
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 2A of the Mobile Homes Act 1983 (“the 1983 Act”), which was inserted by section 208(1) of the Housing Act 2004. It amends Schedule 1 to the 1983 Act, which was also amended by section 207 of the Housing Act 2004. Schedule 1 contains terms which, by virtue of section 2 of the 1983 Act, are implied into agreements to which section 1 of the 1983 Act applies. Section 1 applies to agreements under which a person is entitled to station a mobile home on a protected site and occupy it as his only or main residence.

This Order only applies in relation to agreements for the stationing of mobile homes in England.

This is the first Order to be made under section 2A of the 1983 Act. In accordance with subsection (4) of that section, article 1(2) of this Order provides that the additional implied terms for which this Order provides are implied into agreements made before the day on which this Order comes into force, as well as to agreements made on or after that day.

In addition to minor and drafting amendments, this Order amends Schedule 1 to the 1983 Act as follows:

Article 2(2) amends paragraph 5 so as to require the court, before it makes an order under that paragraph terminating an agreement on the basis that the occupier is not occupying the mobile home as his only or main residence, to be satisfied that it is reasonable for the agreement to be terminated.

Article 2(3) amends paragraph 6 so as to enable owners to apply to the court to terminate an agreement forthwith if the mobile home is having a detrimental effect on the amenity of the site.

Article 2(4) amends paragraph 8, which applies when an occupier wishes to sell their mobile home. New sub-paragraph (1C) states that the owner may not impose conditions when giving their approval.

Article 2(5) amends paragraph 9 by inserting a new sub-paragraph (3), which provides that the owner may not require any payment on the gift of a mobile home.

Article 2(6) substitutes a new paragraph 10 and inserts new paragraphs numbered 11 to 29. New paragraph 10 concerns the re-siting of a mobile home and provides that an owner can only require a mobile home to be stationed on another pitch if the court is satisfied that the other pitch is broadly comparable and that it is reasonable for the mobile home to be stationed there, or if the mobile home needs to be moved so that the owner can carry out essential repair or emergency work. If the mobile home is moved so that the owner can replace or carry out repairs to the base on which the mobile home is stationed, the occupier can require, and the court can order, that the mobile home is returned to the original pitch on completion of the works. The owner is required to pay all the costs and expenses incurred by the occupier in connection with their mobile home being moved to and from the other pitch.

New paragraph 11 provides that an occupier is entitled to quiet enjoyment of the mobile home during the continuance of the agreement. New paragraphs 12 to 15 set out the owner’s rights to enter the pitch (but not the mobile home). New paragraphs 16 to 20 describe the procedure to be followed when reviewing and determining the new pitch fee. These provide for the annual review of the pitch fee as at the review date and application to the court in default of agreement as to the new pitch fee. New paragraph 21 describes the occupier’s obligations to the owner and new paragraphs 22 to 25 describe the owner’s obligations to the occupier. For example, paragraph 22 includes a requirement to consult the occupier and any qualifying residents’

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association about improvements to the protected site. New paragraphs 24 and 25 describe what is meant by “consult”. New paragraphs 26 and 27 specify the owner’s obligation to inform the occupier and any qualifying residents’ association of their name and address generally and when giving any written demand or notice to them. New paragraph 28 lists the criteria that a residents’ association must satisfy if it is to be a qualifying residents’ association for the purposes of Schedule 1 to the 1983 Act. New paragraph 29 contains definitions of key terms.

Article 3 amends Part 2 of Schedule 1 by omitting paragraphs 1, 6 and 7.

Article 4 contains transitional and saving provisions. Article 4(2) states that the terms implied by this Order will only have effect in relation to times falling on or after the 1st October 2006. Article 4(3) provides that, if any express term of the agreement or any term implied by virtue of section 2(2) of the 1983 Act is inconsistent with the terms implied by virtue of the amendments made by this Order, the inconsistent term is to cease to have effect on and after the 1st October 2006.

A full regulatory impact assessment of the effect that this instrument will have on the cost of business is available from Mark.Coram@odpm.gsi.gov.uk.