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Mobile (Park) Homes

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This briefing provides an overview of the law and policy on mobile home sites where people live permanently. It does not cover people staying in mobile homes on holiday sites or people renting a mobile home.



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Summary

Relatively small numbers of people in Scotland live permanently in a mobile home, although exact numbers are not clear. [Latest estimates](#) suggest that there are around 100 parks in Scotland which may have more than 8,500 residents.

Most mobile home sites for residential use (also known as park home sites) are run by private operators. Buying a mobile home is different from buying a traditional home. Mobile home owners don't own the land their mobile home is stationed on, rather they rent a 'pitch' from the site owners. Mobile home owners' rights are determined by legislation and any other terms in the agreement with the site owner.

Legislative reform

In the 2000s and 2010s, the Scottish Government made changes to the legislation governing residential mobile homes with the aim of improving the protections available for mobile home owners. This followed concern about some problems faced by residents living permanently on some residential mobile homes sites in Scotland.

Rights of mobile home owners and site owners

The Mobile Homes Act 1983 (as amended) ('the 1983 Act') is the main piece of legislation setting out the rights and responsibilities of mobile home owners and site owners.

It sets out a number of terms that must form part of the agreement between both parties. These include matters such as how the agreement can be ended, how pitch fee can be changed and the process that needs to be followed when buying, selling or gifting a mobile home.

Site licensing

In 2017, the Scottish Government introduced a new site licensing regime for sites where people live permanently. Site owners must obtain a licence from the local council where the site is located to operate.

To obtain a licence, site owners must pass a 'fit and proper' person test administered by the council. Councils can impose conditions in the licences that are granted, and they also have powers to take enforcement action against a breach of the licensing requirements.

In 2019, the Scottish Parliament Local Government and Communities Committee held an initial call for evidence into the site licensing regime in Scotland.

The response to the call for evidence highlighted some concerns about the site licensing regime, including:

- a perception that the licensing requirements were not enforced (although this was related to views that the legislation was poorly drafted)
- the problem of enforcement where permanent residents lived in parks designated for holiday use
- the lack of opportunity for permanent residents to feed their views into licensing decisions.

The call for views also raised some concerns around the rights for mobile home owners including

- the unfairness of allowing site owners to take 10% commission on mobile home sales (this has been a contentious subject for a number of years)
- ongoing overcharging for utilities
- the need for a tribunal (rather than a court) to deal with enforcement of rights, such as the rights from the Mobile Homes Act 1983.

Scottish Government plans

The Scottish Government has committed to reviewing the site licensing regime before the end of this parliamentary session (which ends in March 2025).

The Scottish Government has also recently consulted on changing the index used to uprate pitch fees from the Retail Prices Index to the Consumer Prices Index.

Introduction

This briefing relates to the the situation where people buy a mobile home to live in permanently, on a site that has planning permission to operate as a caravan site and a licence for permanent use.

The terms mobile home and caravan are used interchangeably in the lawⁱ. While legally defined as caravans, many modern mobile homes resemble small bungalows. They are usually situated on a 'pitch' owned by a site owner, to whom a resident pays a pitch fee. Larger mobile homes are sometimes referred to as 'park homes', and can consist of twin-units that are bolted together on site.¹

Most mobile home sites for permanent residential use (also known as park home sites) are run by private operators. Buying a mobile home is different from buying a traditional 'bricks and mortar' home. Bricks and mortar housing is heritable property whereas mobile homes are moveable and therefore a consumer purchase. No solicitor is required to complete the sale and the Mobile Homes Act 1983 does not cover the purchase of a mobile home, however purchasers may want to seek advice.

Mobile home owners do not own the land their mobile home is stationed on, rather they rent a 'pitch' from the site owners. Mobile home owners' rights are determined by legislation and any other terms in the agreement with the site owner.

It's not clear how many people currently live permanently in mobile homes. Research published in 2013 identified 92 mobile home sites operating in Scotland, with around 3,314 mobile homes. At that time sites operated in 22 out of 32 local authorities, although sites were concentrated in six areas: Perth and Kinross, Dumfries and Galloway, Fife, Angus, Argyll and Bute, and Aberdeen.²

More recently, the Scottish Confederation of Park Home Residents Associations has estimated that there are around 100 parks in Scotland which may have more than 8,500 residents.³

For some people, particularly for those who are retired, buying a mobile home on a residential site and living in it permanently can be an attractive option. Some of the potential advantages include: "the potential for equity release; access to accommodation which may otherwise be unaffordable due to location and design; reduced maintenance; bespoke designs; access to outside space; a safe, scenic and peaceful environment; and access to a community of a similar age".⁴

UK and Scottish Government consultations and previous research have identified some disadvantages of living in park homes. However, recent research notes that since then significant reforms in Scotland have been implemented, and it is unknown to what extent these initiatives have been successful in reducing some of the problems highlighted.⁴

ⁱ Section 29, Caravan Sites and Control of Development Act 1960. A caravan is a structure which is designed or adapted for human habitation and is capable of being moved from one place to another. This does not include any railway rolling stock which is for the time being on rails forming part of a railway system, or any tent. The Caravan Sites Act 1968 sets out the maximum permitted size of a caravan constructed by connecting more than one unit in Scotland.

