

EXPLANATORY MEMORANDUM TO
THE MOBILE HOMES ACT 1983 (AMENDMENT OF SCHEDULE 1)
(ENGLAND) ORDER 2006

2006 No. 1755

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.

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

2. **Description**

- 2.1 This Order amends the terms implied into agreements for the stationing of mobile homes on protected sites in England by section 2 of the Mobile Homes Act 1983 (c.34). These implied terms are contained in Schedule 1 of that Act.

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

- 3.1 The amendments made by this Order to Schedule 1 apply to all agreements for the stationing of mobile homes on protected sites in England, whether they are made before or after the Order comes into force.

- 3.2 This Order amends Schedule 1 of the Mobile Homes Act 1983. It, therefore, amends primary legislation.

- 3.3 As required by section 2A(5), prior to the making of this Order, the Secretary of State has consulted organisations representative of the interests substantially affected by the Order and other relevant persons. The British Holiday and Home Park Association and the National Caravan Council, who between them represent the owners of protected sites where more than 60% of the pitches in the industry are located, were consulted. Associations representing the occupiers of mobile homes, such as the National Association of Park Home Residents, the Independent Park Home Advisory Service, and the Park Home Resident Action Alliance, who together represent over 10% of occupiers, were also consulted.

4. **Legislative Background**

- 4.1 Schedule 1 to the Mobile Homes Act 1983 sets out the terms which are implied by section 2 of that Act into the agreements to which section 1 of the Act applies. These are agreements which entitle a person, the occupier, to

station a mobile home on a protected site and occupy it as his only or main residence. Part 1 of Schedule 1 sets out the terms that are automatically implied into agreements; Part 2 sets out the terms that the court can imply. Part 3 contains supplementary provisions.

4.2 This Order is made under section 2A of the Mobile Homes Act 1983, which was inserted into that Act by section 208(1) of the Housing Act 2004 (c.34) and specifically provides for the amendment of Schedule 1. Subsection (4) further provides that the first order made under this section may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day). This is the first order made under section 2A and the amendments made by this Order apply in relation to any agreement to which the Mobile Homes Act 1983 applies whether made before, on or after the 1st October 2006 (the day on which this Order is intended to come into force).

4.3 Other amendments to Schedule 1 have been made by section 207 of the Housing Act 2004.

4.4 When an agreement is entered into, the owner is required by section 1(2) of the Mobile Homes Act 1983 to give the occupier a written statement. The contents of this are prescribed by the Mobile Homes (Written Statement) Regulations 1983 (No. 749) (“the Written Statement Regulations”). These include the implied terms contained in Schedule 1. These Regulations are also being amended to reflect the changes made by this Order and it is intended that they should come into force simultaneously.

5. Extent

This instrument applies to agreements for the stationing of mobile homes in England.

6. European Convention on Human Rights

6.1 The Baroness Andrews has made the following statement regarding Human Rights:

In my view the provisions of the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 The purpose of the implied terms in Schedule 1 is to ensure that these agreements strike a fair balance between the interests of the owners of protected sites and the interests of the occupiers of the mobile homes.

7.2 The implied terms currently cover duration of the agreement, termination by the occupier of the mobile home, termination by the owner of the protected site, recovery of overpayments by the occupier, sale of mobile home, gift of the mobile home and re-siting of the mobile home. The Order would add terms dealing with the following: quiet enjoyment, the owner's right of entry to the pitch, the pitch fee, the occupier's obligations, the owner's obligations, the owner's name and address, residents' associations and interpretation.

7.3 Recent research¹ estimates that around 120,000 people, predominantly elderly, live on more than 1680 residential sites in England and Wales. Recent work carried out by the department suggest these estimates may be conservative with as many as 200,000 residents and in excess of 2,000 sites.

7.4 Owing to the fact that a large number of complaints were made about the operation of these agreements, 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.

7.5 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

- 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

¹ *Economics of the Park Homes Industry*, 2002

appropriate and when Parliamentary time allows, primary legislation.

7.6 The PHWP's recommendations were the subject of consultation in July 2000. The Department 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.

7.7 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 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.

7.8 A Consultation Paper was issued in July 2004, which outlined further potential changes to the implied terms in Schedule 1 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.odpm.gov.uk.

