a caravan is defined as...

any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted but does not include:

- a) any railway rolling stock which is for the time being on rails forming part of a railway system or
- b) any tent

The definition in the 1960 Act was amended by section 13(1) of the Caravan Sites Act 1968 (“The 1968 Act”). Section 13(1) provides that: A structure designed or adapted for human habitation which-

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices;

(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway road when assembled.

For the purposes of the 1960 Act, as amended, the expression “caravan” shall not include a structure designed or adapted for human habitation that falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled *exceed any of the following limits, namely—*

- length (exclusive of drawbar) 60 feet (18.288 metres)
- width 20 feet (6.096 metres)
- the overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (3.048 metres).

This means that any such structure that is larger than these dimensions will not be meet the definition of a caravan. Section 13(2) of the Caravan Sites Act 1968 allows Scottish Ministers to alter the maximum dimensions of a structure that can be defined as a “twin-unit caravan”.

The following dimensions already apply to the dimensions in equivalent legislation in England and Wales:

- length (exclusive of drawbar): 65.616 feet (20.00 metres);
- width 22.309 feet 6.80 metres);
- height 10.006 feet (3.05 metres).

## **Objective**

Increase the maximum dimensions of a caravan or mobile home to take into account more recent improvements to manufacturers’ specifications in terms of space and insulation for caravans and twin-unit mobile homes designed and equipped for year-round occupation. It also allows for external cladding offered to mobile homeowners under government energy saving schemes<sup>1</sup>.

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<sup>1</sup> Those living in or at risk of fuel poverty resident in park homes can receive external wall insulation through Warmer Homes Scotland – the Scottish Government’s national fuel poverty scheme. The scheme has been extended to 2022

The policy covered by this BRIA will contribute to the following National Outcome:

- We live in communities that are inclusive, empowered, resilient and safe

### **Rationale for Government intervention**

To make sure that site owners and residents are not disadvantaged, we want the legal definition to be consistent with other UK countries. The steady demand for caravans and mobile homes has improved manufacturer's specifications, which include the latest British Standards in respect to space and insulation. The current dimensions in Scotland are therefore no longer fit for purpose. Periodically, officials receive requests from the caravan industry to bring Scotland in line with the maximum dimensions in England and Wales.

The benefits of an increase in the dimensions of caravans and mobile homes allowing for improved insulation is a common theme. External cladding is an extremely good method of insulating a caravan and is the preferred method for the following reasons: it dramatically increases insulation levels, with up to 30% energy saving; it leads to significant cost savings for occupiers; it is cheap and easy to install. Under current size definition, the cladding of caravans and mobile homes can increase their size such that they breach the definition of a caravan.

The legal definition of a caravan is one of the key building blocks upon which the legislative framework that governs mobile homes is built. Most caravans fall within the existing definition; namely caravans used as permanent year-round residential accommodation; caravans on Gypsy/Traveller sites, and caravans used for holiday purposes. Permanent works, such as a large porch or extension, which fix the caravan to the ground could remove it from the legal definition of a caravan, have serious planning, legal, and contract implications for site owners and residents alike. However, the connection of mains water/electricity/sewerage or addition of cosmetic skirts that do not fix the structure to the ground do not prevent it from coming within the definition. A structure that is sufficiently attached to the land and cannot be removed in one piece or in sections, is unlikely to meet the definition of a caravan, however, it will be for the courts to make a ruling in disputes.

The granting of caravan site licences is linked by section 3(3) of the 1960 Act to the existence of planning permission for the use of the land as a caravan site. A local authority can only issue a site licence if the applicant has planning permission to use the land as a caravan site. Under planning legislation, mobile homes, as with any caravan, do not have the permitted development rights associated with dwelling houses. Therefore, any structure erected in association with a mobile home may require planning permission. Examples would include garages, sheds, verandas, decking, extensions including conservatories etc. In addition, any fence, gate or wall, etc. exceeding 1 metre in height may also require planning permission.

