



Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 3

MOBILE HOMES

Site agreements

206 Particulars of site agreements to be given in advance

- (1) For section 1 of the Mobile Homes Act 1983 (c. 34) (particulars of agreements between site owners and occupiers of mobile homes) substitute—

“1 Particulars of agreements

- (1) This Act applies to any agreement under which a person (“the occupier”) is entitled—
- (a) to station a mobile home on land forming part of a protected site; and
 - (b) to occupy the mobile home as his only or main residence.
- (2) Before making an agreement to which this Act applies, the owner of the protected site (“the owner”) shall 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 proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
 - (c) sets out the express terms to be contained in the agreement;
 - (d) sets out the terms to be implied by section 2(1) below; and

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- (e) complies with such other requirements as may be prescribed by regulations made by the appropriate national authority.
- (3) The written statement required by subsection (2) above must be given—
- (a) not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
 - (b) (if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.
- (4) But if the proposed occupier consents in writing to that statement being given to him by a date (“the chosen date”) which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.
- (5) If any express term—
- (a) is contained in an agreement to which this Act applies, but
 - (b) was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,
- the term is unenforceable by the owner or any person within section 3(1) below.
- This is subject to any order made by the court under section 2(3) below.
- (6) If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, 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 him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), 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 either delivered to him personally or sent to him by post.
- (8) Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.
- (9) Regulations under this section—
- (a) shall be made by statutory instrument;
 - (b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
 - (c) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.”
- (2) Section 2 of that Act (terms of agreements) is amended as follows—
- (a) in subsection (2), for “within six months of the giving of the statement under section 1(2) above” substitute “within the relevant period”; and
 - (b) for subsection (3) substitute—
 - “(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;

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- (b) in the case of any express term to which section 1(6) above applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.
- (3A) In subsections (2) and (3) above “the relevant period” means the period beginning with the date on which the agreement is made and ending—
- (a) six 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 1(6) above), six months after the date on which the statement is given;
- and section 1(8) above applies for the purposes of this subsection as it applies for the purposes of section 1.”
- (3) In section 5(1) of that Act (interpretation) insert at the appropriate place—
- ““the appropriate national authority” means—
- (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the National Assembly for Wales;”.
- (4) The amendments made by subsections (1) and (2) do not apply in relation to an agreement to which that Act applies where—
- (a) the agreement, or
 - (b) (if it becomes one to which that Act applies as the result of any variation of it) the variation in question,
- is made before the end of the period of 28 days beginning with the day on which those subsections come into force.
- (5) The new section 1(9)(b) inserted by subsection (1) does not affect the continuing validity of any regulations made under section 1 of that Act before the passing of this Act.

207 Implied terms relating to termination of agreements or disposal of mobile homes

- (1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) (terms implied in site agreements) is amended as follows.
- (2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—
- (a) omit “age and”; and
 - (b) after sub-paragraph (2) insert—
- “(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—
- (a) the court considers that, having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it, but
 - (b) it also considers that it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it, and

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- (c) the occupier indicates that he intends to carry out those repairs.
- (4) In such a case the court may make an order adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.

The repairs must be set out in the order.
- (5) If the court makes such an order, the application shall not be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out.”
- (3) In paragraph 8 (sale of mobile home to person approved by owner)—
 - (a) after sub-paragraph (1) insert—
 - “(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.
 - (1B) Where the owner receives such a request, he must, within the period of 28 days beginning with the date on which he received the request—
 - (a) approve the person, unless it is reasonable for him not to do so, and
 - (b) serve on the occupier notice of his decision whether or not to approve the person.
 - (1C) A notice under sub-paragraph (1B) above must specify—
 - (a) if the approval is given subject to conditions, the conditions, and
 - (b) if the approval is withheld, the reasons for withholding it.
 - (1D) The giving of approval subject to any condition that is not a reasonable condition does not satisfy the requirement in sub-paragraph (1B)(a) above.
 - (1E) If the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1C) above, the occupier may apply to the court for an order declaring that the person is approved for the purposes of sub-paragraph (1) above; and the court may make such an order if it thinks fit.
 - (1F) It is for the owner—
 - (a) if he served a notice as mentioned in sub-paragraphs (1B) and (1C) and the question arises whether he served the notice within the required period of 28 days, to show that he did;
 - (b) if he gave his approval subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was;
 - (c) if he did not give his approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable.
 - (1G) A request or notice under this paragraph—

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- (a) must be in writing, and
 - (b) may be served by post.”;
 - (b) in sub-paragraph (2) for “the Secretary of State” substitute “the appropriate national authority”; and
 - (c) in sub-paragraph (3)(a) after “which” insert “(if made by the Secretary of State)”.
- (4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—
- “(2) Sub-paragraphs (1A) to (1G) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.”
- (5) After Part 2 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) insert—

“PART 3

SUPPLEMENTARY PROVISIONS

Duty to forward requests under paragraph 8 or 9 of Part 1

- 1 (1) This paragraph applies to—
- (a) a request by the occupier for the owner to approve a person for the purposes of paragraph 8(1) of Part 1 (see paragraph 8(1A)), or
 - (b) a request by the occupier for the owner to approve a person for the purposes of paragraph 9(1) of Part 1 (see paragraph 8(1A) as applied by paragraph 9(2)).
- (2) If a person (“the recipient”) receives such a request and he—
- (a) though not the owner, has an estate or interest in the protected site, and
 - (b) believes that another person is the owner (and that the other person has not received such a request),
- the recipient owes a duty to the occupier to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which the recipient receives it.
- (3) In paragraph 8(1B) of Part 1 of this Schedule (as it applies to any request within sub-paragraph (1) above) any reference to the owner receiving such a request includes a reference to his receiving it in accordance with sub-paragraph (2) above.

