

# **MOBILE HOMES ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY**

#### ***Pitch agreements***

#### ***Section 10: Implied terms: removal of requirement for site owner consent to sale or gift***

35. This section amends Schedule 1 to the MHA 1983 by inserting new paragraphs into it which make provision about the sale or gift of a mobile home. The new paragraphs make different provision in relation to cases where the proposed sale or gift concerns an existing pitch agreement (“an existing agreement”) and in relation to cases where the proposed sale or gift concerns a new pitch agreement (“a new agreement”). A new pitch agreement means an agreement which is made after the new provisions come into force, or one which was made before but which has been assigned after they came into force (see new paragraph 7A(3)). Different provision has been made in recognition of the fact that the new provisions, so far as they relate to existing agreements, will affect site owners’ existing contractual rights. The new paragraphs apply in relation to England only. The section also makes provision so as to apply existing paragraphs 8 (sale of mobile home) and 9 (gift of mobile home) of Chapter 2 of Part 1 of that Schedule to Wales only.

#### **New agreements**

##### **New paragraph 7A (sale of mobile home)**

36. New paragraph 7A mirrors the existing provision in paragraph 8 of Chapter 2 to the extent that it entitles the mobile home occupier to sell the mobile home and assign the agreement and entitles the site owner to receive a commission on the sale. However, it removes the requirement for the site owner to approve the person to whom the mobile home is being sold and places a requirement on the purchaser of a mobile home to notify the site owner of the completion of the sale and assignment of the agreement. It also confers a power on the Secretary of State to make provision in regulations specifying procedural requirements to be followed by the parties in connection with the sale.

##### **New paragraph 8A (gift of mobile home)**

37. New paragraph 8A mirrors the existing provision in paragraph 9 of Chapter 2 to the extent that it entitles the mobile home owner to give the mobile home and to assign the agreement to a member of his or her family. However, it removes the requirement for the site owner to approve the person to whom the gift is being made subject to a requirement that the occupier has provided the site owner with “relevant evidence” showing that the person concerned is a member of his or her family. It places a requirement on the person to whom the mobile home is gifted to notify the site owner of the gift and assignment of the agreement. It also confers a power on the Secretary of State to make provision in regulations specifying what constitutes “relevant evidence” and specifying procedural requirements to be followed by the parties in connection with the gift of a mobile home and assignment of the agreement.

### **Existing agreements**

New paragraphs 7B (sale of mobile home) and 8B (gift of a mobile home)

38. New paragraphs 7B and 8B set out the requirements that must be met before an occupier is entitled to sell the mobile home or give it to a family member and assign the agreement where there is an existing agreement. The first requirement is that the occupier serves notice on the owner that he proposes to sell or gift the mobile home. The notice must include the name of the person to whom he proposes to sell or give the mobile home and such other information as may be prescribed in regulations made by the Secretary of State. In the case of a gift, the notice must also include “relevant evidence” as defined in new paragraph 8A(3). The second requirement is that either the occupier does not, within 21 days of when the owner receives the notice of the proposed gift or sale, receive a notice back from site owner that the owner has made an application to the tribunal for an order preventing the occupier from selling or gifting the mobile home (“a refusal order”) or that the owner makes such an application to the tribunal within the 21-day period and the tribunal rejects that application. Where a sale proceeds under paragraph 7B, the site owner is entitled to receive a commission on the sale.
39. New paragraphs 7B and 8B also confer powers on the Secretary of State to make regulations (subject to the negative resolution procedure) prescribing the grounds on which an owner may apply to the tribunal for a refusal order (see paragraphs 7B(7) and 8B(7)) and specifying the procedural requirements to be followed by the parties in connection with the sale or gift (see paragraphs 7B(10) and 8B(9)). The grounds on which an owner may apply for a refusal order would be likely, for example, to include the age of the buyer and the keeping of pets, where a site has rules in relation to such matters.

### **New paragraph A1 of Part 3 of Schedule 1: provision of information**

40. New paragraph A1 makes provision about the information to be provided by an occupier (who is proposing to sell a mobile home) to the prospective purchaser and about the time by which that information must be provided. It confers a power on the Secretary of State to specify, in regulations, the documents and/or other information which must be provided. The first such regulations will be subject to the negative resolution procedure. Where an occupier fails to comply with the duty to provide the prescribed documents and/or information within the required time, the prospective purchaser may bring civil proceedings in like manner as any other claim in tort for breach of statutory duty. These provisions will ensure that the prospective purchaser is aware of all the relevant information (including, for example, any restrictions in the site rules on who can reside on the site) and so is able to make an informed decision as to whether or not to proceed with the purchase.