
STATUTORY INSTRUMENTS

2011 No. 1002

**The Housing and Regeneration Act 2008
(Commencement No. 8 and Transitional,
Transitory and Saving Provisions) Order 2011**

Citation and interpretation

1.—(1) This Order may be cited as the Housing and Regeneration Act 2008 (Commencement No.8 and Transitional, Transitory and Saving Provisions) Order 2011.

(2) In this Order—

“the 1983 Act” means the Mobile Homes Act 1983(1);

“the 2008 Act” means the Housing and Regeneration Act 2008;

“commencement date” means 30th April 2011;

“existing agreement” means a local authority agreement which is made before the commencement date;

“gypsies and travellers” means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showpeople, or persons engaged in travelling circuses, travelling together as such(2);

“local authority agreement” means an agreement under which a person is entitled to station a mobile home on a local authority gypsy and traveller site in England;

“local authority gypsy and traveller site” means any land which is occupied by a local authority as a caravan site providing accommodation for gypsies and travellers;

“permanent pitch” means a pitch on which a person is entitled to station a mobile home under the terms of an agreement to which the 1983 Act applies and which is not a transit pitch;

“pitch” means land, forming part of a local authority gypsy and traveller site in England and including any garden area, on which a person is entitled to station a mobile home; and

“transit pitch” means a pitch on which a person is entitled to station a mobile home, under the terms of an agreement to which the 1983 Act applies, for a fixed period of up to 3 months.

(3) Other expressions used, but not defined, in this Order and which are used in the 1983 Act have the same meaning in this Order as they have in the 1983 Act.

Commencement: local authority gypsy and traveller sites

2.—(1) Section 318 (protected mobile home sites to include sites for gypsies and travellers) of the 2008 Act comes into force on the commencement date in relation to local authority gypsy and traveller sites in England.

(1) 1983 c. 34.

(2) Section 5 of the Mobile Homes Act 1983, before amendment by section 318 of the Housing and Regeneration Act 2008 (c. 17), provides that the 1983 Act does not apply to land occupied by a local authority as a caravan site providing accommodation for gypsies. The definition of ‘gypsies’ which this exclusion relied upon was repealed by section 80 of the Criminal Justice and Public Order Act 1994 (c. 33), though it was saved for the purpose of interpreting section 5. This definition of ‘gypsies and travellers’ derives from that saved definition.

(2) Section 321(1) (repeals) of, and Schedule 16 to, the 2008 Act come into force on the commencement date in relation to local authority gypsy and traveller sites in England so far as they relate to the following repeals—

<i>Title</i>	<i>Repeal</i>
Mobile Homes Act 1983 (c. 34)	In section 5(1), in the definition of “protected site”, the words from “does not include” to “that,”.
Criminal Justice and Public Order Act 1994 (c. 33)	In section 80(4), the words from “in the definition” to “1983 or”.

(3) Paragraphs (1) and (2) are subject to articles 3 to 7.

Transit pitches: saving for certain purposes of the 1983 Act

3. The repeals made by the provisions brought into force by article 2 do not apply for the purposes of the operation of sections 1(3), (4) and (6) and 2(2) to (4) of the 1983 Act⁽³⁾ in relation to a transit pitch.

Existing agreements: general transitional provision

4. Subject to article 5, the 1983 Act applies to an existing agreement as it would apply to a local authority agreement made after the coming into force of the provisions brought into force by article 2 and the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011⁽⁴⁾.

Existing agreements: transitional disapplication of certain terms and obligations

5. Notwithstanding article 4—

- (a) sections 1(2) to (9) and 2(2) to (4) of the 1983 Act do not apply to an existing agreement, and
- (b) in relation to an existing agreement—
 - (i) paragraphs 3 and 4 (termination) of Chapter 3, or paragraphs 3 to 6 (termination) of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act⁽⁵⁾, whichever Chapter may be applicable in a particular case, do not apply for the purposes of any proceedings commenced before the commencement date in which termination of the agreement is at issue;
 - (ii) paragraph 8 (re-siting of mobile home) of Chapter 4 of Part 1 of that Schedule does not apply to a requirement that the occupier’s right to station the mobile home is exercisable for any period in relation to another pitch where the requirement is made before the commencement date;
 - (iii) paragraph 15(2) and (6) to (11) (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply in relation to the first pitch fee review under that agreement where the pitch fee review date for that review is within 28 days of the commencement date;

(3) 1983 c. 34. In England and Wales, section 1 was substituted, and section 2 was amended, by sections 206 and 265 of, and paragraph 9 of Schedule 15 to, the Housing Act 2004 (c. 34).

(4) S.I. 2011/1003.

(5) Chapters 3 and 4 of Part 1 of Schedule 1 to the 1983 Act were inserted by the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011.

- (iv) paragraph 16 (pitch fee) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to an improvement were carried out before the commencement date;
- (v) paragraph 19(c) and (d) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule may not be enforced in relation to any breach of the agreement which occurs within 3 months of the commencement date;
- (vi) paragraph 19(e) (occupier's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to costs and expenses incurred before the commencement date;
- (vii) paragraph 20(f) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply where works relating to the improvements start before, or within the period of 28 days beginning with, the commencement date; and
- (viii) paragraph 20(g) (owner's obligations) of Chapter 4 of Part 1 of that Schedule does not apply in relation to any matter which arises before, or within the period of 28 days beginning with, the commencement date.

Existing agreements: local authority's duty to provide a written statement

6.—(1) In relation to an existing agreement in respect of a pitch which, by virtue of this Order, becomes a permanent pitch, the local authority must within the period of 28 days beginning with the commencement date give to the other party to the agreement a written statement which complies with the following paragraphs.

- (2) The written statement must—
 - (a) specify the names and addresses of the parties,
 - (b) include particulars of the pitch that are sufficient to identify it,
 - (c) set out the express terms contained in the agreement,
 - (d) set out the terms to be implied terms by virtue of the application of the 1983 Act to the agreement, and
 - (e) be in the form set out in the Schedule to this Order or a form substantially to the same effect.
- (3) Subject to paragraph (4), if any express term—
 - (a) is contained in the agreement, but
 - (b) was not set out in a written statement given to the other party in accordance with paragraph (1),

the term is unenforceable by the local authority or any person within section 3(1) of the 1983 Act.

(4) Where the local authority fails to give the other party to the agreement a written statement in accordance with paragraph (1), the other party may, at any time after the 28 days mentioned in that paragraph has expired, apply to a tribunal for an order requiring the local authority—

- (a) to give the person a written statement which complies with paragraph (2)(a) to (e), and
- (b) to do so not later than such date as is specified in the order.

(5) In paragraph (4) “tribunal” has the same meaning as in the 1983 Act and a tribunal's jurisdiction under that paragraph is to be treated as jurisdiction under the 1983 Act.

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

(7) A written statement under this article is not to be treated as a written statement for the purposes of section 1 or 2 of the 1983 Act.

(8) A written statement under this article is to be treated as a written statement for the purposes of Chapter 4 of Part 1 of Schedule 1 to the 1983 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Existing agreements: general saving

7. The repeals made by the provisions brought into force by article 2 do not affect any right or liability which has accrued in relation to an existing agreement or any remedy in respect of any such right or liability.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State
Department for Communities and Local
Government

4th April 2011