The terms of the site licence for holiday caravan sites differ from those of a permanent year-round site where the owner-occupier lives in the caravan or mobile home as his only home. The manufacturer will normally supply the type of caravan that is suitable for the intended use:

- <https://www.bsigroup.com/en-GB/about-bsi/media-centre/press-releases/2016/january/Standard-for-residential-park-homes-is-revised/>
- <https://holidayliving.co.uk/2018/02/09/difference-between-bs3632-and-en1647/>

In the case of residential mobile homes, for example, the protections and rights provided by the Mobile Home Act 1983, and subsequent amendments risk becoming invalid by falling outside the legal definition.

It is therefore necessary to increase the maximum dimensions in Scotland to ensure that larger caravans and mobile homes are available from manufacturers who supply them, and those homes that have increased in size due to the addition of cladding, do not fall out with the definition of a caravan.

We have published a timeline showing the evolution of the law relating to mobile homes in Scotland dating from the 1960 Act to the latest legislation.

### **3. Consultation**

#### **Within government**

The following government agencies and departments have been consulted in the preparation of this Business and Regulatory Impact Assessment (BRIA):

- Building Standards Team
- Better Regulation and Industry Engagement Branch
- Scottish Government Legal Directorate
- Scottish Tourism and Leisure (the team responsible for SG policy on holiday sites)
- Scottish Government Fire Safety Branch
- Planning
- Energy Efficiency
- Legal Aid Team

#### **Public consultation**

Part 5 of the Housing (Scotland) Act 2014 set the framework for a new system for licensing mobile home sites licensed to have permanent residents. The broad purpose of the changes to the previous site licence system was to create a system that enables poor site standards and behaviour by site owners to be tackled, bringing benefits to residents, particularly the more vulnerable owner-occupiers who require protection from unscrupulous site owners.

In 2015, the proposed changes to the maximum permitted caravan dimensions were included as part of the wider consultation<sup>2</sup> on the regulations supporting

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<https://www.gov.scot/publications/analysis-responses-consultation-mobile-home-sites-regulations/pages/8/>

the new licensing system for mobile home sites with permanent residents. There was overall support for the proposal. 24 out of 29 responders supported the proposal. 18 (listed in the table below) provided a written response to the consultation questions.

<b>Community or residents' group</b>	<b>Local Government</b>	<b>Private sector organisation/ trade body</b>
Findhorn Bay Holiday Park	Argyll and Bute Council Regulatory Services	British Holiday & Home Parks Association (BH&HPA)
Eco-Mobile-Homes Group	(Environmental Health)	National Caravan Council
Independent Park Home Advisory Service	East Lothian Council	Sylvan Stuart Limited (holiday lodge manufacturer)
Monksmuir Community Association	Fife Council, Building Standards & Public Safety (Private Housing Standards)	
National Association for Park Home Residents	Midlothian Council - Environmental Health	
Willow Wood Residents Association	North Lanarkshire Council	
	Perth & Kinross Council Regulatory Services	
	South Lanarkshire Council - Environmental Services	
	West Lothian Council	
	Argyll Community Housing Association (Registered Social Landlord)	

Those supporting the proposal pointed most frequently to the advantages of harmonising the approach in Scotland with that in England and Wales. The specific benefits identified included:

- making a greater range of caravan and mobile homes available to purchasers;
- allowing manufacturers to standardise their product range, recognising that people have increasing expectations around quality and space standards.

## Issues Raised in Consultation

We have also spoken to local authority, industry and resident representatives in the preparation of the draft Order. One local government official suggested that any changes should not permit increased internal space without improvement in thermal efficiency. A local government representative responsible for site licensing expressed concern about the particular challenges associated with maintaining the minimum distances between mobile homes. They suggested that existing sites could require infrastructure works and that a range of fire safety and amenity issues would need to be taken into account.

The updated model standards published in December 2018 (Guidance to local authorities on site licence conditions for mobile home, park home or caravan sites which are licensed to have permanent residents)<sup>3</sup>, include conditions to deal with amenity issues on sites. The proposed increases to the caravan dimensions are to increase the maximum size permitted. Therefore, any caravan that is smaller than the new maximum dimensions will remain unaffected by the changes.

