Draft Regulations laid before Parliament under section 12E(4) of the Caravan Sites and Control of Development Act 1960, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2020 No.

MOBILE HOMES, ENGLAND

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 12A to 12D and 12E(1) and (2) of the Caravan Sites and Control of Development Act 1960(**a**).

In accordance with section 12E(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

(2) The following provisions come into force on 1st July 2021—

(a) this regulation and regulations 2, 3, 5 to 10 and 14;

(b) Schedules 1 to 4.

(3) The following provisions come into force on 1st October 2021—

(a) regulations 4 and 11 to 13;

(b) Schedule 5.

(4) These Regulations apply in relation to land in England only.

Interpretation

2. In these Regulations—

"applicant" means the person who makes an application under regulation 6;

"final decision" means a decision under regulation 6(2);

"non-commercial family-occupied site" has the meaning given in regulation 3;

"register" means a register established under regulation 5(2);

"registration application" means an application under regulation 6(1);

(**a**) 1960 c. 62 (8 and 9 Eliz. 2). Sections 12A to 12E were inserted by section 8 of the Mobile Homes Act 2013 (c. 14).

"relevant person" means the subject of the fit and proper person assessment under regulation 7;

"relevant local authority" means, in relation to land that is, or is proposed to be, used as a relevant protected site(**a**), the local authority(**b**) in whose area the site is situated;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**c**) in England and Wales.

Meaning of "non-commercial family-occupied site"

3.—(1) In these Regulations "non-commercial family-occupied site" means a relevant protected site—

(a) on which each caravan stationed on a permanent pitch and used as a permanent residence is so used only by—

(i) the occupier(**d**) or the occupier and one or more members of the occupier's family; or

(ii) a member of the occupier's family ("F") or F and one or more members of F's family; and

(b) which is not operated on a commercial basis.

(2) For the purposes of paragraph (1)(a)—

(a) "caravan used as a permanent residence" means, in relation to a person ("P"), that P occupies the caravan as P's only or principal home;

(b) "permanent pitch" has the same meaning as in paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to the Mobile Homes Act 1983(e);

(c) a person is a member of the same family as another person if–

(i) those persons are married to each other, in a civil partnership or live together as if they were married or in a civil partnership;

(ii) one of them is a relative of the other; or

(iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

(3) For those purposes—

(a) a "couple" means two persons who are married to each other or otherwise fall within paragraph (2)(c)(i);

(b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;

(c) a relationship of the half-blood is to be treated as a relationship of the whole blood; and

(d) the stepchild or adopted child of a person ("P") is to be treated as P's child.

(4) For the purposes of paragraph (1)(b), a relevant protected site is operated on a commercial basis if—

(a) the amount which any person is required to pay the occupier of the site in respect of—

(i) the right to station a caravan on the site and the use of the common areas of the site; or

(ii) the right to reside in a caravan on the site and the use of the common areas of the site,

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(**a**) See the definition of "relevant protected site" in section 5A(5) of the Caravan Sites and Control of Development Act 1960.
(**b**) See the definition of "local authority" in section 29(1) of the Caravan Sites and Control of Development Act 1960.
(**c**) 1971 c. 80.
(**d**) See the definition of "occupier" in section 1(3) of the Caravan Sites and Control of Development Act 1960.
(**e**) 1983 c. 34. Chapter 1 of Part 1 of Schedule 1 to the Act was inserted, in relation to England and Wales, by S.I. 2011/1003.

exceeds a fair contribution towards the relevant costs; or

(b) the total amount payable to the occupier in respect of the rights mentioned in sub-paragraph (a)(i) and (ii) exceeds the relevant costs.

(5) For those purposes, "relevant costs" means the total of—

(a) any amount which the occupier is liable to pay as regards the site by way of a non-domestic rate under Part 3 of the Local Government Finance Act 1992(**a**);

(b) any council tax for which the occupier is liable in respect of any caravan situated on the site (other than a caravan in which the occupier resides);

(c) any council tax for which the occupier is liable in respect of any dwelling situated on the site that is not a caravan (other than a dwelling in which the occupier resides); and

(d) the occupier's reasonable costs of repairs, maintenance and insurance in respect of the site.