Overview of relevant legislation

There is a range of legislation governing permanent residential mobile home sites. The legislation has been amended over the years with the aim of improving standards and rights for mobile home owners.

An overview of the main legislation is briefly summarised below. Further detail, where relevant, is provided in the remainder of the briefing. The Scottish Government has also published a [timeline of the evolution of the law relating to mobile homes in Scotland](#).

- **The Mobile Homes Act 1983** controls the 'consumer' rights of mobile home owners living permanently on residential sites.
- **The Caravan Sites and Control of Development Act 1960** provides for the site licensing regime.
- **The Caravan Sites Act 1968** protects park home residents against being evicted and against harassment.

Rights and responsibilities of mobile home owners and site owners

The Mobile Homes Act 1983 controls the rights and responsibilities of site owners and mobile home owners living permanently on 'protected' sites.

A **protected site** under the Caravan Sites and Control of Development Act 1960 has either a holiday licence or a residential licence, in line with the usage set out in the planning permission. Land must not be used as a caravan site without a licence, unless it is exempt from the requirements of the 1960 Act.

Residents who live permanently on sites which only have planning permission and a licence for holiday use do not have any rights under the 1983 Act.

The following sections provide an overview of some of the main points of the relevant legislation covering:

- [right to a written statement](#)
- [implied terms](#)
- [express terms](#)
- [harassment and eviction of mobile home occupiers.](#)

Right to a written statement

The 1983 Act provides that, before an agreement to occupy a mobile home is entered into, the site owner must give to the proposed occupier of the mobile home a written statement which must include the matters specified in the Act and regulationsⁱⁱ.

The written statement is an important document setting out the rights and responsibilities of both parties and other relevant information.

Even if a mobile home owner does not have a written statement, they are still protected by the terms of the agreement required by the law.

The site owner should give the prospective occupier the statement at least 28 days before the date the agreement under the 1983 Act is entered into (unless the prospective occupier agrees in writing to receiving the statement at a later date)ⁱⁱⁱ.

If the mobile home owner does not receive a written statement they can apply, at any time after the agreement has been made, to the court for an order requiring the site owner to provide a written statement^{iv}.

The written statement should include^v:

- the names and addresses of the parties
- a description of the land the mobile home is entitled to be stationed on
- the pitch fee and its review date
- the implied and express terms of the agreement (see below).

Implied terms: are terms set out in the law and cannot be changed. These terms are set out in Part 1 of Schedule 1 to the 1983 Act.

Express terms: site owners and mobile home owners can agree to add in 'express terms' provided they don't conflict with the implied terms.

The following sections provide more information on [implied terms](#) and [express terms](#).

ii Mobile Homes Act 1983, section 1(2)

iii Mobile Homes Act 1983, section 1(5) as applies to Scotland

iv Mobile Homes Act 1983, section 1(7)

v The written statement must include the matters specified in section 1(2)(a) to (d) of the 1983 Act and the [Mobile Homes \(Written Statement\) \(Scotland\) Regulations 2013](#)

Implied terms

The implied terms of an agreement reflect the minimum rights and obligations mobile home occupiers automatically have. They are set out in Part 1 of Schedule 1 of the 1983 Act, as amended by an order made in 2013, and apply even if there is no written statement. Site owners cannot change the implied terms.

The implied terms have been extended over the years with the aim of protecting vulnerable mobile home residents while ensuring the viability of well run sites.

The Housing (Scotland) Act 2006 amended the 1983 Act and gave the Scottish Ministers the power to amend, by order, the implied terms in the 1983 Act.

The [Scottish Government consulted on changes to the implied terms in 2011](#). Following the consultation, changes were introduced as a result of the [Mobile Homes Act 1983 \(Amendment of Schedule 1\) \(Scotland\) Order 2013](#).

The following sections provide a brief overview of the implied terms covering:

- [undisturbed possession of the mobile home and right of entry to the pitch](#)
- [site owner and mobile home owner's obligations](#)
- [pitch fees](#)
- [sale and gift of a mobile home](#)
- [re-siting of a mobile home](#)
- [qualifying residents' association](#)
- [termination of agreement](#).