7.9 The amendments made by this Order to the implied terms in Schedule 1 to the Mobile Homes 1983 give effect to the proposals in the Consultation Paper, as adjusted in the light of the responses. In broad terms, they revise and add to the implied terms in order to provide greater protection and security to occupiers and to make the relationship between occupiers and the owners of protected sites more transparent and to clarify their respective rights and obligations.

7.10 In addition to minor and other drafting amendments, the following are the main changes and additions to the implied terms in Schedule 1 made by this Order—

Article 2(2) states that the court, before it makes an order under paragraph 5 (Termination of the agreement by the Owner on the basis that the occupier is not occupying the mobile home as his only or main residence) terminating an agreement, must be satisfied that it is reasonable for the agreement to be terminated. This ground for terminating the agreement is retained since it serves a useful purpose in that it enables the owner to stop the site disintegrating into disrepair or holiday use. However, in some instances there may be good reasons as to why an occupier is not occupying the mobile home as their principal or main residence. The inclusion of the requirement that “the court considers it reasonable for the agreement to be terminated” enables the

court to examine the reasons for the occupier's absence and introduces a degree of flexibility.

Article 2(3) amends paragraph 6 (termination on the ground that the mobile home is having a detrimental effect on the amenity of the site) so as to enable owners to apply to the court to terminate an agreement forthwith, rather than at the end of the "relevant period", if the mobile home is having a detrimental effect on the amenity of the site. The "relevant period" means the period of five years beginning with the commencement of the agreement and each succeeding period of five years. This is no longer considered a meaningful concept. In this context, the sole criterion that should be taken into account when deciding whether to terminate the agreement should be the detrimental effect on the amenity of the site caused by the condition of the mobile home.

Article 2(4) amends paragraph 8 (sale of mobile home) by substituting sub-paragraphs and including new sub-paragraphs.

- New sub-paragraphs are substituted for sub-paragraphs (1C) and (1D). These have the effect of removing all references to conditions and specifically state that, when the owner is approving a prospective purchaser of a mobile home, he cannot attach conditions to his approval. Sub-paragraphs (1C) and (1D) were introduced by section 207(3) of the Housing Act 2004. However, in practice these provisions have complicated unnecessarily the process of approving the prospective buyers of mobile homes. This has resulted in delays. Owners have also abused these provisions to impose irrelevant conditions.
- New sub-paragraph (2A) clarifies that, except to the extent provided in sub-paragraph (2), the owner may not require any payment in connection with the sale of the mobile home or the assignment of the agreement to be made to himself or anyone else.

Article 2(5) inserts a sub-paragraph (3), into paragraph 9 (gift of a mobile home), which makes it clear that the owner cannot require any payment, to himself or anyone else, in connection with a gift of a mobile home or the assignment of the agreement.

Article 2(6) substitutes new paragraphs 10 to 29.

- New paragraph 10 (Re-siting of mobile home) clarifies the circumstances in which an owner can require a mobile home to be stationed on another pitch and gives the court the power to specify that the mobile home should be returned to the original pitch. The provision is intended to balance the owner's right to re-site the mobile home so that he can redevelop the site, or carry out essential repairs or emergency works, and the occupier's right to quiet enjoyment. "essential repairs or

emergency works are defined in sub-paragraph (4). These include work or repairs needed to comply with relevant legal requirements such as the conditions attached to the licences for mobile home sites and health and safety legislation and any changes to these.

- New paragraphs 11 (quiet enjoyment), 12 (owner's right of entry to the pitch), 21 (occupier's obligations), 22 to 25 (owner's obligations) contain terms in respect of matters in respect of which the court currently has a discretion to imply terms, by reason of Part II of Schedule 1.
- New paragraphs 16 – 20 (The pitch fee) contain provisions for reviewing and determining the new pitch fee, which are intended to make this process transparent, clarify what the pitch fee covers and ensure that a fair balance is struck between the interests of the owner and the occupier. In particular paragraph 18 lists the matters to which regard can be had when determining the amount of the new pitch fee. These include improvements for the benefit of the occupiers of mobile homes on the protected site which have been the subject of consultation and to which a majority of the occupiers have not disagreed.
- New paragraphs 24 and 25 describe what is meant by "consultation".