Requirement for fit and proper person

4.—(1) An occupier of land may not cause or permit any part of the land to be used as a relevant protected site other than a non-commercial family-occupied site unless the relevant local authority—

(a) are satisfied that the occupier is a fit and proper person to manage the site;

(b) are satisfied that a person appointed by the occupier to manage the site is a fit and proper person to do so; or

(c) have, with the occupier's consent, appointed a person to manage the site.

(2) A local authority may only appoint a person to manage a site if the local authority are satisfied that the person is a fit and proper person to do so.

Register of fit and proper persons

5.—(1) This regulation applies to any local authority that has determined an application under regulation 6.

(2) The local authority must—

(a) establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area;

(b) make the register open to inspection by members of the public at the offices of the local authority during normal office hours; and

(c) publish the register online.

(3) The local authority must include in the register the information prescribed in Schedule 1.

(4) A person's inclusion in the register has effect for such period as the local authority may decide, but that period must not exceed 5 years.

(5) The information prescribed in paragraph 4 of Schedule 1 in respect of a site to which a rejected application relates must be included in the register until such time as information relating to the site is included in the register under paragraph 2 or 3 of Schedule 1.

Application for inclusion in register

6.—(1) An application for the inclusion of a person in the register by the relevant local authority may be made by the occupier of land in the local authority's area that is, or is proposed to be, used as a relevant protected site in the local authority's area that—

(**a**) 1988 c. 41.

(a) holds a licence in respect of the site under section 1 of the Caravan Sites and Control of Development Act 1960 ("a site licence"); or

(b) has applied for a site licence in respect of the site under section 3 of that Act.

(2) On such an application the local authority may—

(a) grant the application unconditionally;

(b) grant the application subject to conditions; or

(c) reject the application.

(3) A registration application must include the matters listed in Schedule 2.

Fit and proper person assessment

7.—(1) In making a fit and proper person assessment in relation to land that is used, or is proposed to be used, as a relevant protected site, a local authority—

(a) must have regard to the matters specified in paragraphs 2 to 4 of Schedule 3;

(b) may have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be); and

(c) may have regard to any evidence as to any other relevant matters.

(2) In this regulation, "making a fit and proper person assessment" means—

(a) considering a registration application; or

(b) deciding whether it is appropriate to appoint a person as the manager of a site.

Removal from register, variation of conditions etc.

8.—(1) Where a person is included in the register, the local authority may in the circumstance prescribed in paragraph (2)—

(a) remove the person from the register;

(b) impose a condition on the inclusion of the person in the register (whether or not there are conditions imposed by virtue of regulation 6(2)(b)); or

(c) vary or remove a condition imposed by virtue of regulation 6(2)(b) or this regulation.

(2) The circumstance is that, after the person was included in the register, new evidence relevant to the person's inclusion in the register becomes available.

Further provision about decisions under regulations 6(2) and 8(1)

9. Schedule 4 makes further provision about decisions under regulations 6(2) and 8(1).

Fees etc.

10.—(1) A registration application must be accompanied by such fee as the local authority may fix.

(2) The conditions which may be imposed by virtue of regulation 6(2)(b) may include conditions requiring additional payments to be made to the local authority by way of annual fee.

(3) The local authority may decide the amount and frequency of any additional payments required by way of annual fee.

(4) A local authority must prepare and publish a fees policy.

(5) When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee the local authority—

(a) must act in accordance with their published fees policy;

(b) may fix different fees for different cases or descriptions of case; and

(c) may determine that no fee is required to be paid in certain cases or descriptions of case.

(6) A local authority may revise their fees policy and, where they do so, must publish the revised policy.