The following does not explain every provision of the law in detail. If there are any disputes about the terms of an agreement, mobile home owners may wish to seek further advice from a solicitor. [Legal aid](#) may be available to cover some of the costs of advice from a solicitor.

Mobile home owner's right to undisturbed possession of the mobile home and site owner's right of entry to the pitch

A mobile home owner is entitled to the undisturbed possession of their home and the pitch^{vi}. The only exception is the site owner's implied rights to enter the pitch in certain circumstances (see below) and for [re-siting the mobile home](#).

vi Mobile Homes Act 1983, Schedule 1, Part 1, para 11

The site owner has implied rights to enter the pitch in the following circumstances:

- the site owner may enter the pitch without prior notice between 9 a.m. and 6 p.m. to deliver mail and take meter readings for services supplied by the owner
- the site owner may enter the pitch for essential repair or emergency works giving as much notice as is reasonably practicable in the circumstances
- other than the above, unless the occupier has agreed otherwise, the site owner may only enter the pitch after giving at least 14 days' written notice of the date, time and reason for the visit.^{vii}

Site owner and mobile home occupier obligations

The mobile home owner must^{viii}:

- pay the pitch fee to the site owner
- pay any other charges for utilities and other services supplied by the owner
- keep the mobile home in a sound state of repair
- maintain the outside of the mobile home (the pitch including all fences and outbuildings belonging to, or enjoyed with it) and the mobile home in a clean and tidy condition
- if requested by the site owner, provide any documentary evidence of any costs or expenses in respect of which the mobile home occupier seeks reimbursement.

Site owners must^{ix}:

- if requested by the occupier, provide (free of charge) a copy of the current public liability insurance certificate and documentary evidence in support, and explanation of, any new pitch fee, or any other charges payable to the site owner under the terms of the agreement
- repair, and where necessary, replace the base on which the mobile home is stationed and maintain any gas, electricity, water, sewerage or other services supplied by the site owner to the pitch or to the mobile home
- maintain all parts of the site, which are not the responsibility of any of the occupiers
- consult the mobile home occupier about improvements to the site in general, and in particular about those improvements which the owner wishes to be taken into account when determining any new pitch fee
- consult, by giving 28 days' notice in writing, a [qualifying residents' association](#) (if there is one) about all matters which relate to the operation, management and improvements to the site which may affect the occupiers.

vii Mobile Homes Act 1983, Schedule 1, Part 1, paras 12 to 14

viii Mobile Homes Act 1983, Schedule 1, Part 1, para 24

ix Mobile Homes Act 1983, Schedule 1, Part 1, para 25

Re-siting of a mobile home

Site owners cannot move a mobile home to another pitch, except for essential repair or emergency works, without approval from a court.

A site owner can only move a mobile home to a different pitch in certain circumstances^x. These are when:

- the site owner applies to the court, and the court is satisfied that the other pitch is broadly comparable to the occupier's original pitch, and it is reasonable for the mobile home to be moved
- the owner needs to carry out essential repair or emergency works that can only be carried out if the mobile home is moved, and the other pitch is broadly comparable to the occupier's original pitch.

The mobile home owner can require the site owner to return the mobile home to the original pitch on completion of any works. This does not apply where the original pitch can no longer be used as a pitch.

The site owner must pay all the costs and expenses incurred by the mobile home owner associated with their mobile home being moved to and from the other pitch.

Pitch fees

The pitch fee is the amount the mobile home owner has to pay to the site owner for living on the site and also covers use of the communal areas of the site and their maintenance. It will also include water and sewerage charges, unless they are specifically excluded.

The pitch fee does not include payment for gas, electricity, or other services, unless the agreement expressly provides that the pitch fee includes these.

The implied terms, as set out in Schedule 1 of the Mobile Homes Act 1983, provide the process for the pitch fee review.

A key point is that, to change pitch fees, the site owner must give occupiers notice. If occupiers agree to the change, the fee will come into force on a date set in legislation, which will be at least 28 days after notice was given. If there is no agreement, there is provision for site owners or occupiers to apply to the courts for an order setting the fee.^{xi}

If the mobile home occupier does not agree to pay the proposed pitch fee, either the site owner or the occupier can apply to the court to set a pitch fee. The court can set a pitch

x Mobile Homes Act 1983, Schedule 1, Part 1, para 10

xi Mobile Homes Act 1983, Schedule 1, Part 1, para 16 to 20. Para 17 applies where the pitch fee is reviewed at the review date which is annual. The pitch fee may also be reviewed after the review date under para 19

fee where it considers it reasonable for the change to be made^{xii}.