When calculating what constitutes a majority, only one occupier for each mobile home will be counted and, in the event that there is more than one occupier, it will be the consent of the occupier whose name first appears on the agreement that is counted. The reason for this provision is that in this context the mobile home is considered the relevant unit rather than the occupier(s). In practice the majority of agreements are only entered into by a single occupier. Similar provisions to this are to be found at paragraph 38 of Schedule 2 to the RTM Companies (Memorandum and Article of Association) (England) Regulations 2003 No. 2120 and paragraphs 27 and 28 of Schedule 2 to the Commonhold Regulations 2004 No. 1829.

- New paragraphs 26 and 27 provide that an owner must inform the occupier and any qualifying residents' association of the address where notices should be served on him, and must include their name and address in any demand which is served on an occupier.
- New paragraph 28 lists the criteria that a residents' association must meet if it is to be a qualifying residents' association for the purposes of Part 1 of Schedule 1.

- New paragraph 29 contains definitions of key terms.

Article 3 amends Part II of Schedule 1 by omitting paragraphs 1, 6 and 7 since terms in respect of these matters are now to be contained in Part I, namely new paragraphs 11 (quiet enjoyment), 12 (owner's right of entry to the pitch), 21 (occupier's obligations), 22 to 25 (owner's obligations).

Article 4 contains transitional provisions. These state that the terms implied by this Order will prevail over any previous express or implied terms which are inconsistent.

7.11 This Order amends all agreements for the stationing of mobile homes on protected sites, whether they are made before or after the Order comes into force. As a consequence, those who occupy mobile homes on protected sites under existing agreements will enjoy the same benefits from the new provisions as those who start to occupy homes after they come into force.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is regarded as minimal, if it affects this sector at all. This is because, while local authorities hold some mobile homes on mobile home agreements, ODPM understands that these represent a tiny proportion of the market.

8.3 The provisions of these regulations and those in the Written Statement regulations will result in some extra costs for site owners. The RIA highlights that having taken account of representations in the consultation paper these have been minimised. Also, to minimise the costs, the Department has ensured that these proposals come into force at the same time as consequential changes to the Written Statement Regulations.

9. Contact

Mark Coram at the Department for Communities and Local Government Tel: 0207 944 3465 or e-mail: Mark.Coram@odpm.gsi.gov.uk who can answer any queries regarding the instrument.

FINAL REGULATORY IMPACT ASSESSMENT (RIA)

Title of Proposal

1. Park Home Implied Terms Affirmative Statutory Instrument

Purpose and Intended Effect of Measure

Objective

2. To improve protection for park home residents from rogue park owners through revision of the implied terms.

Background

3. The particulars of park home residents' contractual agreements are governed by the Mobile Homes Act 1983. The 1983 Act gives the following rights to residents who have an agreement with the park owner allowing them to occupy their home on the park as their main residence:
 - Security of Tenure for as long as their agreement with the park owner or the park owner's planning permission, lasts. The park owner can terminate the agreement on certain specified grounds and then only if a court considers it reasonable to do so.
 - The right to sell their home, and assign the agreement to a person approved by the park owner, whose approval can not be unreasonably withheld.
 - The right to gift the home and assign the agreement to another family member.
 - Inheritance rights.
 - If the park owner is entitled to require a home to be moved to another part of the park, the pitch must be broadly comparable and the park owner should pay all costs arising.
4. This security has brought significant benefits, it has helped protect up to 200,000 park home residents and helped to create sustainable, diverse communities.
5. Nevertheless a high volume of complaints continued to be made about the system throughout the 1990's. The Government therefore set up the Park Homes Working Party in 1998. It was set up to examine how the existing legislation could be made to work more effectively, and also to consider whether there is a need to change it in the longer term, plus at the same time ensure the industry's regulatory framework helps to meet the growing need for quality, and choice in housing.
6. It was made up of representatives from residents' and trade associations, local government and other stakeholders. The working party was asked to make recommendations to:
 - Deal with 'cowboy' park owners who breach the law.
 - Use current best practice in the industry and secure its adoption as widely as possible.
 - Give home owners the confidence that their parks will be run responsibly and considerately.
 - Ensure enforcement is fair, rigorous and consistent.
 - Ensure home and park owners know their rights and obligations.

