

MOBILE HOMES ACT 2013

EXPLANATORY NOTES

COMMENTARY

Licensing

Section 5: Powers for local authority to carry out works

21. This section inserts new sections 9D to 9F into the CSCDA 1960, which provide local authorities with the power to carry out works on a site in certain situations.
22. Section 9D provides local authorities with the power to take action following the conviction of an occupier. Under the new provisions, where an occupier of a relevant protected site in England is convicted of the offence of failing to comply with the steps specified in a compliance notice, the local authority who issued the notice may take the actions specified in paragraphs (a) and (b) of subsection (1). The provisions set out that where a local authority proposes to take action under this section, they must serve a notice on the occupier of the land which contains the information set out in paragraphs (a) to (e) of subsection (2). Subsection (3) provides that the notice must be served sufficiently in advance of the intended entry to the site as to give the occupier reasonable notice. As section 26(1) of the CSCDA 1960 sets out that 24 hours notice of an intended entry must be given to the occupier, this would be the minimum amount of notice that could be given, but depending on the circumstances, it may be reasonable to provide additional notice. Subsection (4) provides that where a local authority authorises a person other than an officer of the local authority to take action on their behalf, this person shall be treated as being an authorised officer under section 26(1) of the CSCDA 1960, and so will be able to exercise a right of entry to the land. Subsection (5) sets out that the 24 hour notice requirement in section 26(1) only applies in relation to the day on which the local authority intend to start taking action on the land, which means that if a local authority carries out works which take more than one day, it will not need to provide 24 hours' notice before each day it intends to enter the site.
23. Section 9E provides a local authority with power to take emergency action in certain situations in relation to land in England which is a relevant protected site. Subsection (2) provides that the action which may be taken by the local authority is such action as is necessary to remove an imminent risk of serious harm to the health and safety of any person who is or may be on the land. The provisions set out that where a local authority proposes to take emergency action under this section, the authority must serve on the occupier a notice containing certain specified information, and this notice may state that the local authority would apply for a warrant under section 26(2) of the CSCDA 1960, if entry onto the land is refused. The notice must be served sufficiently in advance of the intended entry as to give the occupier of the land reasonable notice. Subsection (6) provides that where a local authority authorises a person other than an officer of the local authority to take action on their behalf, this person shall be treated as being an authorised officer under section 26(1) of the CSCDA 1960, and so will be able to exercise a right of entry to the land. Subsection (7) sets out that the requirement in section 26(1) for the right of entry to be exercised "at all reasonable hours" does not apply, as this may not be appropriate in an emergency situation. The requirement for 24

*These notes refer to the Mobile Homes Act 2013 (c.14)
which received Royal Assent on 26 March 2013*

hours notice of the intended entry, set out in section 26(1), also does not apply here. The provisions set out that the local authority must serve a further notice on the occupier within seven days of starting to take emergency action, which contains certain specified information. The occupier is provided with a right of appeal to a residential property tribunal against the emergency action, the grounds for which are that there was no risk of imminent serious harm to the health or safety of a person who is or may be on the land or that the action of the local authority was (or is) not necessary to remove such a risk.

24. Section 9F provides local authorities with the power to demand expenses where action has been taken under section 9D or 9E. Subsection (1) provides that where a local authority has taken such action, they may impose a charge on the occupier of the land as a means of recovering expenses incurred by them in taking the steps set out in paragraphs (a) to (c). Subsections (4) and (5) set out the time when a charge may be imposed in respect of emergency action, which is dependent upon whether an appeal is brought. Subsection (6) sets out that the power to impose a charge under subsection (1) is exercisable by serving on the occupier a demand for the expenses that the local authority seeks to recover, in the time period specified in subsection (8). Subsection (7) provides that an occupier of land who is served with a demand under this section may appeal to a residential property tribunal against this demand.