When setting a new pitch fee, the legislation^{xiii} requires 'particular regard' to:

- site improvements undertaken for the benefit of mobile home occupiers on the site, which were the subject of consultation (in accordance with other provisions of the legislation^{xiv}) and to which a majority of the occupiers have not disagreed in writing, or in the case of disagreement, the court on application of the site owner, has ordered should be taken into account
- decreases in the amenity of the site or the facilities and services provided on the site
- relevant changes in the law.

In addition, **any costs incurred by the site owner in connection with expanding the site should *not* be taken into account.**

There is also a presumption that the **pitch fee should increase or decrease by a percentage which is no more than any percentage change in the Retail Prices Index (RPI)** unless that would be unreasonable having regard to the factors that site owners should take into account described above.^{xv}

Any mobile home owner unhappy with a proposed pitch fee and considering legal action should consider getting advice from a solicitor. Legal aid may be available to cover some of the costs of advice from a solicitor. Other advice providers, such as Shelter or a Citizens Advice Bureau, may be able to help.

In response to the [Scottish Parliament Local Government and Communities Committee call for evidence on mobile home site licensing](#), some respondents complained about the system for charging pitch fees.

For example, some respondents reported that some site owners did not respect their obligations to cap increases or consult with residents. Respondents also highlighted that site owners were able to pass the cost of the licence fee onto residents via the pitch fee. Some stated that the increase would be acceptable if the licensing system was resulting in improvements for residents but, in many cases, it was not. Another respondent was concerned about the lack of transparency in the system with residents on the same site being charged different pitch fees.

The Scottish Confederation of Park Home Residents Associations (SCHOPRA) and other residents' organisations in the UK have pushed their governments to link pitch fee increases to the Consumer Prices Index (CPI) rather than the RPI.⁵

The CPI is used by the UK Government as the inflation rate for the indexation of public service pensions, tax credits and benefits since 2011. It has argued that the CPI is a more appropriate measure and it is consistent with the measure of inflation used by the Bank of England.⁶

xii Mobile Homes Act 1983, Schedule 1, Part 1, para 20

xiii Mobile Homes Act 1983, Schedule 1, Part 1, para 22

xiv Mobile Homes Act 1983, Schedule 1, Part 1, para 25(e) and (f)

xv Mobile Homes Act 1983, Schedule 1, Part 1, para 23

The RPI is generally higher than the CPI. Mobile home owners, particularly those on pension incomes have been concerned that their incomes might not keep pace with the rise in pitch fees.

In both England (as a result of the [the Mobile Homes \(Pitch Fees\) Act 2023](#)) and Wales (as a result of the [Mobile Homes \(Wales\) Act 2013](#)), the pitch fee uprating index has changed from the RPI to the CPI. [The Scottish Government has also consulted on similar changes, see below for further information.](#)

Scottish Government consultation on changes to pitch fee increases

In January 2023, the [Scottish Government issued a consultation paper](#) seeking views to inform decisions on changes to how pitch fees are updated. ³

The consultation sought views on whether:

- it would be more appropriate for the presumption for annual uprating of pitch fees to be set at CPI rather than RPI or CPI with housing costs
- the change should apply to agreements that are made in future only or to existing and future agreements
- it would be appropriate for Scottish Ministers to be able to update the index in future via secondary legislation, to keep pace with developments in statistics.

[In response to the consultation, the Scottish Government has announced](#) that it intends to bring forward legislation at the earliest opportunity to change the presumed basis of pitch fee uprating under the Mobile Homes Act 1983 from RPI to CPI for both existing and future contracts. It also intends to make a further change to the 1983 Act so that the statistical basis for uprating pitch fees can be amended by secondary rather than primary legislation.

Sale and gift of a mobile home

Mobile home owners can sell their mobile home and assign (transfer) the agreement to the person to whom the mobile home is sold^{xvi}.

Mobile home owners can market the mobile home for sale using an estate agent and are entitled to display marketing for sale signs on, or in, the mobile home for this purpose.

The site owner must allow any agent appointed by the occupier reasonable access to the pitch on which the home for sale is stationed, for valuation and preparing or displaying marketing particulars.

The seller must give the prospective assignee a copy of the written statement and the site rules 28 days in advance of the sale (or fewer days if the purchaser agrees). This is to ensure that prospective assignees are clear on the implied terms and their obligations at

^{xvi} Mobile Homes Act 1983, Schedule 1, Part 1, para 8. This does not apply to local authority or housing association gypsy and traveller sites.

the point of sale.⁷

Where the occupier sells the mobile home, and assigns the agreement, the site owner is entitled to receive commission of up to 10% of the sale price^{xvii} . This is contentious issue and is [discussed in more detail in the next section](#).

A mobile home owner can also gift their mobile home and assign the agreement to a family member. Site owners cannot claim commission on the gift of a mobile home and assignment of the agreement to a family member^{xviii} .