- Ensure costs and bureaucracy imposed on reputable park owners should be kept to a minimum.
7. *The Working Party's report presented recommendations for change that were consulted on in July 2000. The Department issued its formal response in November 2001 and accepted 25 of the 30 recommendations. Two of these were to amend the written statement and implied terms.*
 8. *The 2003 consultation on the draft Housing Bill resulted in nearly 3,000 calls for primary legislation on park homes. In the 9 months up to April 2003 we 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 on park homes. Having considered these representations, the Government decided to add five park home measures, to the Bill. These reflected a consensus amongst stakeholders. The provisions:*
 - *Require a written statement of terms to be given to a prospective purchaser before the sale of a park home;*
 - *Create a power by which the Secretary of State can add additional implied terms to the agreement and repeal and vary those in the Mobile Homes Act 1983;*
 - *Help deter a park owner from unreasonably withholding approval of a prospective purchaser;*
 - *Remove "age" of a home as a criterion for ending an agreement and to give discretion to courts to adjourn termination proceedings on the grounds of the condition of a park home to allow for repairs to be carried out;*
 - *Increase protection of residents from harassment and illegal eviction.*
 9. *Stakeholders were invited to comment on any proposals for a statutory instrument, which adds to, repeals or varies the terms implied into the agreement between the park owner and residents.*

Rationale for government intervention

10. The best information on the prevalence of problems in this sector comes from the report on the Economics of the Park Homes Industry (ODPM, 2002). This estimated that there were about 114,000 adults living in park homes sites comprising 3 or more homes in England and Wales. Of residents surveyed across a representative set of parks, 7% - or about 8,000 people - had personal experience of undue pressure to leave the site from the park owner. Indeed, the 7% level may understate the perceived pressure, because some residents who had been under pressure previously, and left the park because of it, could not, by definition express their views. We have recently examined the numbers of people living on parks through a local authority survey and believe it is closer to 200,000 people.
11. *If the legislation is not amended rogue park owners will still have the current opportunities for exploitation. They will be able to continue to delay the sale of park homes, end agreements on the basis of the property being detrimental to the site in five years regardless of its current condition, and include unfair clauses in*

contractual agreements with residents, knowing that park home residents are unlikely to take them to court.

12. *Also the Government will be perceived as failing to meet the commitments which they made in their 2001 response to the Park Homes Working Party's Report of 2000.*

Consultation

Within government

13. Office of Fair Trading, Department of Culture, Media and Sport, [Department for Environment, Food and Rural Affairs](#), National Assembly for Wales, Scottish Executive, Assembly and [The Northern Ireland Assembly](#).

Public consultation

14. A formal twelve week consultation was issued in July 2004 and considerable informal consultation has occurred with stakeholders both prior to and since the formal consultation.

Options

15. 2 options have been identified:

- A) Do nothing
- B) *Proceed with the proposed amendments in the summary of responses*

Option A - Do nothing

16. There would be problems if we did nothing as many residents would continue to face problems in the market.

Option B - Proceed with the proposed amendments outlined in the summary of responses

17. This option involves laying a statutory instrument, in the form of an Order, bringing into force the changes, which were recommended in the summary of responses and take account of comments in the consultation paper.
18. The changes that we are proposing to Schedule 1 to the Mobile Homes Act 1983, which contains the terms implied into all agreements, are:
- **Termination of agreement by owner**
- Where the owner wishes to end the agreement under the “only or main residence” clause, (paragraph 5 of Schedule 1) the Order includes a requirement that the court must now also consider it reasonable for the agreement to be terminated.

Paragraph 6 of Schedule 1, which relates to the ending of the agreement on the basis of the condition of the mobile home, has been amended removing the reference to a 5 year relevant period.

- **Sale of mobile home by the resident**

Paragraph 8, which concerns the sale of the mobile home, has been amended so as to remove the owner's right to attach conditions to their approval of the purchaser and so that the only factor they can take into account is the suitability of the prospective purchaser. This has also been amended to make it clear that only commission is payable on the sale and that they cannot claim any other payment.

- **Gift of the mobile home**

Paragraph 9, which concerns the gift of a mobile home, has been amended by the addition of a provision, which clarifies that the park owner cannot claim any payment, including commission, on the gift of a home.

