
DRAFT STATUTORY INSTRUMENTS

2020 No.

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

Citation, commencement and application

1.—(1) These Regulations may be cited as the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

(2) The following provisions come into force on 1st July 2021—

- (a) this regulation and regulations 2, 3, 5 to 10 and 14;
- (b) Schedules 1 to 4.

(3) The following provisions come into force on 1st October 2021—

- (a) regulations 4 and 11 to 13;
- (b) Schedule 5.

(4) These Regulations apply in relation to land in England only.

Interpretation

2. In these Regulations—

“applicant” means the person who makes an application under regulation 6;

“final decision” means a decision under regulation 6(2);

“non-commercial family-occupied site” has the meaning given in regulation 3;

“register” means a register established under regulation 5(2);

“registration application” means an application under regulation 6(1);

“relevant person” means the subject of the fit and proper person assessment under regulation 7;

“relevant local authority” means, in relation to land that is, or is proposed to be, used as a relevant protected site⁽¹⁾, the local authority⁽²⁾ in whose area the site is situated;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽³⁾ in England and Wales.

Meaning of “non-commercial family-occupied site”

3.—(1) In these Regulations “non-commercial family-occupied site” means a relevant protected site—

- (a) on which each caravan stationed on a permanent pitch and used as a permanent residence is so used only by—

⁽¹⁾ See the definition of “relevant protected site” in section 5A(5) of the Caravan Sites and Control of Development Act 1960.

⁽²⁾ See the definition of “local authority” in section 29(1) of the Caravan Sites and Control of Development Act 1960.

⁽³⁾ 1971 c. 80.

- (i) the occupier⁽⁴⁾ or the occupier and one or more members of the occupier’s family; or
 - (ii) a member of the occupier’s family (“F”) or F and one or more members of F’s family; and
 - (b) which is not operated on a commercial basis.
- (2) For the purposes of paragraph (1)(a)—
- (a) “caravan used as a permanent residence” means, in relation to a person (“P”), that P occupies the caravan as P’s only or principal home;
 - (b) “permanent pitch” has the same meaning as in paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to the Mobile Homes Act 1983⁽⁵⁾;
 - (c) a person is a member of the same family as another person if—
 - (i) those persons are married to each other, in a civil partnership or live together as if they were married or in a civil partnership;
 - (ii) one of them is a relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
- (3) For those purposes—
- (a) a “couple” means two persons who are married to each other or otherwise fall within paragraph (2)(c)(i);
 - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - (c) a relationship of the half-blood is to be treated as a relationship of the whole blood; and
 - (d) the stepchild or adopted child of a person (“P”) is to be treated as P’s child.
- (4) For the purposes of paragraph (1)(b), a relevant protected site is operated on a commercial basis if—
- (a) the amount which any person is required to pay the occupier of the site in respect of—
 - (i) the right to station a caravan on the site and the use of the common areas of the site; or
 - (ii) the right to reside in a caravan on the site and the use of the common areas of the site, exceeds a fair contribution towards the relevant costs; or
 - (b) the total amount payable to the occupier in respect of the rights mentioned in subparagraph (a)(i) and (ii) exceeds the relevant costs.
- (5) For those purposes, “relevant costs” means the total of—
- (a) any amount which the occupier is liable to pay as regards the site by way of a non-domestic rate under Part 3 of the Local Government Finance Act 1992⁽⁶⁾;
 - (b) any council tax for which the occupier is liable in respect of any caravan situated on the site (other than a caravan in which the occupier resides);
 - (c) any council tax for which the occupier is liable in respect of any dwelling situated on the site that is not a caravan (other than a dwelling in which the occupier resides); and
 - (d) the occupier’s reasonable costs of repairs, maintenance and insurance in respect of the site.

⁽⁴⁾ See the definition of “occupier” in section 1(3) of the Caravan Sites and Control of Development Act 1960.

⁽⁵⁾ 1983 c. 34. Chapter 1 of Part 1 of Schedule 1 to the Act was inserted, in relation to England and Wales, by S.I. 2011/1003.

⁽⁶⁾ 1988 c. 41.