Another local government official raised the issue of fire safety. Their primary concern was that the fire safety regime is not aligned with the licensing regime, with the enforcement of fire safety the responsibility of the local Scottish Fire and Rescue Service. This assumes cooperation at a local level to satisfy the authority that the site is safe before they grant a site licence. They were particularly concerned about the enforcement of separation distances, which prevents fires from spreading. While the model standards make provision for separation distances for amenity and privacy reasons, they do not make any provision for fire safety, as site operators must comply with the fire safety regime set out in the Fire (Scotland) Act 2005. The 2005 Act amended section 5 of the 1960 Act and added a new subsection 6A which provides that any model standards issued under section 5(6A) of the 1960 Act cannot cover those fire safety matters which are regulated by the 2005 Act.

Existing separation distances require to be maintained. It is possible that larger caravans placed on existing pitches could breach separation distances, resulting in a need to re-configure a site. This issue is likely to be mitigated by improvements in the fire retardant properties of materials used to construct modern caravans because where caravan construction is inherently fire resistant the separation distance may be reduced.

Guidance on separation distances for the purposes of reducing the risk of fire spread from caravan to caravan can be found in the [Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation](#) guidance. This

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<sup>3</sup> <https://www.gov.scot/publications/model-standards-residential-mobile-home-site-licences/>

guidance complements the current fire safety legislation, which is enforced by the Scottish Fire and Rescue Service. It assists duty holders to comply with their fire safety obligations.

The Scottish Fire and Rescue Service can make comment as a consultee on licensing applications and can raise any concerns they may have regarding fire safety. Therefore while licensing legislation cannot impose fire safety conditions, there is a mechanism in place to ensure that fire safety can be considered as part of a wider public safety test by licensing authorities, before granting a licence.

## **4. Options**

### **Option 1 – Increase caravan dimensions (the preferred option)**

We propose to amend the definition of a caravan by altering the dimensions set out in section 13(2) of the Act as follows:

- length (exclusive of drawbar): 65.616 feet (20.00 metres);
- width : 22.309 feet (6.80 metres);
- height: 10.006 feet (3.05 metres).

The amendment of the specified dimensions is proposed to respond to the difficulties created by the external cladding of caravans by increasing the external dimensions for caravans and mobile homes specified in section 13 (2) of the Act. The larger maximum sizes also reflects trends in improved manufacturer specification of caravans and mobile homes being produced and supplied in other parts of the UK. There was wide support for this option during consultation, although, there were some concerns about spacing between units.

### **Sectors and Groups Affected**

The options we have considered will affect the following groups to a greater or lesser extent:

- Residential mobile home site owners
- Holiday site owners
- Residents of caravans and mobile homes
- Gypsy/Travellers
- Travelling Showpeople
- Local Authorities
- Caravan/mobile home manufacturers
- Caravan/mobile home refurbishers
- Insurers

From our engagement with stakeholders, we are also aware that migrant workers are sometimes housed in caravans or mobile homes that could be affected by these changes. Detailed data is not available on the numbers and nationalities of those involved. However, with the increasing use of polytunnels in modern farming we know that traditionally seasonal work can now extend well beyond the summer months.

Generally, caravan and mobile home sites fall into two categories: holiday sites, and residential sites. Holiday sites usually provide mobile homes that can be rented by the week, and may also have people living on them for longer periods (such as a several months), but not all year round. Residential sites are licensed to be occupied all year round, and in Scotland typically have around 40 mobile homes on them. Mobile home residents are generally older (over 55), and have often sold a bricks and mortar house and bought a mobile home to release capital and live in a rural or seaside location.

The new dimensions will also affect caravans occupied by Gypsy/Travellers, though it is more likely this will affect private sites rather than local authority/RSL owned sites, which tend to have smaller units situated on them. The 2011 Census data in relation to Gypsy/Travellers indicated that there were 1792 households. Of these, 259 households were recorded as a “caravan or other mobile or temporary structure”, although we expect that the actual numbers may be higher than this.