- **Re-siting of the mobile home**

The provision in paragraph 10, in respect of the re-siting of the home, has been strengthened so that, except for essential repair or emergency works, if the park owner wishes to move the home, they must make an application to the court. The court must be satisfied that the move is reasonable in all cases. In addition:

- The new pitch must be broadly comparable to the original pitch.
- The park owner is liable for any costs incurred during the movement of the home.

Additionally, if the home is to be moved for repairs to the base, the park owner must return the home to its original pitch on completion of the repairs, if the resident requires or the court orders.

- **Quiet enjoyment of the mobile home**

This new provision, paragraph 11, entitles the resident to the quiet enjoyment of the home and the pitch. The only exceptions relate to the park owner's right to enter the pitch, and the re-siting of the home.

- **Owner's right of entry to the pitch**

The rights in these new provisions, paragraphs 12 – 15, apply to the pitch only, and not to the home itself. The owner can enter the pitch:

- Between 9 am and 6pm to deliver written communications, including post and notices, or to read meters for services which they supply.
- To carry out essential repair or emergency works, but giving as much notice to the resident as is practical.
- For any other reason, with at least 14 days written notice of the date, time and reason for their visit, unless agreed otherwise.

- **The pitch fee review**

This new section, paragraphs 17 – 20, outlines the procedure for reviewing the pitch fee.

The pitch fee can only be changed with the agreement of the resident, or if the court considers it reasonable for it to be changed and makes an order determining the new amount.

Points to note are:

- The pitch fee can only be reviewed annually.
- A notice must be served on the resident at least 28 days before the review date outlining any proposed increase and the reasons for it, along with any relevant documents.
- The pitch fee is open to negotiation.

In reviewing the pitch fee the owner must have particular regard to:

- Any sums expended for the benefit of the residents and on which they have been consulted.
- The effect of any new government legislation.
- Any decrease in the amenity of the site.

A presumption has been introduced that the pitch fee will only be changed by a percentage equivalent to any change in the Retail Prices Index (RPI) since the last review date.

- **Resident's obligations**

This provision, paragraph 21, outlines that the resident must:

- Pay the pitch fee and any sums due under the written agreement.
- Keep the mobile home in a sound state of repair.
- Maintain in a clean tidy condition the outside of the mobile home and all areas of the pitch for which they are responsible.
- At the request of the owner, provide evidence of expenditure for which they are seeking reimbursement.

- **Owner's obligations**

These provisions, paragraphs 22 – 24, outline that the park owner must:

- On request, provide accurate written details of the pitch. These details must be from fixed points. The park owner can charge up to £30 for this to existing residents.
- On request, at no cost, provide documentary evidence in support of any charge.
- Repair the base for the mobile home if necessary.
- Maintain any services which they supply to the mobile home.
- Maintain and keep clean and tidy parts of the park which are not the responsibility of a resident.
- Consult on any improvements to the park.
- When consulting, give at least 28 days notice in writing, outlining how it will affect the park and how representations can be made. These must be taken into account.

- **Owner's name and address**

This section, paragraphs 26 and 27, requires that the park owner must inform the resident or the resident's association of an address in England or Wales at which any notices can be served on them.

If the park owner serves a notice for any reason, it must contain:

- The owners name and an address in England or Wales where papers can be served.

If the notice does not contain that information:

- Then the notice or charge is not deemed served, or payable until the information is supplied.

- **Qualifying resident's association**

This section, paragraph 28, states that the park owner must acknowledge the resident's association if the criteria is met. A resident's association is regarded as being qualifying if:

- It represents the residents on the park who own their home.
- At least 50% of residents are members.
- It has a chairman, secretary and treasurer.
- Decisions of the association are taken by vote, with one vote per home.
- It is independent from the park owner, whose agents and employees are excluded from membership, even if they are park residents.

In calculating the percentage of residents, each home is considered as having 1 occupant. If there is more than one occupant then the first name on the written agreement is used.

Alternative options considered

19. Best practice. Previously best practice in the industry has failed to be implemented on a wide enough scale and those outside the scheme have continued to cause problems.