(7) Where the local authority have, with an occupier's consent, appointed a person to manage a site, the local authority may recover from the occupier the reasonable costs incurred or to be incurred in making the appointment.

Offence of contravention of fit and proper person requirement

11.—(1) An occupier of land commits an offence if the occupier contravenes regulation 4(1).

(2) In proceedings against an occupier for an offence under paragraph (1) it is a defence that—

(a) a circumstance specified in column two of the table at paragraph 2 of Schedule 5 applies and at the material time—

(i) the relevant period for making a registration application in that circumstance specified in column three of that table ("relevant period") had not come to an end; or

(ii) an application under regulation 6 had been duly made within the relevant period and was still effective and the relevant person continues to occupy or manage the site as applicable; or

(b) the occupier—

(i) became the occupier of the land by operation of law; and

(ii) had a reasonable excuse for failing to make an application under regulation 6 within the relevant period.

(3) An occupier of land guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

(4) In this regulation—

"effective" means, in relation to an application, that—

(a) it has not been withdrawn;

(b) and either—

(i) a final decision notice has not been served on the applicant;

(ii) the period for appealing against the final decision, or against any relevant decision of the First-Tier Tribunal, has not expired; or

(iii) where an appeal has been brought against the final decision, or against any relevant decision of the First-tier Tribunal, the appeal has not been finally determined or withdrawn;

"final decision notice" has the meaning given in Schedule 4;

"relevant decision" means a decision which is given on an appeal to the First-tier Tribunal and confirms the local authority's decision (with or without variation).

Other offences under these Regulations

12.—(1) An applicant commits an offence if the applicant—

(a) withholds information from a registration application; or

(b) includes false or misleading information in a registration application.

(2) An occupier of land commits an offence if the occupier fails to comply with a condition—

(a) imposed under regulation 6(2)(b); or

(b) imposed by virtue of regulation 8(1).

(3) Paragraph (4) applies where—

(a) a condition requires a person to fulfil a particular function; and

(b) the occupier has appointed a person ("P") to fulfil the function but P has ceased to fulfil the function.

(4) In proceedings against an occupier for an offence under paragraph (2) it is a defence that—

(a) the occupier notified the relevant local authority within the period of 28 days beginning with the day after the relevant day; and

(b) at the material time the occupier was taking all reasonable steps to try to comply with the condition.

(5) In proceedings against an occupier for an offence under paragraph (2) it is a defence that, at the material time—

(a) the period for appealing against the decision to impose or vary the condition (or against any relevant decision of the First-Tier Tribunal) has not expired; or

(b) that an appeal has been brought against the decision to impose or vary the condition (or against any relevant decision of the First-tier Tribunal) and the appeal has not been finally determined or withdrawn.

(6) An occupier of land guilty of an offence under paragraph (1) or (2) is liable on summary conviction to a fine.

(7) In this regulation—

"relevant day" means the later of—

(a) the day on which the person ("P") that the occupier had appointed to fulfil the function ("P") ceased to do so; and

(b) the day on which the occupier had knowledge that P had ceased to fulfil the function, or, if earlier, the day on which the occupier would have had that knowledge if the occupier had taken all reasonable steps to ensure compliance with the condition;

"relevant decision" has the meaning given in regulation 11(4);

"the decision to impose the condition" means—

(a) the decision under regulation 6(2)(b) to grant the application subject to the condition;

(b) the decision to impose the condition by virtue of regulation 8(1).

Revocation of site licence

13.—(1) Where an occupier of land who holds a site licence in respect of that land contravenes regulation 4(1), the First-tier Tribunal may, on application by the relevant local authority, make an order revoking the site licence in question on the day specified in the order.

(2) Where—

(a) an occupier of land who holds a site licence in respect of that land is convicted of an offence under regulation 11(1); and

(b) has been convicted on two or more previous occasions of the offence in relation to the land,

the court before which the occupier is convicted may, on application by the relevant local authority, make an order revoking the site licence in question on the day specified in the order.