Commission on sale of a home

Where the occupier sells the mobile home, and assigns the agreement, the site owner is entitled to receive commission of up to 10% of the sale price^{xix} .

The 10% commission charge is set out in secondary legislation.^{xx}

A [House of Commons Library briefing](#) on the 10% commission rate explains the general justification for the charge:

“ The general justification for the commission charge is that what is sold is an amalgam of the value of the park home and the value of the site on which it is placed. Site owners regard the charge as an important source of income which allows them to reinvest in the parks and maintain higher standards without additional costs for homeowners.”

House of Commons Library, 2022⁸

The commission on sale of a mobile home is a contentious issue. Responses to a 2011 Scottish Government consultation showed that most mobile home owners disagreed with the payment of commission, whilst site owners and their representative bodies supported the retention of the commission. As the analysis of consultation responses summarised:

xvii **Mobile Homes Act 1983, Schedule 1, Part 1, para 8 and Mobile Homes (Commissions) Order 1983**

xviii Mobile Homes Act 1983, Schedule 1, para 9.

xix Mobile Homes Act 1983, Schedule 1, Part 1, para 8

xx [Mobile Homes \(Commissions\) Order 1983 SI 1983/748](#)

“ Site owners have argued that the commission should be retained because:

- the commission forms an important part of their business income, and could not be removed without significantly increasing pitch fees, otherwise it may have a detrimental impact on the viability of businesses”
- to a great extent, a mobile home draws its value from the quality of the site and the value of the land, both in terms of location and site upkeep”
- some residents with low incomes may prefer to pay the commission on sale, when they are in funds, rather than pay an ongoing higher pitch fee out of their limited income.”

However, residents' groups have argued that it is an unfair payment because:”

- it is not directly related to services provided - it is not attributable to a service received, and”
- it provides an incentive for unscrupulous site owners to harass residents into selling, to maximise profits.”

Source: Scottish Government , 2011⁹

However, existing provisions regarding commission on sales was not changed following the consultation. The Scottish Government provided this reasoning:

“ Commission of up to 10% will continue to be payable to the site owner on the resale of a mobile home. This recognises that the quality and location of the site is an influential factor in the value of the home and goes some way to ensuring that the balance between the occupier and site owner is properly addressed and makes no interference in business viability of privately owned sites. In order to safeguard the owner, neither the sale nor assignation will have effect until the commission is paid.”

Source: Scottish Government, 2013⁷

Some respondents to the Local Government and Communities Committee's call for evidence on mobile home site licensing, held in 2019, also expressed a view that the 10% commission requirement was unfair. ¹⁰

Other UK nations reviews of commission on sale of home

England

A House of Commons library briefing, [Mobile \(park homes\): 10% commission on sales](#) , published in September 2022, contains a detailed overview of the issue. ⁸

To summarise, the commission charge has been reviewed several times since it was last amended in 1983 (when it was reduced from 15% to 10%). The most recent review of mobile homes, undertaken in 2017, did not call for evidence on the 10% commission charge. However, many consultation responses raised the issue.

Given the responses to the consultation, the UK Government agreed to give the matter further consideration. It commissioned researchers at the University of Liverpool to undertake research on the matter which was published in June 2022. ¹¹ The research made a number of recommendations including :

- the maximum commission on park home sales should not be reduced without financial support for smaller parks
- further work to explore and clarify the rationale of the commission charge
- further action to strengthen the professionalism of park operatives
- further work to explore the efficacy of local authority enforcement on parks, including consideration of whether a national enforcement body could ensure a more consistent and higher quality of park operation.

The Government will publish a response to the report in due course.

Wales

A National Assembly for Wales research briefing, [Park Homes in Wales](#), last updated in 2021, provides background on the park home legislation in Wales.

In 2018, following a consultation, the Welsh Government announced its decision to lower the commission rate by 1 percentage point per year, over a 5-year period, until it was reduced to a maximum of 5% of the purchase price. This was followed by a further consultation on how best to implement the commission rate reduction.

In January 2019, on the application of the British Holiday and Home Parks Association and a park owner, the Administrative Court for Wales gave permission for a Judicial Review of the Welsh Government's decision to reduce the rate of commission.

The Welsh Government said it would not introduce any changes to the maximum commission rate until the Judicial Review was complete.

In March 2019, the government confirmed that the reduction in the maximum rate of commission would not go ahead. Instead, the matter would be considered afresh, following further engagement with the sector. In November 2020, the government said that the evidence-gathering work around the commission rate had been temporarily postponed to enable officials to focus on the immediate challenges of the coronavirus (COVID-19) pandemic.¹²

More recently, in March 2022, the Government said that it had postponed work on gathering evidence for the remainder of this Senedd term given other pressures on the government.¹³

Qualifying residents' associations

A residents' association can give mobile home owners a more effective way of putting their views across to site owners.