Costs and Benefits

Sectors and groups affected

20. The following areas will be affected:

- Residents
- Park Owners
- Refurbishers
- Insurers
- Local Authorities

Race equality assessment

21. We feel that the policy will affect all groups equally across the sector and that no group will be greatly affected by the proposals.

Health impact assessment

22. Positive. There will be less enforcement action due to better communication on parks and the transparency issues being dealt with and therefore less stress for all concerned.

Rural considerations

23. Positive impact as many parks are set in rural locations and are micro businesses. The reform will be positive as it reduces burdens, targets rogue operators and promotes the industry in a more positive light.

Breakdown of costs and benefits

Option A - Do nothing

24. Economic

Benefits: No change in practice and thus no new costs for park owners

Costs: Continuing level of disputes and costs from litigation. Rogue Park owners will continue to benefit by being able to continue to delay the sale of park homes, end agreements on the basis of the property being detrimental to the site in five years regardless of its current condition, and include draconian clauses in contractual agreements with park homeowners, knowing that park home owners are unlikely to take them to court. Costs are hard to identify but in excess of £1million per year.²

25. Environmental

Benefits: None

Costs: None

26. Social

Benefits: None

Costs: Inequality in protection between park home residents and other tenure types.

Option B - Proceed with the proposed amendments in the summary of responses

27. Economic

Benefits: The proposals will make the payment system more transparent. This is a key recommendation of the Economics of the Park Homes industry report

² Anecdotal evidence highlights a park of 60ish homes which was cleared by owners through rogue practices such as restricting sales and harassing residents who sold homes for prices estimated at £500-£10,000. Therefore cleared site for £600,000. 60 new homes now for sale with prices from £100,000. If homes were brought for £70,000 and taking into account extensive refurbishment of £200,000 still profit of £1,000,000

(ODPM 2002). This will be of great benefit to consumers who will be able to gain information on what fees are payable, who they need to pay and when payment is due. This will also mean the industry will gain a better reputation. This will enable growth in the industry as people who have previously been put off by the fear of unknown charges will be more likely to consider the benefits of park home living.

28. The other proposals also significantly improve the rights of residents which also have substantial economic benefits for residents and park owners. It will ensure that people buying park homes have the fullest information before entering into a contract. It will also stop bad park owners from increasing pitch fees without significant justification which reflects negatively on all owners.
29. Marginal savings will also be created in the court system. This is due to the fact that residents will no longer have to go to court to have terms implied into their agreements. Although the number of cases that go to court on this basis is, evidence suggests, in single figures, the proposals would save (at estimate of £1000 per case) £10,000.
30. Park owners will also no longer be able to go to court to end an agreement on such a wide range of issues regarding “the only or main residence” clause. Again this will result in only properly considered litigation occurring which will again reduce the burden on the court and stress on all parties involved.
31. Local authorities will also have to get involved in fewer cases of harassment as the terms in the contract will clearly spell out the procedure to be followed if there is a dispute. Also they will save money from less enforcement action under site licensing powers due to higher quality parks. This will be a consequential benefit of the reform because all park owners will be ensuring the amenity of their park remains high in order to have no reduction in pitch fees.

Costs: The consultation paper brought out the following comments

32. Residents groups thought these implied terms will have negligible effect on good park owners because they will be already complying with the good practices required. There is a one off cost to park owners per park of **£16.80**³ due to owners sending residents copies of the new implied terms. This would consist of photocopying costs. However, some park owners may wish to issue new agreements to all their residents. This will be a minor administrative matter to the good park owners but the rogue owners will consider this to be an extra expense necessitating an additional charge on the pitch fee. As it is not a cost that is needed this is not acceptable. In reality this would only cost **£210.40** per park.⁴
33. There was concern from the trade associations that the RIA fails to take account of the combined effect of the proposals on the profitability of park business. There was apprehension from the National Park Home Council (NPHC) as well that this will risk jeopardising the interests of park and residents alike, as well as ignoring any adverse effects on the value of existing homes.

