



Mobile Homes Act 2013

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This note will not be updated. For information on the legislation governing residential mobile home parks see: [Mobile \(park\) homes](#) (Library Briefing Paper 01080).

On 22 May 2012 Peter Aldous secured fifth place in the Private Members' Bill ballot. He subsequently announced his intention to use the opportunity to introduce a Bill aimed at improving the rights of mobile home owners, an issue on which he had campaigned for some time. The Bill was presented on 20 June 2012; it completed its parliamentary stages and received Royal Assent on 26 March 2013. In the House of Lords the Committee Stage of the Bill was discharged and it passed its Third Reading without debate.

The Bill attracted Government support and implements many of the proposals contained in the consultation paper [A better deal for mobile home owners](#) (April 2012) and recommendations made by the Communities and Local Government Select Committee in its report [Park Homes](#) (June 2012). The Committee found "widespread malpractice" in the sector and concluded that the existing legislative framework was "inadequate."

Consumer Focus published the results of an investigation into life on mobile home sites in England, [Living the Dream?](#) (October 2012). This report reinforced the findings of earlier studies.

The Act extends to England and Wales but does not alter the legal position in relation to Wales. The new provisions in the Act only apply in England. Sections 1-7 came into force on 1 April 2014 – related regulations were laid on 27 February 2014. Sections 13 and 14 also came into force on 1 April 2014. Section 8 will be brought into force on a date to be appointed by the Secretary of State. The remaining sections came into force on 26 May 2013. Regulations are in force in respect of the sale and gifting of mobile homes (section 10) and have been made in relation to section 11 (pitch fee reviews – in force on 26 July 2013) and section 9 (in force on 4 February 2014).

Welsh Assembly Member, Peter Black, took forward his own [Regulated Mobile Homes Sites \(Wales\) Bill](#). This Bill became the [Mobile Homes \(Wales\) Act 2013](#) which gained Royal Assent on 4 November 2013; some of the Act's provisions were brought into force on 7 January by the [Mobile Homes \(Wales\) Act 2013 \(Commencement, Transitional and Savings Provisions\) Order 2014](#) (SI 2014/11 (W.1)) – other provisions will come into force on 1 October 2014. The Scottish Government [consulted](#) on potential legislative changes in 2012; measures have been included in the [Housing \(Scotland\) Bill](#) which is progressing through the Scottish Parliament.

This note provides background information and explains the rationale behind the Act's provisions.

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1 Introduction

People living in mobile (park) homes normally own their home and rent the land on which it is stationed from the site owner (paying a 'pitch fee'). The Government estimates that around

85,000 households live in mobile homes on 2000 sites in England.¹ The majority of mobile home sites are privately owned with a small number owned by local authorities. Mobile homes can offer an attractive housing option for retired people, consequently residents tend to be older – in 2002 68% of occupants were aged 60 or over.²

The legal framework within which site and home owners operate has developed in a piecemeal fashion. There were attempts to strengthen the rights of mobile home owners in 2004 and again in 2006 but concerns around malpractice in the park homes sector persist. These concerns focus on complaints around unfair fees and charges, poor standards of maintenance, and site owners obstructing the ability of home owners to sell. The age profile of mobile home owners tends to make it difficult for them to assert their rights when dealing with unscrupulous site operators.

1.1 The legal framework: background

Prior to the 2013 Act three statutes regulated mobile home occupation.

The *Caravan Sites and Control of Development Act 1960* required site owners to obtain a site licence from the local authority before any land may be used as a caravan site. Local authorities have powers to impose conditions in site licences and enforce them if breached. The types of conditions that authorities may impose relate to the number of caravans allowed on the site, spacing between the vans and the provision of amenities on the site.

The *Caravan Sites Act 1968* gave basic protection to all mobile home occupiers living on protected sites; i.e. on land for which the owner has planning permission and is entitled to obtain a site licence. This Act prevented site owners from evicting occupiers with residential contracts other than by obtaining a court order.

The Mobile Homes Act 1983 went further than the 1968 Act and gave security of tenure to residents of mobile home sites who own the home in which they live and who rent the pitch from the site owner. As with the 1968 Act, the 1983 Act only covers owners and occupiers of protected sites.³ This Act placed an obligation on the site owner to maintain the site and gave them a right to claim commission on the sale of homes stationed on the site.⁴ The *Housing Act 2004* amended the 1983 Act to address some, but not all, of the shortcomings identified by the Park Homes Working Group which was established by the Labour Government in 1998.⁵

The Labour Government published proposals to further amend the law governing park homes in *Implied Terms and Written Statements for Park Homes: consultation summary of responses* (February 2005) and *Park Homes Site Licensing Proposals for Reform: Summary of Responses* (July 2005). Regulations to implement changes to the terms implied into contracts between mobile home owners and site owners came into force on 1 October 2006.⁶

Jurisdiction for the resolution of disputes under the 1983 Act transferred from the courts to the Residential Property Tribunal Service with effect from 30 April 2011. The Residential Property Tribunal Service was subsequently abolished in England and its functions absorbed by the

¹ Communities and Local Government (CLG), *A better deal for mobile home owners - Consultation*, May 2012

² Office of the Deputy Prime Minister (ODPM), *Economics of the Park Home Industry*, October 2002, executive summary, para 9

³ From 30 April 2011 the 1983 Act was extended to apply to local authority Gypsy and Traveller sites.

⁴ Currently the commission level is set at 10% of the sale price.

⁵ Department of Transport, Local Government and the Regions (DTLR), *Government Response to the Recommendations of the Park Homes Working Party*, November 2001

⁶ For more information see Library note SN/SP/1080.