The Mobile Homes Act 1983 makes provision for a 'Qualifying Residents' Association' (QRA). Site owners must consult with a QRA on site improvements and proposed changes to the operation and management of the site^{xxi}. Therefore, it might be beneficial for residents to set up a QRA.

xxi Mobile Homes Act 1983, Schedule 1, Part 1, para 25

A residents' association is a QRA if the criteria below are met^{xxii}:

- it is an association representing the occupiers of mobile homes on the site
- at least 50 per cent of the occupiers of the mobile homes on the site are members of the association
- it is independent from the owner who, together with any agent or employee of the owner, is excluded from membership
- membership is open to all occupiers who own a mobile home on the site
- it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association
- it has a chairman, secretary and treasurer who are elected by and from among the members
- with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and in calculating what constitutes a majority of occupiers, each mobile home will be taken to have one occupier. If there is more than one occupier then the occupier will be taken to be the person whose name first appears on the agreement.

The Scottish Confederation of Park Homes Residents Associations (SCOPHRA) is a voluntary organisation which exists to help park home residents' associations and individual park home owners. It has useful information on its website for mobile home owners about setting up a residents' association.

Termination of agreements

Termination by mobile home occupier

The mobile home occupier must give at least four weeks' notice in writing to the site owner to end the agreement^{xxiii}.

Termination by site owner

A site owner has to get an order from the sheriff court or from an arbiter (where both sides have agreed to this in writing) before they can end a mobile home occupier's agreement^{xxiv}. The agreement can be ended for the following reasons, where a court considers it reasonable to do so:

- the occupier has breached a term of the agreement (for example failure to pay pitch fees), and has not complied with any notice to remedy the breach within a reasonable time
- the occupier is not occupying the mobile home as her/his only or main residence

xxii Mobile Homes Act 1983, Schedule 1, Part 1, para 31

xxiii Mobile Homes Act 1983, Schedule 1, Part 1, para 3

xxiv Mobile Homes Act 1983, Schedule 1, Part 1, paras 4-6

- the condition of the mobile home is having a detrimental effect on the amenity of the site. The court can adjourn proceedings to allow repairs to be carried out, provided it is reasonably practicable to carry out the repairs and the occupier agrees to do so.

Even if a court agrees that the site owner can terminate an agreement, the site owner would still need to apply to the sheriff court for a separate eviction order if the occupiers do not leave ([see the section on Harassment and eviction of mobile home occupiers](#)).

Express terms

The site owner and mobile home owner can agree to include additional 'express terms' to their agreement, as long as they don't conflict with the [implied terms](#).

If any express term is contained in an agreement but was not set out in a written statement given to the proposed occupier, it is unenforceable by the site owner unless ordered by the court ^{xxv}.

If a mobile home owner is unhappy with the express terms in the agreement they can challenge them in court (or before an arbiter with the agreement of the site owner). The time limit for doing this is within six months of making the agreement - or receiving a written copy of the agreement - whichever is later^{xxvi}.

Unfair terms

If the mobile home owner considers that any of the express terms in their agreement are unfair they can also report the matter to the Competition and Markets Authority and the local Trading Standards office.

The Consumer Rights Act 2015 protects consumers from unfair terms in consumer contracts or notices. Written terms must be transparent and fair. A term will be unfair if it causes a significant imbalance in the parties' contractual rights and obligations to the detriment of the consumer.

There are other situations where consumer rights legislation is relevant. For example, where the resident has an issue in relation to the purchase of their mobile home rather than the pitch agreements, for example what was described is not included or they have been mis-sold a holiday caravan as permanent residential home. This is particularly relevant in relation to a pitch agreement on a holiday caravan site. In this scenario, the 1983 Act does not apply so residents have only consumer protections to fall back on.

The [Which? website provides further information](#) that may be useful.

[Advice Direct Scotland](#) can give specific consumer advice to anyone affected with consumer issues and can refer the case to a local Trading Standards team.

xxv Mobile Homes Act 1983, section 1(6)
xxvi Mobile Homes Act 1983, section 2

Harassment and eviction of mobile home occupiers

Mobile home occupiers are protected from harassment by a site owner^{xxvii}.

Examples of harassment might include:

- forcing the occupier to sign an agreement which reduces their legal rights
- removing or restricting essential services such as disconnecting the electricity
- entering the home without the occupier's consent.

Harassment is an offence. The harasser will have a defence if they can show that they had reasonable grounds for their actions.

A site owner can only evict a mobile home occupier after the agreement has been ended (see the section on [termination of agreements](#)) and an eviction order is obtained from the courts.