³ 8 pages at 5p per page * 42 homes + £5 (30mins staff time at £10 per hour)

⁴ 8 pages at 5p per page * 42 homes + £210 (30mins staff time per home at £10 per hour)

34. The NPHC felt that the combined effects of the proposals would make residential park ownership and management uneconomic and lead to a reduction in profit and in turn investment in the infrastructure on parks.
35. There was widespread agreement that the consultation document failed to recognise that it will challenge the economic basis of the operation of the parks industry. It was felt that of the 22 proposed implied terms, a significant number, as previously drafted, would threaten the basis of a strengthened, modern park home industry. Arguments used included:
- The upfront payments on first purchase would be lost to the park business by the proposed right for the replacement of homes, thereby denying the business the new sales that are currently achieved periodically when park homes are vacated at the end of their life. This clause has been removed.
 - Although business costs rise in excess of inflation, it is proposed in essence that pitch fees "must rise no more than" the All Items RPI. This clause has been removed.
 - The proposal to "permit occupiers to gift their mobile home, and assign the agreement, to anyone" will inevitably impact on commission income since it provides the means and, therefore, the incentive to defraud the park owner of their commission. This clause has been removed.
 - The proposal to remove the park owner from the sale transaction and any involvement in the payment of funds was felt to be extremely dangerous and would place potential buyers at risk of not acquiring their full rights at law. The clause has been adapted.
 - If residents were permitted to replace their homes without proper safeguards, it was felt that this would have a significant impact on park owners' economic interests and would result in reduced investment in parks. This clause has been removed.
 - The recognition of residents' associations was felt to place an unfair and unreasonable financial burden on all park owners. This clause has been adapted by making the qualifying criteria robust and limiting their rights to negotiate.
36. Park owners felt that the combined effect of these was to create a picture of park businesses denied income from new sales and commission whilst ongoing increases in costs would not be met through rises in the pitch fee. They also felt that over time, investment would cease and day-to-day maintenance would suffer through lack of funding. The overall effect would be the degradation of the quality and amenity of parks, which would, at the very minimum, compromise the social and economic interests of residents. Some park owners stated that up to 50% of their income could be lost through these proposals.
37. Therefore as shown, we have taken out and adapted the proposals to ensure that these representations are accounted for. However there is likely to be a small increase in the amount of administration costs that is incurred by park owners for pitch fee breakdown, £4.20 per park per year.⁵ This will be minimal as it has been

⁵ 2 additional pages at 5p per page * 42 homes

suggested that all the information that is being required to be given to residents will be given with the yearly consultation of charges. Parks associated with trade associations already recognise the use the majority of these proposals through their park home charter and model statement. Many good park owners already offer the consultation with residents proposals, which we propose as standard. When the trade associations instigated a similar transparency measure they reported negligible costs to their members.

38. The proposals will hit the bad park owners hardest and may also drive some of these owners out of the sector completely. However although some of the respondents saw this as a good thing, we believe the proposals have made it as easy as possible for the park owner to be model professionals. Therefore the proposals should not reduce the profits of park owners by being overly burdensome.
39. The costs will be further minimised by bringing in this statutory instrument and consequential changes to the Written Statement Regulations instrument at the same time. Also the statutory instrument sets out that no new written statement is required and information can be given at the pitch fee review saving further money.

40. Environmental

Benefits:

- The likely environmental benefit of the proposals is small. By implying the right to quiet enjoyment there is likely to be some savings from excessive noise. However there is no evidence that this was originally a big issue. More prominent is the benefit that park homes have to surrounding areas as opposed to bricks and mortar housing. They are low impact developments and so therefore by the good aspects of the industry being promoted through these proposals and the promoting of good park management for the rest mean that the reform will help the industry to grow. This will mean less detrimental expansion to rural communities, which may otherwise occur.
- A newer aspect which these proposals promote is greater environmental performance of the industry. The industry already runs a David Bellamy Conservation Awards scheme which over 500 parks are now members of. The scheme helps to protect and preserve the countryside and by pushing the standard of the industry up, these proposals ensure more owners will see the benefits for all involved in providing greener sites.

Costs: None

41. Social

Benefits:

- The proposed amendments will aid greater cohesion on parks and wider local areas. By clearly setting out the terms and conditions and what will be provided before a person enters the park there will be fewer disagreements when these services, such as clubhouse etc are altered. Well maintained homes

and parks in an anti social behaviour free environment are an asset to the local community. These sites provide a positive contribution to the current market affordable housing shortages which is more prominent in the rural locations where most parks are situated. As has been stated elsewhere in this paper these proposals promote the protection of a vulnerable sector of society who have very few resources and few explicit rights which is a massive benefit in itself.