Caravans and mobile homes are eligible for measures provided under the energy supplier obligation and this includes insulation for floor, roof and walls. Eligibility is limited to households in the affordable warmth group (primarily fuel poor households that are in receipt of qualifying benefits etc.) or households that have been assessed by the Council as being on a low income and vulnerable to the effects of cold (LA flexible eligibility). ECO measures are generally available to any private tenure but there are restrictions upon landlords based upon EPC ratings. Caravans and mobile homes may also be eligible for some of the heating measures but only if the household is fuel poor.

Caravans and mobile homes are also eligible for measures such as external wall insulation under Warmer Homes Scotland, the Scottish Government’s national fuel poverty scheme if they are owned by the occupant or privately rented. Eligibility is also dependant on the EPC rating of the home and whether the occupier is fuel poor. Since the scheme started in 2015, 100 caravans and mobile homes have received measures with 106 measures installed. This included 80 heating measures and 18 external wall installations.

It is important that caravan and mobile home residents do not lose their security of tenure by cladding their homes and therefore any changes must ensure all works have the written agreement of the site owner and local authority to protect the resident from future action.

## **Benefits**

- Aligns caravan dimensions in Scotland with those in England and Wales and allows manufacturers to standardise their product range
- Could assist with energy efficiency by allowing the installation of cladding. Manufacturers will save money in the long term, as they will be able to install the cladding during construction.



- Reduced energy bills and better quality of living. Healthier residents due to better insulation. Given that caravan dwellers, particularly in mobile homes, tend to be retirees on fixed incomes, this is especially beneficial.
- Reduced emissions if cladding installed, and from reduction in energy outputs. Keeping a maximum size means sites will not have their general character affected.

## **Costs**

Changes may be required on sites to maintain separation distances but these are maximum specifications. Homeowners do not have to install cladding and existing smaller caravans will remain on sites. Manufacturers are already producing caravans to these specifications due the changes in England and Wales.

## **Option 2 - Do nothing**

- The caravan dimensions introduced in 1968 would remain unchanged.

## **Sectors and Groups Affected**

We believe the options we have considered will affect the following groups to a greater or lesser extent:

- Mobile home site owners
- Holiday site owners
- Residents of caravans and mobile homes
- Gypsy/Travellers
- Travelling Showpeople
- Local Authorities
- Caravan/mobile home manufacturers
- Caravan/mobile home refurbishers
- Insurers

From our engagement with stakeholders, we are also aware that migrant workers are sometimes housed in caravans that could be affected by these changes. Detailed data is not available on the numbers and nationalities of those involved. However, with the increasing use of polytunnels in modern farming we know that traditionally seasonal work can now extend well beyond the summer months.

## **Benefits**

- A benefit of doing nothing would be to avoid the possible unintended consequence that larger caravans could be placed on pitches, with the result that they encroach into the separation distances between caravans.

## **Costs**

- Manufacturers are already producing larger caravans and mobile homes because of the dimensions set out in equivalent legislation for England and Wales. We have heard anecdotally that larger caravans are already on sites, potentially breaching current regulations and causing confusion about the prevailing regulations.
- If we did nothing some caravans may not be able to install the cladding without breaching the maximum dimensions currently in place.
- By doing nothing we will not be helping towards various energy targets or helping to reduce fuel bills and be disadvantaging caravan residents, especially those who live on year-round sites. Many are on modest fixed incomes and are therefore more impacted by increases in heating costs.
- Caravan dimensions in Scotland would continue to be smaller than those in England and Wales, causing potential problems for manufacturers and others.

## **Option 3 – Remove caravan dimensions all together**

We believe the options we have considered will affect the following groups to a greater or lesser extent:

- Mobile home site owners
- Holiday site owners
- Residents of caravans and mobile homes
- Gypsy/Travellers
- Travelling Showpeople
- Local Authorities
- Caravan/mobile home manufacturers
- Caravan/mobile home refurbishers
- Insurers

From our engagement with stakeholders, we are also aware that migrant workers are sometimes housed in caravans that could be affected by these changes. Detailed data is not available on the numbers and nationalities of those involved. However, with the increasing use of polytunnels in modern farming we know that traditionally seasonal work can now extend well beyond the summer months.