[The Protection from Harassment Act 1997](#) provides occupiers who are tenants with protection from harassment.

xxvii Caravan Sites Act 1968, section 3 as it applies to Scotland

Site rules

There may be site rules applying to a park home site. The site rules are set by the site owner and might include, for example, stopping residents keeping certain types of pets.

In response to the [Scottish Parliament Local Government and Communities Committee's work into site licensing](#), some respondents to the call for evidence were concerned about how site rules were used and interpreted by site owners.

Scottish Confederation of Park Home Residents (SCOPHRA) noted that, in England, the [Mobile Homes \(Site Rules\) \(England\) Regulations 2014](#) prohibit unfair site rules. An example was a rule that required a resident to buy liquid petroleum gas from the site owner rather than source their own. SCOPHRA called for similar restrictions to be incorporated into licence conditions. Alternatively, they called for the Scottish Government to bring forward legislation in this area. ¹⁰

Utility charges in park home sites

In a park home site, gas, electricity, water and other utilities are usually managed by the site owner. Mobile home residents may have to pay the site owner for their utilities.

The Office of Gas and Electricity Markets (OFGEM) sets limits on the maximum price at which gas and electricity can be re-sold by the site owner to residents^{xxviii}. Site owners can only sell at the price that they paid per unit of energy and the standing charge, i.e. they cannot profit from any charges made to residents.¹⁴

The maximum resale price rule does not apply when an inclusive charge is made for accommodation, for example, where a park home pitch fee includes 'all amenities' and identifies no specific charge for the gas or electricity. OFGEM guidance states, in this situation, the parties would need to consider whether any other legal controls might apply to the overall rent or pitch fee figure.¹⁴

The maximum resale prices also does not apply to the resale of liquified petroleum gas (LPG) either in cylinders or through bulk tank systems.¹⁴

As explained earlier (in the section [Site owner and mobile home occupier obligations](#)), the implied terms of an agreement give mobile home residents the right to request documentary evidence in support and explanation of any charges for gas and electricity payable to the site owner under the agreement.

xxviii This is done using powers in section 37 of the Gas Act 1986 and section 44 of the Electricity Act 1989.

Permanent residential mobile home site licences

Mobile home sites must have a licence to operate as a permanent residential site. If the site is a 'mixed use' site for both holiday caravans and residential mobile homes, it will need a licence for both purposes.

Part 1 and Part 1A of the Caravan Sites and Control of Development Act 1960 ('the 1960 Act'), and associated regulations, provide the framework for mobile home site licensing^{xxix}.

The 1960 Act was amended by the Housing (Scotland) Act 2014, and a revised licensing regime for residential sites came into effect on 1 May 2017. Holders of site licences issued prior to 1 May 2017 had until May 2019 to apply for a licence under the new system.

The new licensing system was developed over several years, and followed two public consultations, and research in 2013 by Consumer Focus Scotland. This research found residents and local authorities had experienced problems with maintenance, security or safety standards on sites; and issues around intimidation, abusive behaviour, vandalism, violence, or damage to property.¹⁵

The licensing regime does not apply to mobile home sites for which planning permission has been granted for holiday use only or where there will be times of the year where no one is living in a mobile home on the site.

There are also some exceptions where a site does not require a licence, set out in Schedule 1 to the 1960 Act. These include, for example, sites used by travelling showpeople or sites used for people employed in connection with building or engineering work on the same land.

The Scottish Government has published [guidance for councils on the licensing provisions](#).¹⁵

The following sections summarise the key features of the licensing regime. Please note that this is not a comprehensive description of all aspects of the law. The topics covered include:

- [licence fees](#)
- [applications and renewals](#)
- [the fit and proper person test](#)
- [licence conditions and model standards](#)
- [enforcement of site licensing provisions](#).

Licence fees

Councils can charge a fee for a licence and its renewal (every five years) but it must only cover the cost of the application process and not any [enforcement action](#). This is in contrast to most other licensing schemes. This means that any enforcement action undertaken by local authorities is unfunded, unless they pursue specific site owners for their costs. This is likely to impact on local authorities' willingness to take on this work.

Enforcement options include fines and attaching the income from the site when an interim manager is installed.

Councils cannot charge a fee for handling a site licence transfer application, or for transmission of a site licence. Transmission is the procedure that takes place when an existing site licence holder dies, and the site is inherited.

Applications and renewals

Councils have three months within which to make their decision on an application for a site licence. The applicant must have the correct planning permission in place and the the licence applicant (or responsible person in a company) and manager must be assessed by the council as ['fit and proper'](#) people.

If a council refuses an application for a site licence, the applicant can appeal to the sheriff court.