- The proposed amendments would help to set up a more equitable basis for the tenure, which at present is biased towards the site owner.
- This option is designed to bring the law governing park homes more in line with other housing tenures. It will help to prevent exploitation of park residents by rogue park owners.
- Lower instances of stress related illness and GP contact as better communication occurs on parks.
- Less demands on local housing authority as people stay on parks for longer.
- Improvements in community cohesion again due to better communication and increased transparency.
- Helps to promote sustainable rural communities as positive side of the industry is promoted.

Costs: None

Small Firms' Impact Test (SFIT)

42. Many park owners own only one or two sites and would be regarded as small businesses. 132 site owners and trade organisations responded to the public consultation, the majority of who are classed as small businesses and the majority expressed concern about the proposals. As shown above under economic costs of option 2, we have made significant changes to the proposals to lessen the financial burden on small business.
43. The proposed changes removed because of the impact on business include:
- Right for the replacement of homes.
 - Permit occupiers to gift their mobile home, and assign the agreement, to anyone.
 - Remove park owner from sale transaction.
44. Several other clauses have been adapted to further address lesser concerns of business. The industry has expressed that these changes are widely welcomed and will ensure that the profitability of their industry is maintained. The trade associations were represented on the park homes working party which made the recommendations for primary legislation.

Competition Assessment

45. The Department has completed the competition filter⁶. This requires that policy makers consider the market that will be affected: i.e. the firms that compete against one another to sell the same or similar products or services.

⁶ See www.cabinet-office.gov.uk/regulation/guidance/competition/index.htm

46. No site owner owns more than 10% of the 1600+ parks in England and Wales; indeed only one operator has more than 25 parks. The report, *Economics of the Park Homes Industry*, concluded in 2002 that '...there is very little ownership concentration at the national level that would appear to inhibit market competition. It is probable that this is also true at the county level.'
47. Cabinet Office advises that if policy-makers answer 'yes' to fewer than half the questions asked in the filter, there is unlikely to be a negative competitive impact from the new regulation. Therefore no detailed competition assessment would be required.
48. None of the nine questions might be answered in the affirmative for this market, so no detailed assessment is required.

Enforcement, Sanctions and Monitoring

Enforcement

49. The same method of redress will still be in operation. Namely through the county court service or arbitration if both sides are agreed.

Sanctions

50. This proposal will be enforced through the courts. We are currently investigating the role of arbitration systems, whether it is applicable and if it is, whether arbitration could take over the role of courts in enforcing certain aspects of park home living. We have recently consulted on this issue.
51. We currently feel that the court system is the best form of redress for failure to comply with the contents of the written statement.

Monitoring and review

Monitoring would take place through communications with residents' and trade associations and via the All Party Parliamentary Group for the Welfare of Park Home Owners

Implementation and Delivery Plan

52. The Working Party's Report presented recommendations for change that we consulted on in July 2000. The Government issued its formal response in November 2001 and accepted 25 of the 30 recommendations. Since then we have taken forward a number of the recommendations that do not require primary legislation.
 53. We are implementing our proposals through an affirmative Statutory Instrument with a proposed implementation date of 1st October 2006.
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Post-Implementation Review

54. A review will take place by the department 5 years after implementation. This review will study the correspondence received by the department in regard to the matters covered by the SI.

Summary and Recommendation

55.

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
A) Do Nothing	£1,000,000 plus for rogue park owners. Continuing high level of complaints a	None
B) Proceed with the proposed amendments in the summary of responses	Minimal economic cost to courts as may have more disputes on pitch fees as new system adjusted to which will be cancelled out in the medium term. Park owners face small increases in costs through pitch fee review clauses and additional consultation.	Massive economic and social benefits for all park owners as the reputation of the industry improves meaning greater demand, better supply (through changed perception of planners) Residents all have higher standard of minimum rights and a fair contract, benefit from changed perceptions of industry. Local authorities have less issues to resolve on parks and thus can reallocate resources.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed Kay Andrews

Date 19th May 2006

Minister's name, title, department

Baroness Andrews, Parliamentary Under Secretary of State, Department for Communities and Local Government

Contact point for enquiries and comments:

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