## **Benefits**

- Would allow for installation of cladding without contravention of caravan legislation but we believe any benefits that would be brought about by this option would be greatly outweighed by the costs.

## Costs

- There is little support for this option. It would require primary legislation to amend the wording in the 1968 Act.
- Although in theory manufacturers and possibly site owners could welcome this, this would have significant problems with regard to environmental and planning concerns.
- Removing the dimensions altogether, may make it impossible for larger units to be moved by road if they contravened these requirements.
- In addition, the caravan industry has been built around the dimensions in the 1968 Act, and to remove them totally could be detrimental and create an unstable market for established manufacturers, it would also be likely to have detrimental impact on sites over long term.

## 5. Scottish Firms Impact Test

In order to consider the impact of the proposed changes on businesses we considered the responses to the consultation from private sector organisations and trade bodies. We also engaged with the BH&HPA on the proposals in the preparation of this assessment and they were supportive of the proposals. The majority of these parks are family-owned micro-businesses.

Residential parks are funded from three sources (homes sold by park owners, pitch fees, and commission (of “up to” 10% of the resale value). Consumer Focus research identified 92 mobile home sites in Scotland, with around 3,314 mobile homes<sup>4</sup> although more recent surveys suggest a small number of older sites have since closed bring the number down to around 85 sites. The majority of sites have fewer than 50 residential homes, and 22 out of 32 local authorities confirmed they have at least one mobile home site in their area. Sites are concentrated in six local authority areas: Perth and Kinross, Dumfries and Galloway, Fife, Angus, Argyll and Bute, and Aberdeen.<sup>5</sup>

The 2011 Census reported that 6,950 people lived in a caravan or other mobile or temporary structure. The Scottish Government does not routinely collect data on the number of holiday caravans as they do contribute to the Scottish Household Survey. However, we have obtained data from the holiday trade body who have confirmed that the figure for holiday caravans in Scotland (in parks in BH&HPA membership) is 20,414.

## Competition assessment

While these proposals will affect site owners and manufacturers, we anticipate they will have no impact on competition within the mobile homes/caravan market. Any costs should not affect some firms more than others. The proposed

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<sup>4</sup> As part of UK-wide government reforms, Consumer Focus was abolished in May 2013. (It was replaced with Consumer Futures, which was itself abolished in 2014.)

<sup>5</sup> Consumer Focus Scotland, *Stories To Be Told*, 2013.

legislation should not result in higher set-up or running costs for new firms than existing firms do not have to meet.

### **“Test Run” of business forms**

No new statutory business forms will be brought in with the implementation of the proposed legislation.

### **6. Legal Aid Impact Test**

We anticipate that the proposed legislation would have a minimal impact on legal aid expenditure.

### **7. Enforcement, sanctions and monitoring**

Local authorities can continue to take enforcement action if the maximum dimensions are exceeded. Most site licences or planning permissions for sites contain a requirement that caravans on site must not exceed the maximum dimensions. Local authorities will be responsible for any enforcement action taken against site owners for breaches of site licence or planning conditions, in the same way they are now. Monitoring will take place via communications with local authorities, trade and residents' associations.

### **8. Implementation and Delivery Plan**

The change will be communicated to manufacturers, site owners, residents and local authorities by writing to the relevant groups/individuals to inform them.

### **9. Post-Implementation Review**

The use of the new dimensions will be monitored closely, and account taken of any effects unforeseen at the time of the legislation being laid.

### **10. Summary and Recommendations**

Following the period of public consultation, and having considered all the comments put forward by those who responded to the document, we are recommending that Option 1 (amend the dimensions in section 13(2) of the 1968 Act) is put forward. It is the most cost effective of all the proposals in terms of all the relevant costs and in keeping the dimensions of a caravan in line with the relevant caravan and mobile home legislation across the UK.

## **11. Declaration and Publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the policy. I am satisfied that the business impact has been assessed with the support of businesses in Scotland.

**KEVIN STEWART**

**Minister for Local Government, Housing & Planning**

**Authorisation date: 30 August 2019**

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