Transitional provision

14.—(1) Paragraph (2) applies if a local authority includes a person's information in the register before the day on which regulation 4 comes into force ("the implementation day").

(2) The entry in the register has effect on the implementation day.

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

Name
Minister of State
Date Ministry of Housing, Communities and Local Government

SCHEDULE 1

Regulation 5(3)

Information in the register

Interpretation

1. In this Schedule—

"business contact details" means, in relation to a person, the address, telephone number and email address (if any) at which the person may be contacted in relation to business concerning the site;

"relevant protected site" includes a proposed relevant protected site;

"status of the person" means, in relation to a relevant protected site, whether the person is—

(a) the occupier of the site;

(b) a person appointed by the occupier to manage the site; or

(c) a person appointed by the local authority to manage the site.

Information that must be included in respect of an application which is granted

2. The relevant local authority must include the following information in the register—

(a) the name and business contact details of the person;

(b) the name and address of the relevant protected site to which the application relates;

(c) the status of the person;

(d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;

(e) whether any condition is attached to the person's inclusion in the register; and

(f) where any condition is attached to the person's inclusion in the register—

(i) the number of any such conditions;

(ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and

(iii) the date any condition is varied or satisfied (if applicable).

Information that must be included in respect of a local authority appointee

3. Where a relevant local authority have, with the occupier's consent, appointed a person to manage a relevant protected site, the local authority must include the following information in the register—

(a) the name and business contact details of the person;

(b) the name and address of the site which the person has been appointed to manage;

(c) the status of the person;

(d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;

(e) whether any condition is attached to the person's inclusion in the register; and

(f) where any condition is attached to the person's inclusion in the register—

(i) the number of any such conditions;

(ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and

(iii) the date any condition is varied or satisfied (if applicable).

Information that must be included in respect of an application which is rejected

4. Where an application is rejected, the local authority must include the following information in the register—

(a) the name and address of the site to which the application relates;

(b) that an application in respect of the site has been rejected; and

(c) the date on which the application was rejected.

SCHEDULE 2

Regulation 6(3)

Matters to be included in a registration application

Interpretation

1. In this Schedule—

"business contact details" means in relation to a person, the address, telephone number and email address (if any) at which the person may be contacted in relation to business concerning the site;

"relevant officer" means—

(a) where the applicant is a company, a director or other officer of the company;

(b) where the applicant is a partnership, a partner;

(c) where the applicant is a body corporate the conduct of the management of which is vested in its members, a member;

(d) where the applicant is a body not falling within sub-paragraphs (a), (b) or (c), a member of the management committee;

"required information" means the information listed in paragraph 13;

"site" (other than in the phrase "relevant protected site") means the relevant protected site or proposed relevant protected site in respect of which the application is made.

Details of the site and the applicant

2. The applicant's name and business contact details.

3. Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer—

(a) the person's name;

(b) details of the person's role (if any) in relation to the management of the site.

4. The name and address of the site.

5. Evidence of the applicant's legal estate or equitable interest in the site.

6. Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.

7. The name and business contact details of any other person that has a legal estate or equitable interest in the site.

8. The name and address of each other relevant protected site—

(a) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;

(b) in which the applicant has a legal estate or equitable interest; or

(c) that the applicant manages.

9.—(1) Whether the application for inclusion in the register is made in respect of—

(a) the applicant; or

(b) a person that the applicant has appointed to manage the site,

and the status of the relevant person in relation to the site.

(2) In sub-paragraph (1), "status of the relevant person" means, in relation to a site, whether the relevant person is—

(a) the occupier;

(b) a person appointed to manage the site by the occupier.

Information relating to the site manager

10.—(1) This paragraph applies where the applicant is not the relevant person.

(2) The required information relating to the person that the applicant has appointed to manage the site ("site manager").

(3) Sub-paragraphs (4) and (5) apply where the site manager is not an individual.