A site licence runs for five years from the date the licence comes into operation. The council must renew the licence if planning permission is in place, and the relevant people pass the fit and proper person test.

The 'fit and proper' person test

The council has to assess whether the licence applicant (or responsible person in a company) and the site manager (if they are not the same person) are 'fit and proper' people^{xxx}.

The purpose of the fit and proper person test is to ensure that the person holding a site licence and the person managing a site (if they are not the same person) is an appropriate person to do so.¹⁶

The fit and proper person test is applied:

- when someone applies for a first site licence
- when someone applies to renew a site licence
- when someone applies to transfer a site licence

xxx The detail of the fit and proper person test is set out in the Caravan Sites and Control of Development Act 1960, section 320 to section 32Q

- if a local authority is considering revoking a licence.

The legislation allows the council to 'have regard to all the circumstances of the case' when deciding whether someone is fit and proper. Specific considerations include:

- relevant criminal convictions
- whether the applicant has breached the law in relation to mobile homes, housing or the supply of utilities
- whether the applicant has engaged in antisocial behaviour.

Councils will make the final decision on the fit and proper person test.

Licence conditions and model standards

Councils can attach conditions to a site licence they issue. [The Scottish Government publishes model standards](#) which provide advice on the site licence conditions a council may wish to use. ¹⁶

For example, licence conditions could include:

- the number and type of mobile homes allowed on the site
- where on the site the mobile homes can be placed
- landscaping (for example, the planting of trees and bushes)
- electricity, gas, water and sewerage supplies
- traffic and pedestrian routes on the site
- other health and safety issues.

Enforcement of site licensing provisions

Councils have enforcement powers to deal with licensing breaches and there are various sanctions for site owners who fail to comply with the legislation.

The Scottish Government guidance encourages councils to resolve issues through informal measures (such as discussions with site manager) first before using their enforcement powers. ¹⁶

Council enforcement powers include powers to:

- serve the licence holder with an Improvement Notice where the licence holder is failing, or has failed to comply with, a site licence condition
- issue a penalty notice which instructs residents not to pay their pitch fees to the site owner where there have been ongoing licensing breaches

- appoint an interim site manager to run the site in the short to medium term if the council decides to revoke a site licence (an interim manager is appointed by a sheriff, on application from the council)
- carry out work on a site urgently (whether or not the site has a licence) in emergency situations.

Some breaches of legislation are offences. For example, running a site without licence is an offence and on conviction the site owner could be fined up to £50,000.

A full description of the enforcement powers are available in [Chapter 7 of the Scottish Government guidance](#).¹⁵

If any residents are concerned about the way the site is being managed they should report the matter in writing (by letter or email) to the council which issued the licence.

Scottish Parliament consideration of mobile homes site licensing

In the previous Scottish Parliament session, in January 2021, [the Local Government and Communities Committee issued a call for views](#) about the effectiveness of the current licensing system for static mobile homes parks and how well it protects permanent residents.

[An analysis of the responses to the call for views](#) provides this summary of the main issues:

“ The vast majority of respondents were people who lived in static mobile homes. And they were not happy with the way legislative oversight of permanent residents in mobile homes operates. However, there was widespread confusion about the issues which could be addressed via the licensing system. Many comments related to issues which could more properly be considered consumer rights. The main concerns about the licensing system (which were shared by councils and organisational respondents) were:

- lack of enforcement of licensing requirements (although council and legal respondents blamed this on poorly drafted legislation)”
- the problem of enforcement where permanent residents lived in parks designated for holiday use only”
- the fit and proper person test – and its failure to weed out unscrupulous site owners”
- the lack of opportunity for permanent residents to feed their views into licensing decisions.”

In addition, council and legal respondents highlighted:

- the practical difficulties in applying the two-stage decision-making process contained in the legislation”
- their inability to get information from bodies like Police Scotland and the Scottish Fire and Rescue Service because they were not statutory consultees.”

The main concerns around consumer rights for mobile home owners were:

- the unfairness of allowing site owners to take 10% commission on mobile home sales”
- ongoing overcharging for utilities”
- the need for a tribunal to deal with enforcement of consumer rights, such as the rights from the Mobile Homes Act 1983.”

“Grandfather” planning rights were also highlighted as a problem. That is, current development under planning permissions granted many years ago, without the requirement to apply modern standards.”

Scottish Parliament Local Government and Communities Committee, 2021¹⁰

The Committee did not have any time to continue any work in this area prior to the 2021 Scottish Parliament elections but referred to it in its legacy paper.¹⁷

The Scottish Government also plans to carry out a post-implementation review of the residential mobile homes site licensing scheme, [as recommended by the Local Government and Communities Committee](#), before the end of this Parliament.

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