



Caravans Act (Northern Ireland) 2011

CHAPTER 12

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Caravans Act (Northern Ireland) 2011

2011 CHAPTER 12

An Act to amend the law relating to caravans and caravan sites.

[16th March 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

AGREEMENTS FOR RESIDENTIAL OCCUPIERS ON PROTECTED SITES

Application of this Part

1.—(1) This Part applies to any agreement (whether made before or after commencement) under which a person is entitled—

- (a) to station a caravan on land forming part of a protected site; and
- (b) to occupy the caravan as that person's only or main residence for a period exceeding 12 months.

(2) In this Part—

“residential agreement” means an agreement to which this Part applies;

“occupier” means the person entitled as mentioned in subsection (1).

Particulars of agreements

2.—(1) In the case of a residential agreement to be made after commencement, the owner of the protected site (“the owner”) must 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 occupier is to be entitled to station the caravan that are sufficient to identify that land;
- (c) sets out the express terms to be contained in the agreement;
- (d) sets out the terms implied by section 3(1); and

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- (e) complies with such other requirements as may be prescribed by regulations made by the Department for Social Development.
- (2) The written statement required by subsection (1) must be given not later than the minimum period before—
- (a) the date on which any agreement for the sale of the caravan to the proposed occupier is made, or
 - (b) (if earlier) the date on which the residential agreement is made.
- (3) The minimum period is 28 days or such shorter period as may be agreed in writing by the proposed occupier.
- (4) In the case of a residential agreement made before commencement, the owner of the protected site must, not later than 28 days after commencement, give to the occupier a written statement which—
- (a) specifies the names and addresses of the parties;
 - (b) includes particulars of the land on which the occupier is entitled to station the caravan that are sufficient to identify that land;
 - (c) sets out the express terms contained in the agreement;
 - (d) sets out the terms implied by section 3(1); and
 - (e) complies with such other requirements as may be prescribed by regulations made by the Department for Social Development.
- (5) Subject to any order made by the court under section 3(3), if any express term—
- (a) is contained in a residential agreement, but
 - (b) was not set out in a written statement given by the owner in accordance with this section,
- the term is unenforceable by the owner or any person within section 5(1).
- (6) If the owner has failed to give the occupier a written statement in accordance with this section, 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 the occupier a written statement which complies with paragraphs (a) to (e) of subsection (4), 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 delivered to that person personally or sent to that person by post.
- (8) Any reference in this section to the making of a residential agreement includes a reference to any variation of an agreement by virtue of which the agreement becomes a residential agreement.
- (9) Regulations under this section are subject to negative resolution.

Terms of agreements

3.—(1) In any residential agreement there shall be implied the terms set out in Part 1 of the Schedule; and this subsection shall have effect notwithstanding any express term of the agreement.

(2) The court may, on the application of either party made within the relevant period, order that there shall be implied in the agreement terms concerning the matters mentioned in Part 2 of the Schedule.

(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;
- (b) in the case of any express term to which section 2(5) applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.

(4) In relation to an agreement made after commencement, “the relevant period” means the period beginning with the date on which the agreement is made and ending—

- (a) 6 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 2(6)), 6 months after the date on which the statement is given;

and section 2(8) applies for the purposes of this subsection as it applies for the purposes of section 2.

(5) In relation to an agreement made before commencement, “the relevant period” means the period of 6 months beginning with commencement.

(6) On an application under this section, the court shall make such provision as the court considers just and equitable in the circumstances.

(7) The supplementary provisions in Part 3 of the Schedule have effect for the purposes of paragraphs 8 and 9 of Part 1 of the Schedule.

Power to amend implied terms

4.—(1) The Department for Social Development may by order make such amendments of Part 1 or 2 of the Schedule as that Department considers appropriate.

(2) An order under this section may contain such incidental, supplementary, consequential, transitional or saving provisions as that Department considers appropriate.

(3) An order under this section may in particular—

- (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 Part as that Department considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of the Schedule.

(4) No order may be made under this section unless the Department for Social Development 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.

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(5) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(6) The Department for Social Development shall—

(a) not later than 5 years after the coming into operation of this Act, and

(b) at least once in every period of 5 years thereafter,

review Parts 1 and 2 of the Schedule and determine whether it should exercise the power to make an order under this section.

Successors in title

5.—(1) A residential agreement is binding on and has effect for the benefit of any successor in title of the owner and any person claiming through or under the owner or any such successor.

(2) Where a residential agreement is lawfully assigned to any person, the agreement has effect for the benefit of and is binding on that person.

(3) The following subsections apply where a person entitled to the benefit of and bound by a residential agreement dies at a time when that person is occupying the caravan as that person's only or main residence; and in those subsections—

(a) that person is referred to as “the deceased”;

(b) references to “the beneficiary” of the deceased are to the person entitled to the caravan by virtue of the deceased's will or under the law relating to intestacy;

(c) references to “a travellers' site” are to a caravan site provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (caravan sites for members of Irish Traveller community); and

(d) a beneficiary of the deceased is a qualifying person if the beneficiary satisfies the Housing Executive that the beneficiary—

(i) is a member of the Irish Traveller community (within the meaning of Article 5 of the Race Relations (Northern Ireland) Order 1997); and

(ii) intends to occupy the caravan as the beneficiary's only or main residence.

(4) The agreement has effect for the benefit of and is binding on any person residing with the deceased at the time of death who is—

(a) the surviving spouse or civil partner of the deceased; or

(b) if there is no surviving spouse or civil partner so residing, a member of the deceased's family.

(5) If—

(a) there is no person falling within subsection (4); and

(b) the agreement relates to a caravan on a caravan site other than a travellers' site,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased, but subject to subsection (7).

(6) If—

- (a) there is no person falling within subsection (4),
- (b) the agreement relates to a caravan on a travellers' site, and
- (c) the beneficiary of the deceased is a qualifying person,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased.

(7) A residential agreement does not have effect for the benefit of or bind a person by virtue of subsection (5) in so far as—

- (a) it would, but for this subsection, enable or require that person to occupy the caravan; or
- (b) it includes terms implied by virtue of paragraph 5 of Part 1 of the Schedule.

(8) In relation to a residential agreement—

- (a) any reference in this Part to the owner includes a reference to any person who is bound by and entitled to the benefit of the agreement by virtue of subsection (1); and
- (b) subject to subsection (7), any reference in this Part to the occupier includes a reference to any person who is entitled to the benefit of and bound by the agreement by virtue of any of subsections (2) to (6).

Jurisdiction

6.—(1) The county court for the county court division in which the protected site is situated shall have jurisdiction—

- (a) to determine any question arising under this Part or any residential agreement, and
- (b) to entertain any proceedings brought under this Part or any such agreement;

and references in this Part to “the court” shall be construed accordingly.

(2) But where the parties have agreed in writing to submit any question arising under this Part or, as the case may be, any residential agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator.

PART 2

AGREEMENTS FOR OTHER OCCUPIERS OF CARAVAN SITES

Application of this Part

7.—(1) This Part applies to any agreement (whether made before or after commencement)—

- (a) under which a person is entitled to station a caravan on land forming part of a caravan site and occupy the caravan for a period exceeding 28 days; and
- (b) which is not a residential agreement within the meaning of Part 1.

(2) In this Part—

“seasonal agreement” means an agreement to which this Part applies;

PART 2

“occupier” means the person entitled as mentioned in subsection (1)(a) under a seasonal agreement.

Particulars of agreements

8.—(1) In the case of a seasonal agreement to be made after commencement, the owner of the caravan site must 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 occupier is to be entitled to station the caravan that are sufficient to identify that land;
- (c) sets out the express terms to be contained in the agreement; and
- (d) sets out the terms implied by section 9(1).

(2) The written statement required by subsection (1) must be given not later than the minimum period before—

- (a) the date on which any agreement for the sale of the caravan to the proposed occupier is made, or
- (b) (if earlier) the date on which the seasonal agreement is made.

(3) The minimum period is 28 days or such shorter period as may be agreed in writing by the proposed occupier.

(4) In the case of a seasonal agreement made before commencement, the owner of the caravan site must, not later than 28 days after commencement, give to the occupier under the seasonal agreement a written statement which—

- (a) specifies the names and addresses of the parties;
- (b) includes particulars of the land on which the occupier is entitled to station the caravan that are sufficient to identify that land;
- (c) sets out the express terms contained in the agreement; and
- (d) sets out the terms implied by section 9(1).

(5) If any express term—

- (a) is contained in a seasonal agreement, but
- (b) was not set out in a written statement given by the owner of the caravan site in accordance with this section,

the term is unenforceable by the owner.

(6) A statement required to be given to a person under this section may be delivered to that person personally or sent to that person by post.

(7) Any reference in this section to the making of a seasonal agreement includes a reference to any variation of an agreement by virtue of which the agreement becomes a seasonal agreement.

Implied terms as to consultation with occupiers’ association

9.—(1) In any seasonal agreement there shall be implied the terms set out in subsections (3) and (4) (read with subsections (5) and (6)); and this subsection shall have effect notwithstanding any express term of the agreement.

(2) If the owner fails to comply with those terms, the occupier may apply to the court for an order requiring the owner to comply with those terms.

(3) The owner shall consult a qualifying occupiers' association, if there is one, about all matters which relate to the operation and management of, or improvements to, the caravan site which may affect the occupiers either directly or indirectly.

(4) For the purposes of consultation the owner shall give the association at least 28 days' notice in writing of the matters referred to in subsection (3) which—

- (a) describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and
- (b) states when and where the association can make representations about the matters.

(5) For the purposes of subsection (3) an association is a qualifying occupiers' association in relation to a caravan site if—

- (a) it is an association representing the occupiers of caravans on that site;
- (b) at least 50% of the occupiers of the caravans on that site are members of the association;
- (c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;
- (d) subject to paragraph (c), membership is open to all occupiers who own a caravan on that site;
- (e) it maintains a list of members which is open to public inspection together with the rules and constitution of the association;
- (f) it has a chairman, secretary and treasurer who are elected by and from among the members;
- (g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each caravan;
- (h) the owner has acknowledged in writing to the secretary that the association is a qualifying occupiers' association or, in default of this, the court has so ordered.

(6) When calculating the percentage of occupiers for the purpose of subsection (5)(b), each caravan shall be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to be the occupier whose name first appears on the agreement.

Jurisdiction

10.—(1) The county court for the county court division in which the caravan site is situated shall have jurisdiction—

- (a) to determine any question arising under this Part or any seasonal agreement, and
- (b) to entertain any proceedings brought under this Part or any such agreement;

and references in this Part to “the court” shall be construed accordingly.

PART 2

(2) But where the parties have agreed in writing to submit any question arising under this Part or, as the case may be, any seasonal agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator.

PART 3

PROTECTION OF RESIDENTIAL OCCUPIERS FROM EVICTION AND HARASSMENT

Application of this Part

11.—(1) This Part applies to any agreement (whether made before or after commencement) under which a person is entitled—

- (a) to station a caravan on a protected site and occupy it as that person's only or main residence; or
- (b) to occupy as that person's only or main residence a caravan stationed on a protected site.

(2) In this Part—

“residential agreement” means an agreement to which this Part applies;

“occupier” means the person entitled as mentioned in subsection (1)(a) or (b).

Protection of occupiers against eviction and harassment

12.—(1) A person is guilty of an offence if, during the subsistence of a residential agreement, that person unlawfully deprives the occupier of occupation on the protected site of any caravan which the occupier is entitled by the agreement to station and occupy, or to occupy, as the occupier's residence on that site.

(2) A person is guilty of an offence if, after the expiration or determination of a residential agreement, that person enforces, otherwise than by proceedings in the court, any right to exclude the occupier from the protected site or from any such caravan as is mentioned in subsection (1), or to remove or exclude any such caravan from the site.

(3) A person is guilty of an offence if, whether during the subsistence or after the expiration or determination of a residential agreement, that person—

- (a) does acts likely to interfere with the peace or comfort of the occupier or persons residing with the occupier, or
- (b) 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) that person intends to cause the occupier to do any of the things mentioned in subsection (5).

(4) The owner of a protected site is guilty of an offence if, whether during the subsistence or after the expiration or determination of a residential agreement—

- (a) that person does acts likely to interfere with the peace or comfort of the occupier or persons residing with the occupier, or
- (b) that person 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) that person knows, or has reasonable cause to believe, that such conduct is likely to cause the occupier to do any of the things mentioned in subsection (5).

(5) The things referred to in subsections (3) and (4) are—

- (a) to abandon the occupation of the caravan or remove it from the site, or
- (b) to refrain from exercising any right or pursuing any remedy in respect of the caravan.

(6) References in subsection (4) to the owner of a protected site include references—

- (a) to a person with an estate in the site which is superior to that of the owner;
- (b) to an agent of the owner.

(7) References in this section to the occupier include references—

- (a) to the person who was the occupier under a residential agreement which has expired or been determined, and
- (b) in the case of the death of the occupier (whether during the subsistence or after the expiration or determination of the agreement), to any person then residing with the occupier being—
 - (i) the surviving spouse or civil partner of the occupier; or
 - (ii) if there is no surviving spouse or civil partner so residing, any member of the occupier's family.

(8) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 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.

(9) In proceedings for an offence under subsection (1) or (2), it is a defence to prove that the accused believed, and had reasonable cause to believe, that the occupier of the caravan had ceased to reside on the site.

(10) In proceedings for an offence under subsection (4) it is a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.

(11) Nothing in this section applies to—

- (a) the exercise by any person of a right to take possession of a caravan of which that person is the owner, other than a right conferred by or arising on the expiration or determination of a residential agreement, or
- (b) anything done pursuant to the order of any court.

(12) Proceedings for an offence under this section may be instituted by the district council in whose district the site is situated.

Provision for suspension of eviction orders

13.—(1) If in proceedings by the owner of a protected site the court makes an order for enforcing in relation thereto any such right as is mentioned in section 12(2), the court may—

PART 3

- (a) suspend the enforcement of the order for such period not exceeding 12 months from the date of the order as the court thinks reasonable; and
 - (b) if it does so, impose such terms and conditions, including conditions as to the payment of rent or other periodical payments or of arrears of such rent or payments, as the court thinks reasonable.
- (2) Subsection (1)(a) is—
- (a) without prejudice to any power apart from this section to postpone the operation or suspend the execution of an order, and
 - (b) subject to the following provisions of this section.
- (3) The court may from time to time, on the application of either party—
- (a) extend, reduce or terminate the period of suspension ordered under subsection (1)(a), or
 - (b) vary any terms or conditions imposed under subsection (1)(b),
- but the court shall not extend the period of suspension for more than 12 months at a time.
- (4) In considering whether or how to exercise its powers under this section, the court shall have regard to all the circumstances, and in particular—
- (a) whether the occupier has failed, whether before or after the expiration or determination of the relevant residential agreement, to observe—
 - (i) any terms or conditions of that agreement,
 - (ii) any conditions of the site licence, or
 - (iii) any reasonable rules made by the owner for the management and conduct of the site or the maintenance of caravans on the site;
 - (b) whether the occupier has unreasonably refused an offer by the owner to renew the residential agreement or make another such agreement for a reasonable period and on reasonable terms;
 - (c) whether the occupier has failed to make reasonable efforts to obtain elsewhere other suitable accommodation for the occupier's caravan (or, as the case may be, another suitable caravan and accommodation for it).
- (5) Where the court makes such an order as is mentioned in subsection (1) but suspends the enforcement of that order by virtue of this section, the court shall make no order for costs unless it appears to the court, having regard to the conduct of the owner or of the occupier, that there are special reasons for making such an order.
- (6) The court shall not suspend the enforcement of an order by virtue of this section if—
- (a) no site licence is in force in respect of the site, and
 - (b) paragraph 11 of the Schedule to the Caravans Act (exemption for sites owned by council) does not apply.
- (7) Where a site licence in respect of the site is expressed to expire at the end of a specified period, the period for which enforcement may be suspended by virtue of this section shall not extend beyond the expiration of the licence.

(8) The power of the court under subsection (1) to suspend the enforcement of an order applies to any order made but not executed before commencement.

Supplementary

14.—(1) In this Part “the court” means the county court.

(2) Section 12(1) of the Caravans Act (power of site occupier to take possession and terminate a licence or tenancy in case of contravention of section 1 of that Act) shall have effect subject to the foregoing provisions of this Part.

(3) Part 9 of the Rent (Northern Ireland) Order 1978 (NI 20) (protection against harassment and eviction without due process of law) shall not apply to any caravan stationed on a protected site.

PART 4

MEANING OF “CARAVAN”

Meaning of “caravan” in this Act

15.—(1) In this Act “caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system for the time being in use as such;
- (b) any tent; or
- (c) a structure—
 - (i) which falls within subsection (2); and
 - (ii) any dimensions of which, when the structure is assembled, exceed a limit specified in subsection (3).

(2) A structure falls within this subsection if it is—

- (a) composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and
- (b) when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer).

(3) The limits referred to in subsection (1)(c)(ii) are—

- (a) length (exclusive of any drawbar): 20 metres;
- (b) width: 6.8 metres;
- (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05 metres.

(4) A structure which falls within subsection (2) is not excluded from being a caravan by reason only that when assembled it cannot lawfully be moved from one place to another on a road.

PART 4

(5) The Department of the Environment may by order, after consultation with such persons or bodies as appear to it to be concerned, substitute for any figure mentioned in subsection (3) such other figure as may be specified in the order.

(6) An order under subsection (5) is subject to negative resolution.

Definition of “caravan” in Caravans Act

16. In section 25 of the Caravans Act (interpretation) for the definition of “caravan” substitute—

“ “caravan” has the meaning given by section 15 of the Caravans Act (Northern Ireland) 2011;”.

PART 5

SUPPLEMENTARY

Interpretation

17.—(1) In this Act—

“the Caravans Act” means the Caravans Act (Northern Ireland) 1963 (c. 17);

“caravan site” means any land in respect of which a site licence is required under the Caravans Act (or would be required if paragraph 11 of the Schedule to that Act were omitted);

“commencement” means the coming into operation of this Act;

“occupier”—

(a) in Part 1 has the meaning given by section 1(2);

(b) in Part 2 has the meaning given by section 7(2);

(b) in Part 3 has the meaning given by section 11(2);

“owner”, in relation to a caravan site, means the person who, by virtue of an estate held by that person, is entitled to possession of the site or would be so entitled but for the rights of any persons to station caravans on land forming part of the site;

“planning permission” means planning permission under Part 4 of the Planning (Northern Ireland) Order 1991 (NI 11);

“protected site” means a caravan site other than a site in respect of which the relevant planning permission or site licence—

(a) is expressed to be granted for holiday use only; or

(b) is otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation;

“residential agreement”—

(a) in Part 1 has the meaning given by section 1(2);

(b) in Part 3 has the meaning given by section 11(2);

“site licence” has the meaning given in section 25 of the Caravans Act.

(2) For the purposes of this Act a person is a member of another’s family if that person is—

- (a) the other's spouse, civil partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece, or
 - (b) they live together as husband and wife or as if they were civil partners.
- (3) For the purposes of subsection (2)(a)—
- (a) any relationship by marriage or civil partnership is to be treated as a relationship by blood,
 - (b) any relationship of the half blood is to be treated as a relationship of the whole blood, and
 - (c) the stepchild of any person is to be treated as the child of that person.

Commencement

18. This Act comes into operation at the end of the period of 6 months beginning with the day on which this Act receives Royal Assent.

Short title

19. This Act may be cited as the Caravans Act (Northern Ireland) 2011.

Section 3.

SCHEDULE

AGREEMENTS UNDER PART 1 OF THIS ACT

PART 1

TERMS IMPLIED BY SECTION 3

Duration of agreement

1. Subject to paragraph 2, the right to station the caravan on land forming part of the protected site shall subsist until the agreement is determined under paragraph 3, 4, 5 or 6.

2.—(1) If the owner's estate is insufficient to enable the owner to grant the right for an indefinite period, the period for which the right subsists shall not extend beyond the date when the owner's estate determines.

(2) If planning permission for the use of the protected site as a site for caravans has been granted in terms such that it will expire at the end of a specified period, the period for which the right subsists shall not extend beyond the date when the planning permission expires.

(3) If before the end of a period determined by this paragraph there is a change in circumstances which allows a longer period, account shall be taken of that change.

Termination by occupier

3. The occupier shall be entitled to terminate the agreement by notice in writing given to the owner not less than 4 weeks before the date on which it is to take effect.

Termination by owner

4. The owner shall be entitled to terminate the agreement forthwith if, on the application of the owner, the court—

- (a) is satisfied that the occupier has breached a term of the agreement and, after service of a notice to remedy the breach, has not complied with the notice within a reasonable time; and
- (b) considers it proportionate in all the circumstances for the agreement to be terminated.

5. The owner shall be entitled to terminate the agreement forthwith if, on the application of the owner, the court—

- (a) is satisfied that the occupier is not occupying the caravan as the occupier's only or main residence; and
- (b) considers it proportionate in all the circumstances for the agreement to be terminated.

6.—(1) The owner shall be entitled to terminate the agreement forthwith if, on the application of the owner, the court—

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- (a) is satisfied that, having regard to its condition, the caravan is having a detrimental effect on the amenity of the site; and
 - (b) considers it proportionate in all the circumstances for the agreement to be terminated.
- (2) Sub-paragraphs (3) and (4) apply if, on an application under sub-paragraph (1)—
- (a) the court considers that, having regard to the present condition of the caravan, paragraph (a) 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 caravan that would result in sub-paragraph (1)(a) not applying to it, and
 - (c) the occupier indicates that the occupier intends to carry out those repairs.
- (3) 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.

- (4) 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.

Recovery of overpayments by occupier

7. Where the agreement is terminated as mentioned in paragraph 3, 4, 5 or 6, the occupier shall be entitled to recover from the owner so much of any payment made by the occupier in pursuance of the agreement as is attributable to a period beginning after the termination.

Sale of caravan

8.—(1) The occupier shall be entitled to sell the caravan, and to assign the agreement, to a person approved by the owner, whose approval shall not be unreasonably withheld.

(2) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1).

(3) Where the owner receives such a request, the owner must, within the period of 28 days beginning with the date on which the request is received—

- (a) approve the person, unless it is reasonable for the owner not to do so, and
- (b) serve on the occupier notice of the decision whether or not to approve the person.

(4) The owner may not give approval subject to conditions.

(5) If the approval is withheld, the notice under sub-paragraph (3) must specify the reasons for withholding it.

(6) If the owner fails to notify the occupier as required by sub-paragraph (3) (and if applicable sub-paragraph (5)), the occupier may apply to the court for an order declaring that the person is approved for the purposes of sub-paragraph (1); and the court may make such an order if it thinks fit.

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(7) It is for the owner—

- (a) if the owner served a notice as mentioned in sub-paragraph (3) (and if applicable sub-paragraph (5)) and the question arises whether the notice was served within the required period of 28 days, to show that it was;
- (b) if the owner did not give approval and the question arises whether it was reasonable for the owner not to do so, to show that it was reasonable.

(8) A request or notice under this paragraph—

- (a) must be in writing, and
- (b) may be served by post.

(9) Where the occupier sells the caravan, and assigns the agreement, as mentioned in sub-paragraph (1), the owner shall be entitled to receive a commission on the sale at a rate not exceeding 10% of the sale price.

(10) Except to the extent mentioned in sub-paragraph (9), the owner may not require any payment to be made (whether to the owner or otherwise) in connection with the sale of the caravan, and the assignment of the agreement, as mentioned in sub-paragraph (1).

(11) In relation to a caravan on a travellers' site (within the meaning given by section 5(3)(c)), this paragraph applies with the omission of—

- (a) sub-paragraph (9); and
- (b) in sub-paragraph (10), the words "Except to the extent mentioned in sub-paragraph (9),".

Gift of caravan

9.—(1) The occupier shall be entitled to give the caravan, and to assign the agreement, to a member of the occupier's family approved by the owner, whose approval shall not be unreasonably withheld.

(2) Sub-paragraphs (2) to (8) of paragraph 8 shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.

(3) The owner may not require any payment to be made (whether to the owner or otherwise) in connection with the gift of the caravan, and the assignment of the agreement, as mentioned in sub-paragraph (1).

Re-siting of caravan

10.—(1) The owner shall be entitled to require that the occupier's right to station the caravan is exercisable for any period in relation to another pitch forming part of any protected site of the owner ("the other pitch") if (and only if)—

- (a) on the application of the owner, the court is satisfied that the other pitch is broadly comparable to the occupier's original pitch and that it is reasonable for the caravan to be stationed on the other pitch for that period; or
- (b) the owner needs to carry out essential repair or emergency works that can only be carried out if the caravan is moved to the other pitch for that

period, and the other pitch is broadly comparable to the occupier's original pitch.

(2) If the owner requires the occupier to station the caravan on the other pitch so that the owner can replace, or carry out repairs to, the base on which the caravan is stationed, the owner must if the occupier so requires, or the court on the application of the occupier so orders, secure that the caravan is returned to the original pitch on the completion of the replacement or repairs.

(3) The owner shall pay all the costs and expenses incurred by the occupier in connection with the caravan being moved to and from the other pitch.

(4) In this paragraph and in paragraph 13 "essential repair or emergency works" means—

- (a) repairs to the base on which the caravan is stationed or to any amenities on the site;
- (b) works or repairs needed to comply with any relevant legal requirements;
- or
- (c) works or repairs in connection with restoration following flood, landslide or other natural disaster.

Quiet enjoyment of the caravan

11. The occupier shall be entitled to quiet enjoyment of the caravan together with the pitch during the continuance of the agreement, subject to paragraphs 10, 12, 13 and 14.

Owner's right of entry to the pitch

12. The owner may enter the pitch without prior notice between the hours of 9 a.m. and 6 p.m.—

- (a) to deliver written communications, including post and notices, to the occupier; and
- (b) to read any meter for gas, electricity, water, sewerage or other services supplied by the owner.

13. The owner may enter the pitch to carry out essential repair or emergency works on giving as much notice to the occupier (whether in writing or otherwise) as is reasonably practicable in the circumstances.

14. Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in paragraph 12 or 13 only if the owner has given the occupier at least 14 days' written notice of the date, time and reason for the entry.

15. The rights conferred by paragraphs 12 to 14 do not extend to the caravan.

The pitch fee

16. The pitch fee can only be changed in accordance with paragraph 17, either—

- (a) with the agreement of the occupier, or

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- (b) if the court, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.

17.—(1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 days before the review date the owner shall serve on the occupier a written notice setting out the owner's proposals in respect of the new pitch fee.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

- (a) the owner may apply to the court for an order under paragraph 16(b) determining the amount of the new pitch fee;
- (b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the court under paragraph 16(b); and
- (c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the court order determining the amount of the new pitch fee.

(5) An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date.

(6) Sub-paragraphs (7) to (10) apply if the owner—

- (a) has not served the notice required by sub-paragraph (2) by the time by which it was required to be served, but
- (b) at any time thereafter serves on the occupier a written notice setting out the owner's proposals in respect of a new pitch fee.

(7) If (at any time) the occupier agrees to the proposed pitch fee, it shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(8) If the occupier has not agreed to the proposed pitch fee—

- (a) the owner may apply to the court for an order under paragraph 16(b) determining the amount of the new pitch fee;
- (b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the court under paragraph 16(b); and
- (c) if the court makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(9) An application under sub-paragraph (8) may be made at any time after the end of the period of 56 days beginning with the date on which the owner serves the notice under sub-paragraph (6)(b).

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(10) The occupier shall not be treated as being in arrears—

- (a) where sub-paragraph (7) applies, until the 28th day after the date on which the new pitch fee is agreed; or
- (b) where sub-paragraph (8)(b) applies, until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the court order determining the amount of the new pitch fee.

18.—(1) When determining the amount of the new pitch fee particular regard shall be had to—

- (a) any sums expended by the owner since the last review date on improvements—
 - (i) which are for the benefit of the occupiers of caravans on the protected site;
 - (ii) which were the subject of consultation in accordance with paragraph 22(e) and (f); and
 - (iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the court, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;
- (b) any decrease in the amenity of the protected site since the last review date; and
- (c) the effect of any statutory provision which has come into operation since the last review date.

(2) When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(a)(iii) each caravan is to be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to be the occupier whose name first appears on the agreement.

(3) In a case where the pitch fee has not been previously reviewed, references in this paragraph to the last review date are to be read as references to the date when the agreement commenced.

19. When determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site shall not be taken into account.

20.—(1) There is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index since the last review date, unless this would be unreasonable having regard to paragraph 18(1).

(2) Paragraph 18(3) applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.

Occupier's obligations

21. The occupier shall—

- (a) pay the pitch fee to the owner;

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- (b) pay to the owner all sums due under the agreement in respect of gas, electricity, water, sewerage or other services supplied by the owner;
- (c) keep the caravan in a sound state of repair;
- (d) maintain—
 - (i) the outside of the caravan, and
 - (ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the caravan, in a clean and tidy condition; and
- (e) if requested by the owner, provide the owner with documentary evidence of any costs or expenses in respect of which the occupier seeks reimbursement.

Owner's obligations

22. The owner shall—

- (a) if requested by the occupier, and on payment by the occupier of a charge of not more than £30, provide accurate written details of—
 - (i) the size of the pitch and the base on which the caravan is stationed; and
 - (ii) the location of the pitch and the base within the protected site; including details of measurements between identifiable fixed points on the protected site and the pitch and the base;
- (b) if requested by the occupier, provide (free of charge) documentary evidence in support and explanation of—
 - (i) any new pitch fee;
 - (ii) any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement; and
 - (iii) any other charges, costs or expenses payable by the occupier to the owner under the agreement;
- (c) be responsible for repairing the base on which the caravan is stationed and for maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the caravan;
- (d) maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a caravan stationed on the protected site;
- (e) consult the occupier about improvements to the protected site in general, and in particular about those which the owner wishes to be taken into account when determining the amount of any new pitch fee; and
- (f) consult a qualifying residents' association, if there is one, about all matters which relate to the operation and management of, or improvements to, the protected site and may affect the occupiers either directly or indirectly.

23. The owner shall not do or cause to be done anything which may adversely affect the ability of the occupier to perform the obligations under paragraph 21(c) and (d).

24. For the purposes of paragraph 22(e), to “consult” the occupier means—

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- (a) to give the occupier at least 28 days' notice in writing of the proposed improvements which—
 - (i) describes the proposed improvements and how they will benefit the occupier in the long and short term;
 - (ii) details how the pitch fee may be affected when it is next reviewed; and
 - (iii) states when and where the occupier can make representations about the proposed improvements; and
- (b) to take into account any representations made by the occupier about the proposed improvements, in accordance with paragraph (a)(iii), before undertaking them.

25. For the purposes of paragraph 22(f), to “consult” a qualifying residents' association means—

- (a) to give the association at least 28 days' notice in writing of the matters referred to in paragraph 22(f) which—
 - (i) describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and
 - (ii) states when and where the association can make representations about the matters; and
- (b) to take into account any representations made by the association, in accordance with paragraph (a)(ii), before proceeding with the matters.

Owner's name and address

26.—(1) The owner shall by notice inform the occupier and any qualifying residents' association of the address in Northern Ireland at which notices (including notices of proceedings) may be served on the owner by the occupier or a qualifying residents' association.

(2) If the owner fails to comply with sub-paragraph (1), then (subject to sub-paragraph (5)) any amount otherwise due from the occupier to the owner in respect of the pitch fee shall be treated for all purposes as not being due from the occupier to the owner at any time before the owner does so comply.

(3) Where in accordance with the agreement the owner gives any written notice to the occupier or (as the case may be) a qualifying residents' association, the notice must contain the following information—

- (a) the name and address of the owner; and
- (b) if that address is not in Northern Ireland, an address in Northern Ireland at which notices (including notices of proceedings) may be served on the owner.

(4) Subject to sub-paragraph (5), where—

- (a) the occupier or a qualifying residents' association receives such a notice, but
- (b) it does not contain the information required to be contained in it by virtue of sub-paragraph (3),

the notice shall be treated as not having been given until such time as the owner gives the information to the occupier or (as the case may be) the association in respect of the notice.

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(5) An amount or notice within sub-paragraph (2) or (4) (as the case may be) shall not be treated as mentioned in relation to any time when, by virtue of an order of any court, there is in force an appointment of a receiver or manager whose functions include receiving from the occupier the pitch fee, payments for services supplied or other charges.

(6) Nothing in sub-paragraphs (3) to (5) applies to any notice containing a demand to which paragraph 27(1) applies.

27.—(1) Where the owner makes any demand for payment by the occupier of the pitch fee, or in respect of services supplied or other charges, the demand must contain—

- (a) the name and address of the owner; and
- (b) if that address is not in Northern Ireland, an address in Northern Ireland at which notices (including notices of proceedings) may be served on the owner.

(2) Subject to sub-paragraph (3), where—

- (a) the occupier receives such a demand, but
- (b) it does not contain the information required to be contained in it by virtue of sub-paragraph (1),

the amount demanded shall be treated for all purposes as not being due from the occupier to the owner at any time before the owner gives that information to the occupier in respect of the demand.

(3) The amount demanded shall not be so treated in relation to any time when, by virtue of an order of any court, there is in force an appointment of a receiver or manager whose functions include receiving from the occupier the pitch fee, payments for services supplied or other charges.

Qualifying residents' association

28.—(1) A residents' association is a qualifying residents' association in relation to a protected site if—

- (a) it is an association representing the occupiers of caravans on that site;
- (b) at least 50% of the occupiers of the caravans on that site are members of the association;
- (c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;
- (d) subject to paragraph (c), membership is open to all occupiers who own a caravan on that site;
- (e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association;
- (f) it has a chairman, secretary and treasurer who are elected by and from among the members;
- (g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each caravan; and

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(h) the owner has acknowledged in writing to the secretary that the association is a qualifying residents' association, or, in default of this, the court has so ordered.

(2) When calculating the percentage of occupiers for the purpose of subparagraph (1)(b), each caravan shall be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to be the occupier whose name first appears on the agreement.

Interpretation

29. In this Schedule—

“pitch” means the land, forming part of the protected site and including any garden area, on which the occupier is entitled to station the caravan under the terms of the agreement;

“pitch fee” means the amount which the occupier is required by the agreement to pay to the owner for the right to station the caravan on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;

“retail prices index” means the general index (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by that Board;

“review date” means the date specified in the written statement as the date on which the pitch fee will be reviewed in each year, or if no such date is specified, each anniversary of the date the agreement commenced; and

“written statement” means the written statement that the owner of the protected site is required by section 2 to give to the occupier.

PART 2

MATTERS CONCERNING WHICH TERMS MAY BE IMPLIED BY COURT

1. The sums payable by the occupier in pursuance of the agreement and the times at which they are to be paid.
2. The review at yearly intervals of the sums so payable.
3. The provision or improvement of services available on the protected site, and the use by the occupier of such services.
4. The preservation of the amenity of the protected site.

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(2)), or

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(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(2) as applied by paragraph 9(2)).

(2) If a person (“the recipient”) receives such a request and the recipient—

(a) though not the owner, has an estate 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(3) of Part 1 of this Schedule (as it applies to any request within sub-paragraph (1)) any reference to the owner receiving such a request includes a reference to the owner receiving it in accordance with sub-paragraph (2).

Action for breach of duty under paragraph 1

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

(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.

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