First-Tier Tribunal (Property Chamber) (Transfer of Tribunal Functions) Order 2013 (SI 2013/1036) on 1 July 2013. *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*⁷ will, when in force, transfer functions subsequently conferred on Residential Property Tribunals by the 2013 Act as from 1 April 2014 to the First-Tier Tribunal (Property Chamber) and Upper Tribunal.

General guidance on the rights of mobile home owners can be found on the [GOV.UK website](http://www.gov.uk).

1.2 Ongoing issues and consultation

Ongoing concerns around unscrupulous site owners led the Labour Government to publish [Park Home Site licensing - Improving the Management of Residential Park Home Sites: Consultation](#) in May 2009. This paper built on the 2005 consultation exercise and considered how a new licensing system might look. The then Government said that its aim was to put in place a comprehensive package of proposals to reform the site licensing system. A further paper was published in March 2010 which set out options for improving the management of park home sites, [Park homes site licensing reform: The way forward and next steps](#). These measures were not implemented prior to the 2010 General Election.

In February 2011 the then Housing Minister, Grant Shapps, said he would consult on a range of measures to improve the rights of mobile home owners and give local authorities the powers to ensure these sites are safe and secure. [A better deal for mobile home owners](#) was published on 16 April 2012.⁸ Two impact assessments were published alongside the consultation paper, [Changes to the Mobile Homes Act 1983 - Impact Assessment](#) and [Park Homes: Changes to the local authority site licensing regime - Impact Assessment](#).

The Communities and Local Government Select Committee launched an inquiry into the park homes sector in December 2011. Its findings and recommendations were published in [Park Homes](#) (June 2012).⁹ The Committee concluded that “malpractice is widespread across the park home sector” and that the current legislation is “inadequate.” While welcoming the Government’s proposals in [A better deal for mobile home owners](#), the Committee said that they did not go far enough.

The Government’s [response](#) to the Committee’s recommendations was published in August 2012.¹⁰

On 22 May 2012 Peter Aldous secured fifth place in the Private Members’ Bill ballot. He subsequently announced his intention to use the opportunity to introduce a Bill aimed at improving the rights of mobile home owners, an issue on which he has campaigned for some time. The Bill gained Government support - it implements many of the proposals on which the Government consulted in 2012.

2 The Act

The following sections provide background to the Act’s provisions and explain their purpose.

⁷ Published in draft at the time of writing.

⁸ Consultation closed on 28 May 2012.

⁹ [Park Homes](#), HC 177-I, First Report of Session 2012-13

¹⁰ [Park Homes](#), Government response to the House of Commons Communities and Local Government Select Committee first report of session 2012-13, Cm 8424

2.1 Licensing mobile home sites

The licensing provisions in the Act are aimed at raising standards in the industry and delivering a more professional service to home owners. Measures will also provide for more effective enforcement action by local authorities where site operators do not comply with their licence obligations. Ahead of the new licensing provisions coming into force, DCLG published [Mobile Homes Act 2013: new licensing enforcement tools - a guide for park home site owners](#) (February 2014).

Sections 1-7, which are explained below, came into force on 1 April 2014. This date marked the end of the Government's moratorium on new burdens on micro-businesses. The delayed introduction was raised on Second Reading and in Public Bill Committee.¹¹ Although the Government gave dispensation for sections 8 onwards to be introduced earlier,¹² there was no movement on the early implementation of sections 1-7.

Fees

The *Caravan Sites and Control of Development Act 1960* (CSCDA) requires site owners to obtain a site licence from the local authority before any land may be used as a caravan site. Local authorities have powers to impose conditions in site licences and enforce them if breached. The types of conditions that authorities may impose relate to the number of caravans allowed on the site, spacing between the vans and the provision of amenities on the site.

Authorities had been unable to charge for carrying out this licensing function. In [A better deal for mobile home owners](#) the Government said "this inability to charge for their functions means that licensing functions are often under-resourced."¹³ The Communities and Local Government Select Committee also identified this as a "common theme" in submissions to its inquiry:

It is clear that local authorities do not have the resources to monitor park homes effectively. The existing regime should be changed to provide local authorities with a funding source to resource adequately their park licensing activities.¹⁴

The Committee stressed the need for "a clear link" between fees received and the resourcing activity to license and monitor mobile home sites.¹⁵

In [Park Homes: Changes to the local authority site licensing regime - Impact Assessment](#) (April 2012) the Government provided an estimate of the costs to site owners of a new licensing regime:

The majority of the costs fall to site owners, who will need to pay new fees for licenses with a present value of around £26.5m over a ten year period as well as additional costs of administration and servicing enhanced monitoring and enforcement, which are estimated at around £9.8m. Costs to local authorities of increased monitoring and enforcement are estimated at around £22.3m.¹⁶

¹¹ PBC 27 November 2012 c6

¹² HC Deb 30 November 2012 c558

¹³ CLG, [A better deal for mobile home owners - Consultation](#), May 2012, para 4.10

¹⁴ [Park Homes](#), HC 177-I, First Report of Session 2012-13, para 41

¹⁵ [Park Homes](#), HC 177-I, First Report of Session 2012-13, para 44

¹⁶ CLG, [Park Homes: Changes to the local authority site licensing regime - Impact Assessment](#), April 2012, p5

The *Impact Assessment* notes that where there are few sites within an authority's area the fees may have to be very high in order for the authority to achieve full cost recovery.

Section 1 of the Act amends the CSCDA to enable authorities to charge fees in relation to their licensing functions on "relevant protected sites." This excludes sites used for holiday caravans and those sites where year-round occupation is prohibited.¹⁷ Local authority owned sites are exempt from the licensing regime.

The level at which the initial application fee is set, and any annual fee required in respect of licensing functions, will be a matter for the local authority to determine. A new section 5A in the CSCDA requires the authority to inform the licence holder of the matters to which they have had regard when fixing the fee for the year in question.

Authorities can seek an order to recover overdue fees from a First-Tier Tribunal (Property Chamber).¹⁸ Failure to comply with such an order within 3 months will enable the authority to apply for an order revoking the site licence.

Fees are also be payable for:

- an application to alter the conditions attached to a licence; and
- an application for consent to transfer a site licence on a relevant protected site.

Authorities are required, by a new section 10A in the CSCDA, to prepare and publish a fees policy which can be revised from time to time.

Site owners *will* be able to recover the cost of the annual licence fee through the pitch fee review in the first year that the licence fee becomes payable by the site owner. It will be added to the pitch fee in the first year it arises. Thereafter, the fee will remain part of the pitch fee and will be uprated in line with the Retail Price Index (RPI).

The cost of any fees paid to accompany an application for site licence conditions to be amended or consent to transfer a licence may *not* be passed on via the pitch fee.¹⁹

The Park Home Owners Club commented on the site owner's ability to recover the cost of the annual licence fee through the pitch fee:

Although the site licence fee will probably be an annual fee, it can only be recovered once on the initial application for a site licence. The sum will become an integral part of the pitch fee which will increase each year with inflation. Therefore the park owner cannot add it on each year because it will already be in the pitch fee.

Note that the Bill also expressly excludes the cost of transferring or altering a site licence to the pitch fee by an amendment to implied term 19. Ref: clause 1(8) of the Bill. The Bill is carefully worded to clarify what costs can NOT be passed onto the residents, namely the costs incurred by failure to comply with the site licence conditions or costs of complying with any changes to the conditions or costs of meeting any other requirements

¹⁷ Clause 1 was amended in Public Bill Committee to ensure that sites including residential staff accommodation or that are occupied by the owner do not come within the definition of a relevant protected site. An amendment was also made to distinguish between a relevant protected site application and the grant of a holiday site licence [PBC 27 November 2012 cc3-5].

¹⁸ The Act provides for applications to a Residential Property Tribunal (RPT) but *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*, when in force, provides for applications to First-Tier Tribunals (Property Chamber) as RPTs have been abolished.

¹⁹ A new paragraph has been inserted in Part 1 of Schedule 1 to the *Mobile Homes Act 1983* to provide for this.

from the local authority. The Bill deliberately does not mention the site licence fee because that is covered by the existing term which states that the effect of any enactment can be considered at the pitch fee review. This is explained in paragraph 13 of the Explanatory Notes to the Bill.

The law allowing the cost of the licence fee to be passed on to residents would seem very unfair. We in IPHAS and NAPHR protested about this repeatedly at meetings of the DCLG when the legislation was being drafted and we objected to the idea at the Select Committee meeting. **But on the plus side, the government has pointed out that it now gives residents some leverage to use on the local authority. Whereas previously, when residents asked the local authority for action on the site licence conditions they would use the excuse of lack of resources, in future we can point out that the residents are paying for the licence fee so we are entitled to some return for our money.**²⁰

DCLG published [Mobile Homes Act 2013: a guide for local authorities on setting licence fees](#) in February 2014.

Applications to issue or transfer licences

Previously, where an applicant showed that s/he had the necessary planning permission and had provided the required information the local authority had to issue a site licence. [A better deal for mobile home owners](#) advised:

...the requirement to obtain a licence does not arise until the owner starts to station caravans on the land. This means that, by the time a licence application is made, the site's infrastructure, services and amenities may have already been provided without the involvement or oversight of the local authority. As the authority is obliged to grant the licence (subject to a limited exception relating to breaches of a licence) within two months of receipt this can mean that substandard sites are licensed and authorities are obliged to take enforcement action retrospectively.²¹

Section 2 of the Act gives local authorities discretion over whether or not to grant or transfer a site licence through amendments to sections 3 and 10 of the CSCDA. The Secretary of State has the power to make regulations to specify matters to which authorities will have regard when exercising discretion on whether to issue a licence.

[The Mobile Homes \(Site Licensing\) \(England\) Regulations 2014](#) (SI 2014/442) came into force on 1 April 2014. These Regulations set out the matters to which an authority must have regard when considering whether to issue or agree to the transfer of a licence. They include the ability of the applicant to comply with any conditions of the licence, management arrangements and condition of the site. Authorities can require specific information or documents to accompany an application for a site licence.

The regulations confer a right to appeal to a tribunal²² against a decision to refuse a licence application and provide that no compensation is payable for losses suffered pending the outcome of an appeal by a site owner.

²⁰ Park Home Owner's Club, [Site licence fee clarification](#), March 2013 (accessed on 17 December 2013)

²¹ CLG, [A better deal for mobile home owners - Consultation](#), May 2012, para 4.31

²² [The Transfer of Tribunal Functions \(Mobile Homes Act 2013 and Miscellaneous Amendments\) Order 2014](#), when in force, provides for applications to First-Tier Tribunals (Property Chamber) as Residential Property Tribunals have been abolished in England.

An application to issue or transfer a site licence received before 1 April 2014 must be considered under the then provisions of the CSCDA.²³

Site licence conditions – appeals

Section 3 amends sections 7 and 8 of the CSCDA to provide that appeals against conditions attached to a site licence in England will be to a First-Tier Tribunal (Property Chamber)²⁴ rather than the magistrates' court. The tribunal can attach new conditions to a site licence where it varies or cancels a condition under section 7.

Compliance notices

Previously, if a site owner was in breach of a licence condition the local authority had a power to prosecute in the magistrates' court but could not serve a formal notice requiring the work to be done ahead of prosecution. In [A better deal for mobile home owners](#) the Government observed a reluctance on the part of authorities to prosecute site owners as the maximum fine (£2,500) did not represent a deterrent.²⁵

Section 4 of the Act amends section 9 of the CSCDA so that in the event of a breach of a licence condition on a relevant protected site in England the local authority can serve a compliance notice on the occupier. The occupier has the right to appeal to a First-Tier Tribunal (Property Chamber).²⁶

If the occupier fails to adhere to the terms of a compliance notice without reasonable excuse they will be guilty of an offence. Authorities can recover expenses associated with the service of a compliance notice.

Applications to amend site conditions made before 1 April 2014 must be considered under the then provisions of the CSCDA.²⁷

Local authority powers to carry out works

The CLG Select Committee took evidence from authorities seeking the power to intervene to undertake works where licence conditions are not met, coupled with a power to recover costs. The Committee recommended the introduction of a power to undertake works within a regime akin to that under which authorities carry out works in default to Houses in Multiple Occupation (HMOs).²⁸

Section 5 of the Act gives local authorities the power to enter and carry out works on sites in England where occupiers have been convicted of failing to comply with the steps set out in compliance notices.

In certain situations authorities can take emergency action to remove an imminent risk of serious harm to the health and safety of any person on a relevant protected site in England.

²³ Article 4 of the [Mobile Homes Act 2013 \(Commencement and Saving Provision\) \(England\) Order 2014](#) (SI 2014/816)

²⁴ The Act provides for applications to a Residential Property Tribunal (RPT) but *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*, when in force, provides for applications to First-Tier Tribunals (Property Chamber) as RPTs have been abolished in England.

²⁵ CLG, [A better deal for mobile home owners - Consultation](#), May 2012, para 4.16

²⁶ The Act provides for applications to a Residential Property Tribunal (RPT) but *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*, when in force, provides for applications to First-Tier Tribunals (Property Chamber) as RPTs have been abolished in England.

²⁷ Article 4 of the [Mobile Homes Act 2013 \(Commencement and Saving Provision\) \(England\) Order 2014](#) (SI 2014/816)

²⁸ [Park Homes](#), HC 177-I, First Report of Session 2012-13, para 49

The occupier has a right of appeal. Section 5 was amended in Public Bill Committee to clarify that the deadline for service of an expenses demand where emergency action has been taken will be two months after the date on which any appeal is determined, or two months after the completion of the action, whichever is the later date.²⁹

Authorities have the power to reclaim expenses associated with carrying out necessary compliance works and/or emergency action.

Appeals, operative periods, recovery of expenses

Section 6 inserts three new sections into the CSCDA (9G, 9H and 9I). New section 9G provides for the timing of appeals against compliance notices and emergency action or a demand for expenses arising from these activities. New section 9H sets out when a compliance notice or demand for expenses becomes operative. New section 9I enables a local authority to charge interest from the operative date of a demand for expenses at a rate fixed by the authority. The local authority can register these debts as a local land charge against the site.

Residential Property Tribunals (RPTs): jurisdiction under the 1960 Act

Section 7 makes necessary amendments to section 230 of the *Housing Act 2004* which sets out certain directions that can be given to the RPT when exercising jurisdiction under the CSCDA.

Section 7 was amended in Public Bill Committee to provide that the maximum amount of costs that the tribunal can award against a party that has acted unreasonably in connection with proceedings will be £500.

Article 5 of the [Mobile Homes Act 2013 \(Commencement and Saving Provision\) \(England\) Order 2014](#) (SI 2014/816) makes saving provision for proceedings under section 7 and section 8 of the 1960 Act which are pending in the magistrates' court before 1st April 2014, to enable these proceedings to continue to be dealt with by the magistrates' court on and after that date.

[Note that RPTs have now been abolished in England – the 2013 Act contains references to them as the Property Chamber of the First-tier Tribunal had not then been established. The Property Chamber was established on 1 July 2013 when the *Transfer of Tribunal Functions Order 2013* (S.I. 2013/1036) transferred (amongst other things) the functions of RPTs into the unified tribunal structure. *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*, when in force, will transfer functions subsequently conferred on RPTs by the 2013 Act as from 1 April 2014.]

2.2 Management of sites

Requirement for manager of site to be fit and proper person (not in force)

There have been repeated calls from mobile home owners for the introduction of a requirement that site owners/operators demonstrate that they are “fit and proper persons.” In March 2010 the Labour Government announced an intention to insert a “fit and proper person” requirement into a new site licensing regime - the proposal was supported by “a majority of consultees.”³⁰ Labour’s proposals were not implemented prior to the 2010 General Election.

The context within which the “fit and proper person” issue has arisen is one where certain site operators have acted aggressively and/or in an intimidating manner towards residents. The

²⁹ PBC 27 November 2012 cc5-6

³⁰ CLG, [Park homes site licensing reform: The way forward and next steps](#), March 2010,

CLG Select Committee's report quotes evidence of harassment from the Park Home Owners Justice Committee:

It is right across the whole system. I have telephone calls and emails every day with regard to it. I have instances of more passive harassment, if you like, i.e. park owners sitting outside the house in cars with blacked-out windows and the engine being revved up; causing a disturbance; and sending threatening letters of eviction for no real reason whatsoever. The worst cases involve brandishing chainsaws outside the house when residents return; sending in thugs—about which I have given you information today—to throw paint over houses; breaking car windows; putting paint inside; and threatening elderly and disabled people. All of the letters I have received are in files for you. One disabled gentleman who dared to ask to see a utility bill was threatened; he was told he would be taken to the top field and done over. It goes on and on right across the board, so, yes, a lot of it is going on.³¹

Parallels have been drawn between the requirement on licence holders of certain Houses in Multiple Occupation (HMOS) to meet a “fit and proper person” test under the *Housing Act 2004*. This test involves asking the prospective licence holder whether they have:

- any unspent convictions for offences involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003; or
- practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business; or
- contravened any provision of the law relating to housing or of landlord and tenant law; or
- acted otherwise than in accordance with any applicable code of practice for the management of HMOs approved under section 233 of the 2004 Act.

The Select Committee acknowledged that there are drawbacks with the imposition of a similar test in the mobile homes sector. The HMO test relies on self-certification so it would be possible for an associate of the site owner with a clean record to hold a licence on his/her behalf. The Committee received evidence pointing out that it would be difficult to apply a test retrospectively to site owners who hold a licence. There is also the question of who would take over management of the site in the event of an owner being deemed unfit. Local authorities can take over the management of HMOs if they refuse or revoke an owner's licence but this happens very rarely in practice.³²

When giving evidence to the Select Committee's inquiry the then Minister for Housing, Grant Shapps, argued that the proposals in *A better deal for mobile home owners* would achieve the same result as a “fit and proper person” test by driving the worst offenders from the sector. The Committee was not persuaded and concluded that “a fit and proper person test could be a useful addition to local authorities' armoury to exclude the worst offenders from owning and managing park home sites.” The Committee went on to recommend:

...that the Government bring forward as part of the proposed legislation an enabling power to establish a fit and proper person test, which could be activated through secondary legislation if required.³³

³¹ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 50

³² *Park Homes*, HC 177-I, First Report of Session 2012-13, paras 55-56

³³ , HC 177-I, First Report of Session 2012-13, para 59

The Government [response](#) to the Committee's report acknowledged the existence of "widespread malpractice" and "a number of criminal operators" but expressed a lack of conviction around the need for a "fit and proper person" test.³⁴ However, the Act does enable the introduction of such a test.

Section 8 of the Act inserts five new sections (12A to 12E) into the CSCDA. The Secretary of State has acquired new regulation making powers under which s/he will be able to prohibit the use of land as a relevant protected site in England unless the local authority is satisfied that the occupier, or the person appointed to manage the site, is a "fit and proper person." The regulations will set out the consequences of contravening any requirement contained in therein, including criminal sanctions and the circumstances in which a site licence may be revoked.

New sections 12B, 12C, 12D and 12E confer further regulation making powers in connection with those made under section 12A. Authorities may be required to publish up-to-date registers of fit and proper persons in their areas and provide information on applications for inclusion in the register, the assessment of applications, and the removal of persons from the register.

Regulations made under new sections 12A(3), 12C(9) and 12D(6) may also create certain new summary only offences but may only provide for those offences to be punishable by a fine not exceeding an amount prescribed in the regulations.

Regulations made under sections 12A to 12D will be subject to the affirmative resolution procedure.³⁵

The Explanatory Notes to the Bill state "operators that choose to remain in the sector without reforming their practices may in the future find themselves unable to do so by the introduction of a 'fit and proper' person requirement." Section 8 will be brought into force on such day as the Secretary of State may, by Order, appoint.

2.3 Pitch agreements

The central feature of the MHA 1983 is the requirement on the site owner to serve a written statement on the occupier containing the express and implied³⁶ terms of the agreement. Since 18 January 2005 site owners have been required to issue a written statement of terms to prospective occupiers 28 days before any agreement for the sale of a mobile home is made or, if there is no such agreement, not later than 28 days before the occupation agreement is entered into. The aim is to ensure that potential park home occupiers are made aware of the terms under which they will occupy the site before taking up occupation.

Site rules

Mobile home sites usually have specific rules, such as a minimum age requirement for residents and management rules on keeping pets, car parking and refuse collection. These rules form an integral part of the pitch agreement.

The CLG Select Committee found evidence of site rule breaches by site owners:

³⁴ [Park homes](#), Government response to the House of Commons Communities and Local Government Select Committee first report of session 2012-13, Cm 8424, p10

³⁵ The affirmative resolution procedure means that the approval of both Houses of Parliament needs to be obtained before the regulations can come into force.

³⁶ The MHA provides for certain terms to be implied into all pitch agreements on protected sites, e.g. the right to security of tenure and to sell the mobile home.

It appeared to us that some site owners were willing to break these rules. On our visit to Bournemouth, we saw evidence of increasing number of park homes being rented out by site owners. In some cases they were being rented to people under 50 years old which contravened park rules.³⁷

Confusion can arise amongst residents over the site rules in operation, amendments to the rules, and their enforcement.

In *A better deal for mobile home owners* the Government said that site rules should always form part of the express terms of the written agreement and that any changes must be made subject to consultation with home owners or, where one exists, any qualifying residents' association. The Government proposed that where a majority of residents disagree with an amendment the site operator would not be able to implement it unless authorised by a Tribunal.³⁸

A better deal for mobile home owners also proposed to limit the type of rules that can be included so as to exclude those that might be used to prevent open market sales by home owners. Views were asked on a proposal to require that site rules are deposited with the local authority and published alongside the site licence to "allow any prospective purchaser to check their suitability for living on the site against them as well as other rules that apply to the site."

The CLG Select Committee welcomed the Government's proposals in respect of site rules. The Committee further recommended that abiding by the site rules deposited with the local authority should be made a requirement on all site owners under the site licence conditions, thus providing the authority with enforcement powers against breaches of the site rules.³⁹ The Committee recommended legislation to regulate the process through which site owners can amend the site rules, with a failure to follow the process amounting to a breach of the site licence.⁴⁰

Section 9 has amended the MHA by inserting two new sections. Sites rules, where they exist, are now express terms in pitch agreements between the site and home owner – this creates certainty between the parties.⁴¹ This provision applies retrospectively to existing pitch agreements in addition to newly made agreements.

Section 9 came into force on 26 May 2013.

The Secretary of State has regulation making powers to cover the procedure to be followed by site owners proposing amendments to site rules. Regulations may provide for existing rules to have no effect; prescribe matters in relation to which site rules may not be made; provide for dispute resolution procedures; and require local authorities to keep and publish an up-to-date register of site rules in their areas.

The Mobile Homes (Site Rules) (England) Regulations 2014 (SI 2014/5) introduced a new procedure with effect from 4 February 2014 whereby site owners must consult occupiers before changing the site rules. A consultee may appeal to the Tribunal against any new rule if: there has been a failure to follow the prescribed consultation process; the new site rule is inconsistent with rights granted under the 1983 Act (as amended); or the decision to introduce

³⁷ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 71

³⁸ CLG, *A better deal for mobile home owners - Consultation*, May 2012, p15

³⁹ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 72

⁴⁰ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 73

⁴¹ These provisions will not apply to gypsy and traveller sites.

the new rule is unreasonable, having regard in particular to any observations received during the consultation process, the size, layout, character, services or amenity of the site or the terms of any planning permission or site licence.

Regulation 18 makes consequential amendments to the *Mobile Homes (Written Statement) (England) Regulations 2011* to set out that site rules now form part of the express terms of an agreement made under the *Mobile Homes Act 1983*.

Implied terms: removal of requirement for site owner to consent to sale or gift

An area that causes mobile home owners considerable concern is the problems they face when site owners try to block their right to sell to a third party. The MHA 1983 Act gave home owners the right to sell, but site owners have been creative in their methods to block open market sales in order to force owners to sell to themselves at a lower price. This enables the site owner to put a new home on the pitch and sell that (or the existing home) at its full market value. This is often more financially beneficial to the site owner than taking the 10% commission on third party sales.

Sale blocking has attracted previous legislative attention. Section 207 of the *Housing Act 2004* introduced (with effect from 18 January 2005) a contractual duty on the site owner to give approval to a prospective purchaser within a time limit of 28 days unless it is reasonable not to do so. If the site owner does not issue a decision within 28 days, or withholds approval unreasonably, then the occupier can seek damages for breach of contract. The home owner can also seek an order from a Tribunal declaring that the prospective purchaser is approved.

The *Mobile Homes Act (Amendment of Schedule 1) (England) Order 2006*, which came into force on 1 October 2006, provides:

Paragraph 8, which concerns the sale of the mobile home, has been amended so as to remove the owner's right to attach conditions to their approval of the purchaser and so that the only factor they can take into account is the suitability of the incoming resident. This has also been amended to make it clear that only commission is payable on the sale and that they cannot claim any other payment.⁴²

The problems faced by home owners still persist. Some site owners use their right to approve prospective purchasers to contact them and deter them from buying, or persuade them to buy a new home on the site. The CLG Select Committee found evidence of direct intimidation and harassment of owners trying to sell on the open market.⁴³ Evidence submitted to the Committee by the British Holiday and Home Parks Association and the National Caravan Council acknowledged the existence of sale blocking and expressed support for legislation to tackle it.⁴⁴

In *A better deal for mobile home owners* the Government proposed three possible approaches:

- abolition of the site owner's approval of the purchaser; or
- the purchaser would be deemed "approved" unless declared unsuitable by a Tribunal; or

⁴² CLG, *Park Homes Factsheet 2 – implied terms amendments – what it means for you*, 2006

⁴³ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 14

⁴⁴ *Park Homes*, HC 177-II, First Report of Session 2012-13, Ev 113 and Ev 105

- keeping the approval requirement, but in the event of evidence of abuse the home owner could apply to a Tribunal to exercise the approval role.

The CLG Select Committee, after considering the various options, concluded that “removing a site owner’s right to approve prospective buyers provides the only effective way to eliminate sale blocking.” The alternative options were thought to present risks by giving site owners an opportunity to slow down the sale process.⁴⁵

Although representatives of the park homes industry told the Committee that they hardly ever refused applications for approval, leading the Committee to conclude that “it is rarely used legitimately,”⁴⁶ they did point out the merits of the site owner’s approval:

We have refused people based on age – that is all – but only in a few cases. All our advertising is for 50 plus, and they are usually the type of people who come to us. We also think we have a duty to protect the residents who live on the park. If you buy a park home for a quiet retreat, you do not expect someone to move in next door with three children, two dogs and everything else that goes with it. Anybody who spends these considerable amounts of money should want to meet the park owner.⁴⁷

The Committee recognised that abolishing the site owner’s right to approve buyers would reduce their contact with the seller and transfer to them responsibility for bringing the site rules and pitch agreement to the attention of the buyer.

Section 10 of the Act has amended Schedule 1 to the MHA 1983 by inserting new paragraphs (which only apply in England⁴⁸) making provision about the sale or gifting of a mobile home. Different provisions apply where the proposed sale/gift concerns an existing agreement as opposed to a new pitch agreement (i.e. one made after the new provisions came into force, or one which was made before but which is assigned after the provisions came into force). The different approach to new and existing agreements takes account of the fact that the new provisions, in so far as they relate to existing agreements, will affect site owners’ existing contractual rights. Section 10 came into force on 26 May 2013

New agreements (sale of a mobile home)

In addition to the existing rights of a mobile home owner to sell and assign their pitch fee agreement and the right of a site owner to receive commission on the sale, new paragraph 7A removes the requirement on site owners to approve prospective purchasers. Instead, a requirement is placed on the purchaser to notify the site owner of the completion of sale and assignment of the agreement. The Secretary of State has made regulations specifying the procedural requirements to be followed by the parties in connection with the sale.

The *Mobile Homes (Selling and Gifting) (England) Regulations 2013* (S.I. 2013/981) prescribe the form of notice required where a sale/gift of a mobile home is proposed. The regulations came into force on 26 May 2013. The *Mobile Homes Act 2013 (Saving Provisions) (England) Order 2013* contains relevant transitional and saving provisions (also in force on 26 May 2013).

The Mobile Homes (Site Rules) (England) Regulations 2014 (SI 2014/5) provide that any site rules which were made prior to the commencement of the relevant sections of the 2013 Act (26 May 2013) which confer power on the site owner to prevent a sale or gift of a mobile home

⁴⁵ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 24

⁴⁶ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 24

⁴⁷ *Park Homes*, HC 177-I, First Report of Session 2012-13, para 23

⁴⁸ Existing paragraphs 8 and 9 of Schedule 1 to the MHA 1983 will only apply in Wales.

cease to have effect from 4 February 2014. These Regulations have also amended the *Mobile Homes (Selling and Gifting) (England) Regulations 2013* to revoke regulation 11 (replaced by regulation 15 of SI 2014/5) and to add an additional ground upon which a site owner may apply for a refusal order under regulation 7 of the Selling and Gifting Regulations.

New agreements (gift of a mobile home)

New paragraph 8A retains the right of a mobile home owner to gift the home and assign the pitch agreement to a member of his or her family but removes the requirement for the site owner to approve the person to whom the property is gifted, subject to the occupier producing “relevant evidence” establishing the family connection. The Secretary of State has a regulation making power to specify what constitutes “relevant evidence” and set out procedural requirements in connection with gifting and assigning a mobile home agreement.

As noted above, the *Mobile Homes (Selling and Gifting) (England) Regulations 2013* (S.I. 2013/981) prescribe the form of notice required where a sale/gift of a mobile home is proposed. The regulations came into force on 26 May 2013. The changes made by *The Mobile Homes (Site Rules) (England) Regulations 2014 (SI 2014/5)* are also relevant.

Existing agreements (sales and gifting mobile homes)

Where there is an existing agreement new paragraphs 7B and 8B set out the requirements that will have to be met before a mobile home owner will be entitled to sell or gift their home and assign the pitch agreement.

The home owner has to serve notice on the site owner advising of the intention to sell/gift the home. The notice must include the name of the prospective buyer or family member (where the home is being gifted) together with the prescribed information contained in the *Mobile Homes (Selling and Gifting) (England) Regulations 2013* (S.I. 2013/981). Where a gift is proposed, the notice will include “relevant evidence” of the family connection.

The second requirement is that the home owner does not, within 21 days of the site owner receiving the notice, receive a notice back advising that that the site owner is seeking an order from the First-Tier Tribunal (Property Chamber)⁴⁹ to prevent the sale/gift (“a refusal order”), or that the site owner has made an application which has been refused.

In Public Bill Committee the Minister, Don Foster, acknowledged that a number of existing agreements contain express terms requiring assignment of the agreement to take place in the presence, or with the approval of, the site owner. He moved amendments to make it clear that the approval of the site owner will no longer be required:

Amendment 11 inserts into proposed new paragraph 7B(1) wording that explicitly provides that, under an existing contract, the resident selling the home is entitled to assign the agreement without the approval of the site owner, provided that the conditions set out in sub-paragraph (1) are met. Amendment 13 inserts the same wording into proposed new paragraph 8B(1) in connection with an assignment when, under an existing contract, the resident gifts the home. Under section 2(1) of the 1983 Act, terms implied in the agreement by the Act override any express terms in that contract. The amendments make it clear that any express terms that require assignments to be approved by the site owner will be unenforceable.

⁴⁹ The Act provides for applications to a Residential Property Tribunal (RPT) but *The Transfer of Tribunal Functions (Mobile Homes Act 2013 and Miscellaneous Amendments) Order 2014*, when in force, provides for applications to First-Tier Tribunals (Property Chamber) as RPTs have been abolished in England.

The Secretary of State will have regulation making powers to prescribe the grounds on which a site owner will be able to seek a refusal order and to specify the procedural requirements in relation to sales/gifts of mobile homes.⁵⁰

The Mobile Homes (Site Rules) (England) Regulations 2014 (SI 2014/5) provide that any site rules which were made prior to the commencement of the relevant sections of the 2013 Act (26 May 2013) which confer power on the site owner to prevent a sale or gift of a mobile home cease to have effect from 4 February 2014.

Provision of information

A further new paragraph, A1, provides for information that the home owner must provide to the prospective purchaser and the timescale for the provision of this information. The *Mobile Homes (Selling and Gifting) (England) Regulations 2013* (S.I. 2013/981) specify the documents and/or other information to be provided. Failure by a home owner to adhere to the information requirement will enable the purchaser to bring civil proceedings against them for breach of statutory duty.

The aim of paragraph A1 is to ensure that prospective purchasers are aware of all relevant information (including restrictions in the site rules on who may reside on the site) and can make an informed decision as to whether or not to purchase.

Implied terms: pitch fees

The pitch fee is the sum paid to the site owner in return for permission to station a mobile home on the pitch and use the common areas of the site. The requirement to pay a pitch fee is an express term in the written the agreement. Pitch fees are reviewable annually and can usually only be increased in line with RPI plus the cost of expenditure on improving (rather than maintaining⁵¹) the site. A new pitch fee review procedure came into force on 1 October 2006.

In *A better deal for mobile home owners* the Government noted that some site operators still add repair costs to pitch fees. The Government said it was minded to legislate “to make it absolutely clear that costs relating to the above cannot be included in a pitch fee review, and, therefore, home owners are not obliged to pay any sum attributable to repairs.”⁵²

Section 11 of the Act amends Chapter 2 of Part 1 of Schedule 1 to the MHA. Section 11 came into force on 26 May 2013. The amendments apply retrospectively to existing pitch agreements as well as to those made after the provisions come into force. Site owners will be required, when serving the pitch fee review notice, to also provide a document meeting the requirements set out in new paragraph 25A and the *Mobile Home (Pitch Fees) (Prescribed Form) (England) Regulations 2013* (2013/1505), which came into force on 26 July 2013.

