



## 2011 CHAPTER 12

### PART 1

#### AGREEMENTS FOR RESIDENTIAL OCCUPIERS ON PROTECTED SITES

##### **Application of this Part**

**1.—(1)** This Part applies to any agreement (whether made before or after commencement) under which a person is entitled—

- (a) to station a caravan on land forming part of a protected site; and
- (b) to occupy the caravan as that person's only or main residence for a period exceeding 12 months.

**(2)** In this Part—

“residential agreement” means an agreement to which this Part applies;

“occupier” means the person entitled as mentioned in subsection (1).

##### **Particulars of agreements**

**2.—(1)** In the case of a residential agreement to be made after commencement, the owner of the protected site (“the owner”) must give to the proposed occupier under the agreement a written statement which—

- (a) specifies the names and addresses of the parties;
- (b) includes particulars of the land on which the occupier is to be entitled to station the caravan that are sufficient to identify that land;
- (c) sets out the express terms to be contained in the agreement;
- (d) sets out the terms implied by section 3(1); and

- (e) complies with such other requirements as may be prescribed by regulations made by the Department for Social Development.
- (2) The written statement required by subsection (1) must be given not later than the minimum period before—
  - (a) the date on which any agreement for the sale of the caravan to the proposed occupier is made, or
  - (b) (if earlier) the date on which the residential agreement is made.
- (3) The minimum period is 28 days or such shorter period as may be agreed in writing by the proposed occupier.
- (4) In the case of a residential agreement made before commencement, the owner of the protected site must, not later than 28 days after commencement, give to the occupier a written statement which—
  - (a) specifies the names and addresses of the parties;
  - (b) includes particulars of the land on which the occupier is entitled to station the caravan that are sufficient to identify that land;
  - (c) sets out the express terms contained in the agreement;
  - (d) sets out the terms implied by section 3(1); and
  - (e) complies with such other requirements as may be prescribed by regulations made by the Department for Social Development.
- (5) Subject to any order made by the court under section 3(3), if any express term—
  - (a) is contained in a residential agreement, but
  - (b) was not set out in a written statement given by the owner in accordance with this section,the term is unenforceable by the owner or any person within section 5(1).
- (6) If the owner has failed to give the occupier a written statement in accordance with this section, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—
  - (a) to give the occupier a written statement which complies with paragraphs (a) to (e) of subsection (4), and
  - (b) to do so not later than such date as is specified in the order.
- (7) A statement required to be given to a person under this section may be delivered to that person personally or sent to that person by post.
- (8) Any reference in this section to the making of a residential agreement includes a reference to any variation of an agreement by virtue of which the agreement becomes a residential agreement.
- (9) Regulations under this section are subject to negative resolution.

### **Terms of agreements**

3.—(1) In any residential agreement there shall be implied the terms set out in Part 1 of the Schedule; and this subsection shall have effect notwithstanding any express term of the agreement.

(2) The court may, on the application of either party made within the relevant period, order that there shall be implied in the agreement terms concerning the matters mentioned in Part 2 of the Schedule.

(3) The court may, on the application of either party made within the relevant period, make an order—

- (a) varying or deleting any express term of the agreement;
- (b) in the case of any express term to which section 2(5) applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.

(4) In relation to an agreement made after commencement, “the relevant period” means the period beginning with the date on which the agreement is made and ending—

- (a) 6 months after that date; or
- (b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 2(6)), 6 months after the date on which the statement is given;

and section 2(8) applies for the purposes of this subsection as it applies for the purposes of section 2.

(5) In relation to an agreement made before commencement, “the relevant period” means the period of 6 months beginning with commencement.

(6) On an application under this section, the court shall make such provision as the court considers just and equitable in the circumstances.

(7) The supplementary provisions in Part 3 of the Schedule have effect for the purposes of paragraphs 8 and 9 of Part 1 of the Schedule.

### **Power to amend implied terms**

4.—(1) The Department for Social Development may by order make such amendments of Part 1 or 2 of the Schedule as that Department considers appropriate.

(2) An order under this section may contain such incidental, supplementary, consequential, transitional or saving provisions as that Department considers appropriate.

(3) An order under this section may in particular—

- (a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;
- (b) make such amendments of any provision of this Part as that Department considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of the Schedule.

(4) No order may be made under this section unless the Department for Social Development has consulted—

- (a) such organisations as appear to it to be representative of interests substantially affected by the order; and
- (b) such other persons as it considers appropriate.

(5) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(6) The Department for Social Development shall—

- (a) not later than 5 years after the coming into operation of this Act, and
- (b) at least once in every period of 5 years thereafter,

review Parts 1 and 2 of the Schedule and determine whether it should exercise the power to make an order under this section.

### **Successors in title**

5.—(1) A residential agreement is binding on and has effect for the benefit of any successor in title of the owner and any person claiming through or under the owner or any such successor.

(2) Where a residential agreement is lawfully assigned to any person, the agreement has effect for the benefit of and is binding on that person.

(3) The following subsections apply where a person entitled to the benefit of and bound by a residential agreement dies at a time when that person is occupying the caravan as that person's only or main residence; and in those subsections—

- (a) that person is referred to as “the deceased”;
- (b) references to “the beneficiary” of the deceased are to the person entitled to the caravan by virtue of the deceased's will or under the law relating to intestacy;
- (c) references to “a travellers' site” are to a caravan site provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (caravan sites for members of Irish Traveller community); and
- (d) a beneficiary of the deceased is a qualifying person if the beneficiary satisfies the Housing Executive that the beneficiary—

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

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- (i) is a member of the Irish Traveller community (within the meaning of Article 5 of the Race Relations (Northern Ireland) Order 1997); and
- (ii) intends to occupy the caravan as the beneficiary's only or main residence.

(4) The agreement has effect for the benefit of and is binding on any person residing with the deceased at the time of death who is—

- (a) the surviving spouse or civil partner of the deceased; or
- (b) if there is no surviving spouse or civil partner so residing, a member of the deceased's family.

(5) If—

- (a) there is no person falling within subsection (4); and
- (b) the agreement relates to a caravan on a caravan site other than a travellers' site,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased, but subject to subsection (7).

(6) If—

- (a) there is no person falling within subsection (4),
- (b) the agreement relates to a caravan on a travellers' site, and
- (c) the beneficiary of the deceased is a qualifying person,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased.

(7) A residential agreement does not have effect for the benefit of or bind a person by virtue of subsection (5) in so far as—

- (a) it would, but for this subsection, enable or require that person to occupy the caravan; or
- (b) it includes terms implied by virtue of paragraph 5 of Part 1 of the Schedule.

(8) In relation to a residential agreement—

- (a) any reference in this Part to the owner includes a reference to any person who is bound by and entitled to the benefit of the agreement by virtue of subsection (1); and
- (b) subject to subsection (7), any reference in this Part to the occupier includes a reference to any person who is entitled to the benefit of and bound by the agreement by virtue of any of subsections (2) to (6).

### **Jurisdiction**

**6.—(1)** The county court for the county court division in which the protected site is situated shall have jurisdiction—

- (a) to determine any question arising under this Part or any residential agreement, and
- (b) to entertain any proceedings brought under this Part or any such agreement;

and references in this Part to “the court” shall be construed accordingly.

(2) But where the parties have agreed in writing to submit any question arising under this Part or, as the case may be, any residential agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator.