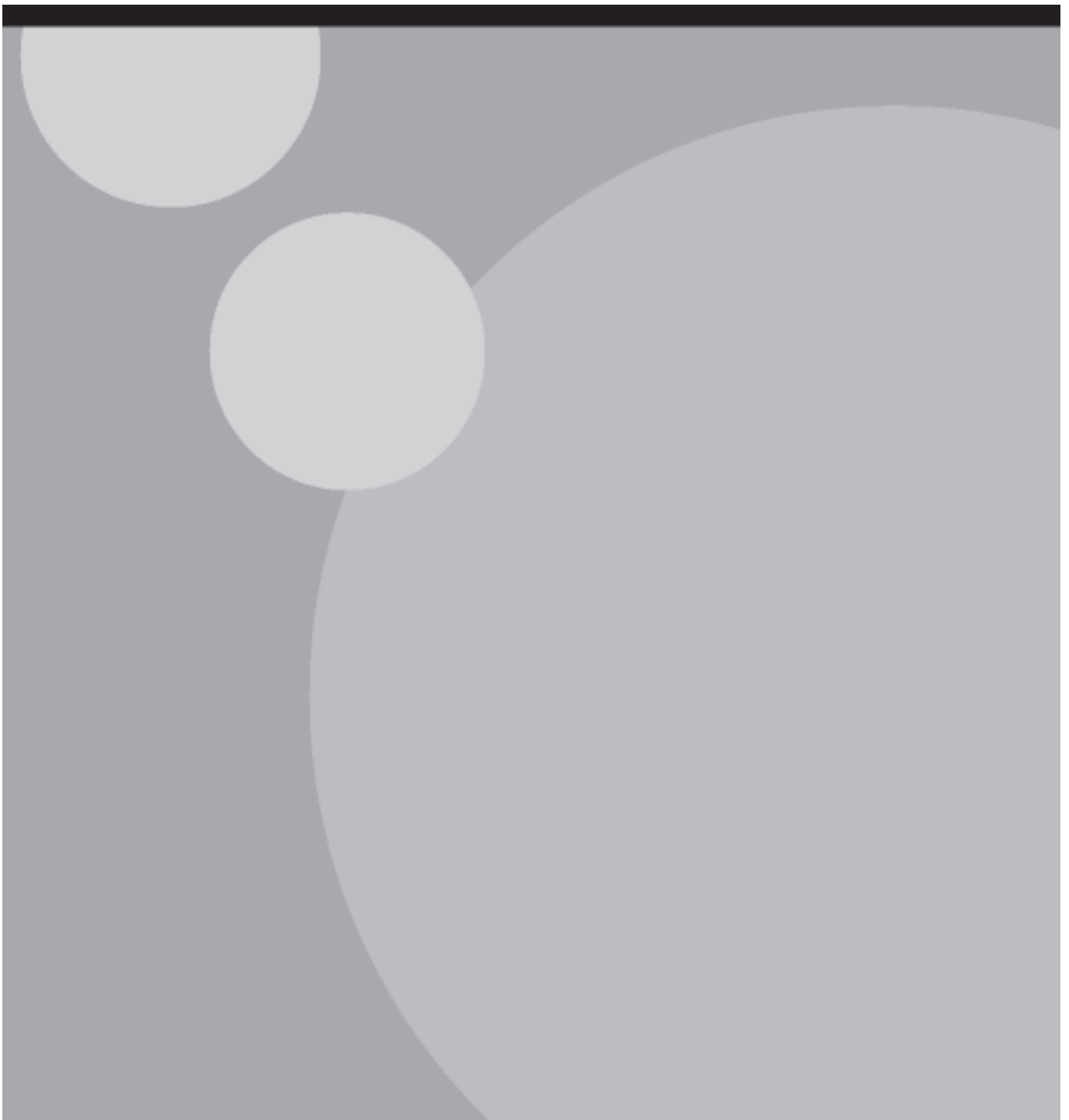


Applying the Mobile Homes Act 1983 to local authority traveller sites

Guidance





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Statutory requirement to provide a written statement of the agreement

Under the terms of the Mobile Homes Act 1983 (the '1983 Act'), local authorities will be under a statutory duty to give the occupier of a pitch on a local authority traveller site a written statement of the pitch agreement. The pitch agreement includes the 'implied terms' in Schedule 1 to the 1983 Act (which give occupiers of pitches improved protection against eviction and other rights and responsibilities) in addition to the 'express terms' that are agreed between the occupier and the site owner.

The implied terms for local authority traveller sites differ from those that apply to other residential mobile home sites as there will be no statutory right to assign (pass on) an agreement upon sale or gift of a caravan. There are separate implied terms for transit pitches which reflect the fact that these are pitches for temporary use by those passing through the area.

Existing occupiers

In order to ensure that existing occupiers living on borough and district council sites on 30 April 2011 (the 'commencement date') are made aware of their new rights and responsibilities, the local authority will be required to provide them with a written statement of their pitch agreement within 28 days of the commencement date (that is, by 28 May 2011). If, after 28 May 2011 the local authority has not provided the occupier with a written statement of the agreement, until the local authority does so the express terms of the agreement will be unenforceable.

On the commencement date, existing licences that are held by travellers occupying pitches on borough and district council sites under the Caravan Sites Act 1968 will automatically include the implied terms in Schedule 1 of the 1983 Act – see Article 4 of the Housing and Regeneration Act 2008 (Commencement Order No. 8 and Transitional, Transitory and Saving Provisions) Order 2011 (the 'Commencement Order') which can be viewed at www.legislation.gov.uk.

The format for the written statement to be given to existing occupiers is provided with the Commencement Order. Local authorities must insert the correct set of implied terms into Part 3 of the written statement. Terms in licences currently held by occupiers will automatically become the express terms and must be inserted into Part 4.

New occupiers

Those travellers who move onto borough, district and county council traveller sites and make agreements to occupy pitches on or after the commencement date will have a pitch agreement that includes the implied terms in Schedule 1 to the 1983 Act, in addition to the express terms that are agreed between the occupier and the site owner. The implied terms that will apply to agreements to station the caravan on a borough, district and county council traveller site

are set out in the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendment) (England) Order 2011 (the 'Schedule 1 Order') which can be viewed at www.legislation.gov.uk.

For potential occupiers that make new agreements on or after the commencement date, a new form of written statement has been set out in regulations – the Mobile Homes (Written Statement) (England) Regulations 2011. This takes into account the changes that will apply from the commencement date and can be viewed at www.legislation.gov.uk.

Traveller sites provided by county councils

Traveller sites provided by county councils have been included in the 1983 Act since January 2005. The implied terms in the Schedule 1 Order will apply to new agreements made with new occupiers on or after the commencement date. For an explanation of the legislative status of county council sites, please see the summary of consultation responses published on 11 October 2010 which can be viewed on the Department's website at: www.communities.gov.uk/publications/planningandbuilding/implementinghomesresponses.

Transitional provisions

As the implied terms of the 1983 Act will be incorporated into existing licences, we needed to ensure that actions being undertaken under these licences when section 318 came into force remained valid. Article 5 of the Commencement Order therefore sets out the transitional provisions for actions that are ongoing on the commencement date under existing licences. A summary of these transitional provisions was provided in the summary of consultation responses, but is provided here again for clarity:

- The implied terms in the Mobile Homes Act 1983 relating to termination will not apply to existing occupiers or to site owners where termination proceedings started before the commencement date.
- The terms relating to re-siting of a mobile home will not apply to a mobile home that is re-sited on the commencement date or where the process of re-siting it has already begun.
- Terms relating to pitch fee reviews will not apply where the pitch fee review date in the licence falls within 28 days of the commencement date.
- Matters to be considered when determining the new pitch fee will not include works relating to improvements to the site carried out before the commencement date.

- Obligations on the occupier to keep the mobile home in a sound state of repair and to maintain the outside of the mobile home and the pitch in a clean and tidy condition will only apply three months after the commencement date – although any terms relating to this in the licence (that will become the express terms in the agreement) may still apply.
- The requirement on the occupier to provide documentary evidence of any costs or expenses for which the occupier seeks re-imbursment will not apply in relation to costs or expenses incurred before the commencement date.
- The requirement on the site owner to consult residents on improvements to the site or to consult a residents' association on matters relating to the site will not apply to improvements or matters that took place within the first 28 days following the commencement date.

Transit pitches

Transit pitches are provided by some local authorities to temporarily accommodate travellers passing through their area. Chapter 1 of the Schedule 1 Order defines a transit pitch as a pitch on which a person is entitled to station a mobile home under the terms of the agreement for a fixed period of up to three months. A new, simpler set of implied terms for transit pitches is provided in Chapter 3 of the Schedule 1 Order.

Please also see the Housing and Regeneration Act 2008 (Consequential Amendments to the Mobile Homes Act 1983) Order 2011 which comes into force on 30 April 2011. This excludes certain provisions of the 1983 Act to reflect the fact that these are short temporary agreements. For example, it makes no sense for the occupier to have a right to apply to the court to review the terms of the agreement within six months of it being made, if the agreement lasts no more than three months. The order can be viewed at www.legislation.gov.uk.

Early termination on transit pitches

In order to help ensure transit pitches can continue to operate in the flexible way they do now, Chapter 3 of the Schedule 1 Order includes terms that provide for the early termination of a transit pitch agreement by both the occupier and site owner (paragraphs 3 and 4). These differ from the terms for permanent residential pitches (paragraphs 3 to 6 of Chapter 4).

Paragraph 3 of Chapter 3 allows the occupier of a transit pitch to terminate the agreement by giving written notice to the site owner at any time and potentially on exiting the site. Local authorities should therefore ensure that they have in place arrangements to reimburse any overpaid pitch fees that the occupier may be entitled to recover under paragraph 5 of Chapter 3 if the occupier vacates the transit pitch at short notice.

Paragraph 4(a) of Chapter 3 allows the local authority to terminate an agreement to occupy a transit pitch early by giving written notice of not less than four weeks. The purpose of this power is to give local authorities flexibility to deal with competing urgent demands for transit pitches, for example, when a transit pitch is needed urgently to accommodate those being directed from an unauthorised encampment.

As mentioned above local authorities will be under a statutory duty to provide occupiers with a written statement of their agreement. However, local authorities should also draw the potential occupier's attention to the power to give early notice and the circumstances under which the local authority might use it. If the existing occupier is paying rent, is not in breach of the terms of the agreement and the pitch is not required for someone else as a matter of urgency, the Government considers that it is unlikely to be reasonable or proportionate for the local authority to terminate the agreement using their power under paragraph 4(a) of Chapter 3.

Jurisdiction of disputes under the 1983 Act

A separate statutory instrument transferring jurisdiction for most disputes from the county court to the Residential Property Tribunal will also come into force on 30 April 2011. From that date, most disputes that arise under the 1983 Act will be dealt with by the Residential Property Tribunal, the exception being jurisdiction over termination of pitch agreements which will remain with the County Court. Possession (eviction) Orders will continue to be awarded by the County Court under the terms of the Caravan Sites Act 1968.

Review of the statutory instruments

As with other regulations, the Government will conduct a review three to five years after the commencement date to ensure the legislation is working as intended and, where there are any unintended consequences, to consider what amendments should be made.