(4) The following information in relation to each relevant officer of the site manager—

(a) the person's name;

(b) details of the person's role (if any) in relation to the management of the site.

(5) The required information relating to the following persons—

(a) the individual ("A") that the site manager has appointed or intends to appoint to be responsible for the day-to-day management of the site;

(b) where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site.

Additional information required where applicant is relevant person and an individual

11.—(1) This paragraph applies where the applicant is the relevant person and is an individual.

(2) The required information relating to the following persons—

(a) the person ("B") (if any) that the applicant has appointed or intends to appoint to be responsible for the day-to-day management of the site;

(b) where B is not an individual, the individual ("C") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site;

(c) where C is not a relevant officer of B, the relevant officer to whom C is accountable for the day-to-day management of the site.

Additional information required where applicant is relevant person and not an individual

12.—(1) This paragraph applies where the applicant is the relevant person but is not an individual.

(2) The required information relating to the following persons—

(a) the person ("B") that the applicant has appointed or intends to appoint to be responsible for the day-to-day management of the site;

(b) where B is not a relevant officer of the applicant, the relevant officer to whom B is accountable for the day-to-day management of the site;

(c) where B is not an individual, the individual ("C") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site;

(d) where C is not a relevant officer of B, the relevant officer to whom C is accountable for the day-to-day management of the site.

Additional information required – any other person involved in the management of the site

13. The required information relating to any person involved or proposed to be involved in the management of the site in relation to whom the requirements to provide information under paragraphs 10, 11 and 12 do not apply.

Required information

14. The information is—

(a) the person's name and business contact details;

(b) details of the person's role or proposed role in relation to the management of the site;

(c) where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application;

(d) details of each relevant protected site (other than that to which the registration application relates)—

(i) for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;

(ii) in which the person has a legal estate or equitable interest; or

(iii) that the person manages.

Criminal record certificate

15. A criminal record certificate issued under section 113A(1) of the Police Act 1997(**a**) no more than six months before the date of the application in respect of—

(a) where the relevant person is an individual, the relevant person; and

(b) each individual in relation to whom the applicant is required to provide information under paragraph 10(2) or (5), 11 or 12.

Information about specified matters

16. Information as to the matters specified in Schedule 3.

Declaration

17.—(1) A declaration made and signed by the appropriate person that—

(a) where the applicant is not the relevant person, the applicant has made all reasonable enquiries into the matters mentioned in paragraph 9 and Schedule 3 relating to the relevant person; and

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(**a**) 1997 c. 50. Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 1995 (c. 15). Subsection (1) was amended by section 112(2) of, and Part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26), section 80(1) of the Protection of Freedoms Act 2012 (c. 9) and S.I. 2012/3006.

(b) that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

(2) In this paragraph "the appropriate person" means—

(a) where the applicant is a company, a director or other officer of the company;

(b) where the applicant is a partnership, one of the partners;

(c) where the applicant is a body corporate the conduct of the management of which is vested in its members, a member;

(d) where the applicant is a body not falling within paragraph (a), (b) or (c), a member of the management committee;

(e) where the applicant is an individual, that individual.

SCHEDULE 3

Regulation 7(1)(a)

Considerations relevant to fit and proper person assessment

Interpretation

1. In this Schedule, "site" means the relevant protected site or proposed relevant protected site in relation to which the application is made.

Ability to secure the proper management of the site

2.—(1) Whether the relevant person is able to secure the proper management of the site.

(2) For the purposes of sub-paragraph (1)—

(a) "proper management of the site" includes, but is not limited to, securing—

(i) compliance with the site licence; and

(ii) the long-term maintenance of the site; and

(b) in considering whether the relevant person is, or would be, able to secure the proper management of the site, the local authority must (among other things) have regard to—

(i) whether the relevant person has a sufficient level of competence to manage the site; and

(ii) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other considerations – relevant person

3.—(1) Whether the relevant person—

(a) has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);

(b) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;

(c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;

(d) has harassed any person in, or in connection with, the carrying on of any business;

(e) is, or has been within the past 10 years, personally insolvent;

(f) is, or has been within the past 10 years, disqualified from acting as a company director;

(g) has the right to work in the United Kingdom; and

(h) is a member of any redress scheme for dealing with complaints in connection with the management of the site.