Action for breach of duty under paragraph 1

- 2 (1) A claim that a person has broken the duty under paragraph 1(2) above may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

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- (2) The right conferred by sub-paragraph (1) is in addition to any right to bring proceedings, in respect of a breach of any implied term having effect by virtue of paragraph 8 or 9 of Part 1 of this Schedule, against a person bound by that term.”
- (6) The amendments made by this section apply in relation to an agreement to which the Mobile Homes Act 1983 applies that was made before the day on which this section comes into force (“the appointed day”), as well as in relation to one made on or after that day.

Any reference in this subsection to the making of an agreement to which that Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which that Act applies.

- (7) However—
- (a) the amendments made by subsection (2) do not apply in relation to any application made before the appointed day for the purposes of paragraph 6 of Part 1 of Schedule 1 to that Act; and
 - (b) the amendments made by subsections (3)(a), (4) and (5) do not apply in relation to any request for approval made before the appointed day for the purposes of paragraph 8(1) or (as the case may be) 9(1) of that Part of that Schedule.

208 Power to amend terms implied in site agreements

- (1) After section 2 of the Mobile Homes Act 1983 (c. 34) insert—

“2A Power to amend implied terms

- (1) The appropriate national authority may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as the authority considers appropriate.
- (2) An order under this section—
 - (a) shall be made by statutory instrument;
 - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;
 - (c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the authority making the order considers appropriate.
- (3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—
 - (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 Act as the authority making the order considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.
- (4) The first order made under this section in relation to England or Wales respectively 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).

- (5) No order may be made by the appropriate national authority under this section unless the authority 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.
- (6) No order may be made by the Secretary of State under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) For the purposes of subsection (5) of the section 2A inserted by this section, consultation undertaken before the date of the passing of this Act constitutes as effective compliance with that subsection as if undertaken on or after that date.

Protection from eviction etc.

209 Protected sites to include sites for gypsies

- (1) Section 1 of the Caravan Sites Act 1968 (c. 52) (application of provisions for protection of residential occupiers of caravan sites) is amended as follows.
- (2) In subsection (2) (under which “protected site” includes certain local authority sites) for “paragraph 11 of Schedule 1 to that Act (exemption of land occupied by local authorities) substitute “paragraph 11 or 11A of Schedule 1 to that Act (exemption of gypsy and other local authority sites)”.
- (3) The amendment made by subsection (2) above does not affect the operation of—
- (a) section 2 of the Act (minimum length of notice) in relation to any notice given before the day on which this section comes into force, or
 - (b) section 3 of the Act (protection from eviction) in relation to any conduct occurring before that day, or
 - (c) section 4 of the Act (suspension of eviction orders) in relation to any proceedings begun before that day.
- (4) In subsection (3)(b) the reference to section 3 of the Act is to that section whether as amended by section 210 of this Act or otherwise.

210 Extension of protection from harassment for occupiers of mobile homes

- (1) Section 3 of the Caravan Sites Act 1968 (protection of occupiers against eviction and harassment) is amended as follows.
- (2) In subsection (1) (offence where person, with the specified intent, does acts calculated to interfere with the peace or comfort of the occupier etc.) for “calculated to interfere” substitute “likely to interfere”.
- (3) After subsection (1) insert—
- “(1A) Subject to the provisions of this section, the owner of a protected site or his agent shall be guilty of an offence under this section if, whether during the subsistence or after the expiration or determination of a residential contract—

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- (a) he does acts likely to interfere with the peace or comfort of the occupier or persons residing with him, or
- (b) he persistently withdraws or withholds services or facilities reasonably required for the occupation of the caravan as a residence on the site,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (1)(c)(i) or (ii) of this section.

(1B) References in subsection (1A) of this section to the owner of a protected site include references to a person with an estate or interest in the site which is superior to that of the owner.”

- (4) In subsection (3) (penalties for offences), for the words from “be liable” onwards substitute “be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months, or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.”
- (5) After subsection (4) insert—

“(4A) In proceedings for an offence under subsection (1A) of this section it shall be a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.”
- (6) The amendments made by this section do not apply in relation to any conduct occurring before the day on which this section comes into force.
- (7) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the amendment made by subsection (4) has effect as if for “12 months” there were substituted “6 months”.

211 Suspension of eviction orders

- (1) In section 4(6) of the Caravan Sites Act 1968 (c. 52) (provision for suspension of eviction orders) for the words from “in the following cases” to the end of paragraph (b) substitute “if—
 - (a) no site licence under Part 1 of that Act is in force in respect of the site, and
 - (b) paragraph 11 or 11A of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (c. 2) does not apply;”.
- (2) The amendment made by subsection (1) does not apply in relation to proceedings begun before the day on which this section comes into force.