If the document is not provided the notice of increase to the pitch fee will have no effect. If the home owner pays the increase a Tribunal or arbitrator (where applicable) will be able to order repayment on an application by the home owner.

⁵⁰ PBC 27 November 2012 c17

⁵¹ Repairs to the site are the responsibility of the site owner and should be funded through existing revenue resources.

⁵² CLG, *A better deal for mobile home owners - Consultation*, May 2012, para 2.33

Home owners who disagree with a proposed fee increase will have the right to apply to a Tribunal for an order determining the amount of the new pitch fee. Previously only site owners have been able to make these applications.

Paragraphs 18 and 19 are amended to clarify the matters to which site owners must have regard, and the costs to be disregarded, when determining the amount of the new pitch fee. Site owners will have to have regard to any deterioration in the condition of the site and any decrease in the amenity of the site or any adjoining land. An amendment was agreed in Public Bill Committee to provide that the condition of adjoining land will only be taken into account if it is occupied or controlled by the site owner.⁵³ The site owner will also have to have regard to any service reduction supplied to mobile home owners and any deterioration in the quality of those services.

The existing provision in paragraph 18(1)(c), which allows site owners to take account of the effect of legislation enacted since the last review date when determining the pitch fee increase, has been replaced with a new provision specifying that site owners may only take into account any direct effect on their costs in relation to management or maintenance arising from any enactment that has come into force since the last review date. Site owners are prevented from passing on the cost of implementing amendments to the MHA contained in this Act via pitch fee increases.

Amendments to paragraph 20 in relation to the calculation of RPI were agreed in Public Bill Committee:

Paragraph 20 was intended to ensure that the calculation of an RPI increase or decrease was based on the last published figure before the review. However, that is not as clear as it ought to be. As a result, it is not always the case that reviews are transparent, and there is evidence that some site owners simply choose the highest percentage change in RPI over the last year to fix the review, and that others simply work out an average RPI percentage change over that year and apply that to the pitch fee.

Clause 11(5) was intended to resolve that problem. It has come to light, however, that, as drafted, it would not enable the necessary calculation to be made. Amendment 16 therefore corrects an error in clause 11(5) regarding how the RPI percentage change should be calculated. It does that by replacing the current provision with two new subsections that would be inserted into paragraph 20 of chapter 2 of part 1 of schedule 1 of the 1983 Act. The new subsections require the calculation to be made using the last index published before the pitch fee review notice is given, or, where the site owner serves the pitch fee review notice late, the last index published before the last date on which he should have served the pitch fee review notice and the index published 12 months prior to that.⁵⁴

The CLG Select Committee recommended that the maximum annual pitch fee increase should be calculated in line with the Consumer Price Index (CPI) “to create a fairer link between home owner incomes and pitch fees.”⁵⁵ A number of groups are campaigning on this issue given that pensions are now linked to CPI. The Government rejected this recommendation stating

⁵³ PBC 27 November 2012 cc18-19

⁵⁴ PBC 27 November 2012 c20

⁵⁵ [Park Homes](#), HC 177-I, First Report of Session 2012-13, para 76

“unlike the Consumer Price Index the Retail Price Index takes account of all housing costs and is, therefore, a more accurate reflection of inflation in that sector.”⁵⁶

2.4 Offences

Protection from eviction and harassment, false information etc

Section 3 of the 1968 *Caravan Sites Act* makes it a criminal offence for site operators (or persons acting on their behalf) to evict, attempt to evict or, through harassment, cause home owners to give up their mobile homes (without a court order), or prevent them from exercising a lawful right (for example to sell their home) or seeking a remedy.

Section 12 of the Act has removed the word “persistently” from subsection 3(1)(c) in relation to sites in England so that an offence is committed if a person withdraws or withholds services or facilities reasonably required for occupation of the mobile home as a residence on the site.

A new offence is inserted into section 3 to provide that a site owner in England, or his/her agent, will commit an offence if, during the subsistence of a residential contract, s/he knowingly or recklessly provides information or makes a representation to a person which is false or misleading in a material respect. The owner/agent must know or have reasonable cause to believe that such a course of action is likely to cause the home owner to abandon their home or remove it from the site, or fail to exercise their rights in relation to this; or that taking the action is likely to cause a prospective purchaser to terminate their interest. The penalty on summary conviction will be a level 5 fine, six months imprisonment or both and on indictment, a fine, two years imprisonment or both.

Section 12 came into force on 26 May 2013.

Increase in penalties for certain offences under the CSCDA 1960

Section 13 increases the level of fine (from level 4 to 5 on the standard scale) where a site owner commits the offence of allowing land to be used as a caravan site without a site licence. The penalty for a person wilfully obstructing any person exercising the power of entry under section 26(5) of the CSCDA, or entering land by authorisation of a warrant under this section, is increased from a level 1 fine to a level 4 fine on the standard scale.

Section 13 was brought into force on 1 April 2014 by the [Mobile Homes Act 2013 \(Commencement and Saving Provision\) \(England\) Order 2014](#) (SI 2014/816). Increased penalties do not apply to offences committed before 1 April 2014.

Offences by bodies corporate under the CSCDA 1960

Section 14 inserts a new section 26A into the CSCDA which mirrors a provision in section 14 of the *Caravan Sites Act 1968*. The new section provides that where a body corporate commits an offence under the CSCDA and it is established that the offence was committed with the consent or connivance of an officer of the body corporate, or was attributable to neglect on the part of this person, then they will be guilty of an offence in addition to the body corporate.

Section 14 was brought into force on 1 April 2014 by the [Mobile Homes Act 2013 \(Commencement and Saving Provision\) \(England\) Order 2014](#) (SI 2014/816). This offence applies only after 1 April 2014.

⁵⁶ [Park homes](#), Government response to the House of Commons Communities and Local Government Select Committee first report of session 2012-13, Cm 8424, p11