Requirement for fit and proper person

4.—(1) An occupier of land may not cause or permit any part of the land to be used as a relevant protected site other than a non-commercial family-occupied site unless the relevant local authority—

- (a) are satisfied that the occupier is a fit and proper person to manage the site;
- (b) are satisfied that a person appointed by the occupier to manage the site is a fit and proper person to do so; or
- (c) have, with the occupier’s consent, appointed a person to manage the site.

(2) A local authority may only appoint a person to manage a site if the local authority are satisfied that the person is a fit and proper person to do so.

Register of fit and proper persons

5.—(1) This regulation applies to any local authority that has determined an application under regulation 6.

(2) The local authority must—

- (a) establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area;
- (b) make the register open to inspection by members of the public at the offices of the local authority during normal office hours; and
- (c) publish the register online.

(3) The local authority must include in the register the information prescribed in Schedule 1.

(4) A person’s inclusion in the register has effect for such period as the local authority may decide, but that period must not exceed 5 years.

(5) The information prescribed in paragraph 4 of Schedule 1 in respect of a site to which a rejected application relates must be included in the register until such time as information relating to the site is included in the register under paragraph 2 or 3 of Schedule 1.

Application for inclusion in register

6.—(1) An application for the inclusion of a person in the register by the relevant local authority may be made by the occupier of land in the local authority’s area that is, or is proposed to be, used as a relevant protected site in the local authority’s area that—

- (a) holds a licence in respect of the site under section 1 of the Caravan Sites and Control of Development Act 1960 (“a site licence”); or
- (b) has applied for a site licence in respect of the site under section 3 of that Act.

(2) On such an application the local authority may—

- (a) grant the application unconditionally;
- (b) grant the application subject to conditions; or
- (c) reject the application.

(3) A registration application must include the matters listed in Schedule 2.

Fit and proper person assessment

7.—(1) In making a fit and proper person assessment in relation to land that is used, or is proposed to be used, as a relevant protected site, a local authority—

- (a) must have regard to the matters specified in paragraphs 2 to 4 of Schedule 3;

- (b) may have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person’s conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be); and
 - (c) may have regard to any evidence as to any other relevant matters.
- (2) In this regulation, “making a fit and proper person assessment” means—
- (a) considering a registration application; or
 - (b) deciding whether it is appropriate to appoint a person as the manager of a site.

Removal from register, variation of conditions etc.

8.—(1) Where a person is included in the register, the local authority may in the circumstance prescribed in paragraph (2)—

- (a) remove the person from the register;
- (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions imposed by virtue of regulation 6(2)(b)); or
- (c) vary or remove a condition imposed by virtue of regulation 6(2)(b) or this regulation.

(2) The circumstance is that, after the person was included in the register, new evidence relevant to the person’s inclusion in the register becomes available.

Further provision about decisions under regulations 6(2) and 8(1)

9. Schedule 4 makes further provision about decisions under regulations 6(2) and 8(1).

Fees etc.

10.—(1) A registration application must be accompanied by such fee as the local authority may fix.

(2) The conditions which may be imposed by virtue of regulation 6(2)(b) may include conditions requiring additional payments to be made to the local authority by way of annual fee.

(3) The local authority may decide the amount and frequency of any additional payments required by way of annual fee.

(4) A local authority must prepare and publish a fees policy.

(5) When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee the local authority—

- (a) must act in accordance with their published fees policy;
- (b) may fix different fees for different cases or descriptions of case; and
- (c) may determine that no fee is required to be paid in certain cases or descriptions of case.

(6) A local authority may revise their fees policy and, where they do so, must publish the revised policy.

(7) Where the local authority have, with an occupier’s consent, appointed a person to manage a site, the local authority may recover from the occupier the reasonable costs incurred or to be incurred in making the appointment.

Offence of contravention of fit and proper person requirement

11.—(1) An occupier of land commits an offence if the occupier contravenes regulation 4(1).

- (2) In proceedings against an occupier for an offence under paragraph (1) it is a defence that—
- (a) a circumstance specified in column two of the table at paragraph 2 of Schedule 5 applies and at the material time—
 - (i) the relevant period for making a registration application in that circumstance specified in column three of that table (“relevant period”) had not come to an end; or
 - (ii) an application under regulation 6 had been duly made within the relevant period and was still effective and the relevant person continues to occupy or manage the site as applicable; or
 - (b) the occupier—
 - (i) became the occupier of the land by operation of law; and
 - (ii) had a reasonable excuse for failing to make an application under regulation 6 within the relevant period.
- (3) An occupier of land guilty of an offence under paragraph (1) is liable on summary conviction to a fine.
- (4) In this regulation—
- “effective” means, in relation to an application, that—
- (a) it has not been withdrawn;
 - (b) and either—
 - (i) a final decision notice has not been served on the applicant;
 - (ii) the period for appealing against the final decision, or against any relevant decision of the First-Tier Tribunal, has not expired; or
 - (iii) where an appeal has been brought against the final decision, or against any relevant decision of the First-tier Tribunal, the appeal has not been finally determined or withdrawn;
- “final decision notice” has the meaning given in Schedule 4;
- “relevant decision” means a decision which is given on an appeal to the First-tier Tribunal and confirms the local authority’s decision (with or without variation).

Other offences under these Regulations

- 12.**—(1) An applicant commits an offence if the applicant—
- (a) withholds information from a registration application; or
 - (b) includes false or misleading information in a registration application.
- (2) An occupier of land commits an offence if the occupier fails to comply with a condition—
- (a) imposed under regulation 6(2)(b); or
 - (b) imposed by virtue of regulation 8(1).
- (3) Paragraph (4) applies where—
- (a) a condition requires a person to fulfil a particular function; and
 - (b) the occupier has appointed a person (“P”) to fulfil the function but P has ceased to fulfil the function.
- (4) In proceedings against an occupier for an offence under paragraph (2) it is a defence that—
- (a) the occupier notified the relevant local authority within the period of 28 days beginning with the day after the relevant day; and

- (b) at the material time the occupier was taking all reasonable steps to try to comply with the condition.
- (5) In proceedings against an occupier for an offence under paragraph (2) it is a defence that, at the material time—
 - (a) the period for appealing against the decision to impose or vary the condition (or against any relevant decision of the First-Tier Tribunal) has not expired; or
 - (b) that an appeal has been brought against the decision to impose or vary the condition (or against any relevant decision of the First-tier Tribunal) and the appeal has not been finally determined or withdrawn.
- (6) An occupier of land guilty of an offence under paragraph (1) or (2) is liable on summary conviction to a fine.
- (7) In this regulation—
 - “relevant day” means the later of—
 - (a) the day on which the person (“P”) that the occupier had appointed to fulfil the function (“P”) ceased to do so; and
 - (b) the day on which the occupier had knowledge that P had ceased to fulfil the function, or, if earlier, the day on which the occupier would have had that knowledge if the occupier had taken all reasonable steps to ensure compliance with the condition;
 - “relevant decision” has the meaning given in regulation 11(4);
 - “the decision to impose the condition” means—
 - (a) the decision under regulation 6(2)(b) to grant the application subject to the condition;
 - (b) the decision to impose the condition by virtue of regulation 8(1).

Revocation of site licence

13.—(1) Where an occupier of land who holds a site licence in respect of that land contravenes regulation 4(1), the First-tier Tribunal may, on application by the relevant local authority, make an order revoking the site licence in question on the day specified in the order.

- (2) Where—
 - (a) an occupier of land who holds a site licence in respect of that land is convicted of an offence under regulation 11(1); and
 - (b) has been convicted on two or more previous occasions of the offence in relation to the land,
 the court before which the occupier is convicted may, on application by the relevant local authority, make an order revoking the site licence in question on the day specified in the order.

Transitional provision

14.—(1) Paragraph (2) applies if a local authority includes a person’s information in the register before the day on which regulation 4 comes into force (“the implementation day”).

- (2) The entry in the register has effect on the implementation day.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Date

Name
Minister of State
Ministry of Housing, Communities and Local
Government