(2) Where any other local authority has rejected an application for the relevant person to be included in a register, the local authority's reasons.

Other considerations – responsible persons

4.—(1) Sub-paragraphs (2) and (3) apply where the relevant person is not an individual.

(2) Whether any person who is a responsible person—

(a) has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);

(b) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;

(c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;

(d) has harassed any person in, or in connection with, the carrying on of any business;

(e) is, or has been within the past 10 years, personally insolvent;

(f) is, or has been within the past 10 years, disqualified from acting as a company director; and

(g) has the right to work in the United Kingdom.

(3) Where any other local authority has rejected an application for the responsible person to be included in a register, the local authority's reasons.

(4) In this paragraph, "responsible person" means a person in relation to whom the applicant is required to provide information under paragraph 10(2) or (5), 11 or 12 of Schedule 2.

SCHEDULE 4

Regulation 9

Further provision about decisions under regulations 6(1) and 8(1)

Interpretation

1. In this Schedule—

"final decision notice" means a notice that complies with paragraph 5(2);

"notice of action" means a notice that complies with paragraph 7(3);

"notice of proposed action" means a notice that complies with paragraph 6(2);

"preliminary decision notice" means a notice that complies with paragraph 3.

Decisions a local authority may make on an application

2. As soon as reasonably practicable after an application is made under regulation 6, the local authority must make a decision on the application and either—

(a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant; or

(b) otherwise, serve a preliminary decision notice on the applicant.

Preliminary decision

3. The preliminary decision notice must set out—

(a) the date the preliminary decision notice is served;

(b) the preliminary decision;

(c) the reasons for it;

(d) the date it is proposed that the final decision will have effect;

(e) information about the right to make written representations under paragraph 4(1);

(f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulation 4(1); and

(g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

Right to make representations

4.—(1) An applicant who receives a preliminary decision notice or an occupier who receives a notice of proposed action may, within the period of 28 days beginning with the day after the day on which the notice was served, make written representations to the authority.

(2) The local authority must take any such representations into account before—

(a) making a final decision under paragraph 5(1)(a); or

(b) taking any of the actions specified in regulation 8(1).

Final decision

5.—(1) Where paragraph 2(b) applies, the local authority must, as soon as reasonably practicable after the end of the period mentioned in paragraph 4(1)—

(a) make a final decision; and

(b) serve a final decision notice on the applicant.

(2) The final decision notice must set out—

(a) the date the final decision notice is served;

(b) the final decision;

(c) the reasons for it;

(d) when the decision is to take effect;

(e) information about—

(i) the right of appeal under paragraph 9; and

(ii) the period within which an appeal may be made;

(f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulation 4(1); and

(g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

Notice of proposed action

6.—(1) Before taking any of the actions specified in regulation 8(1) (other than action in respect of the removal of a condition) the local authority must serve a notice of proposed action on the occupier.

(2) The notice of proposed action must set out—

(a) the date the notice of proposed action is served;

(b) the action the local authority proposes to take;

(c) the reasons for it;

(d) the date it is proposed that the local authority will take the action;

(e) unless the notice of proposed action is in respect of the removal of a condition, information about the right to make written representations under paragraph 4(1);

(f) where the proposed action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulation 4(1); and

(g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

Notice of action

7.—(1) Where a notice of proposed action is given, the local authority must, as soon as reasonably practicable after the end of the period mentioned in paragraph 4(1) decide whether or not to take the action proposed.

(2) Where the local authority takes an action mentioned in regulation 8(1)(a), (b) or (c) the local authority must serve a notice of action on the occupier within the period of 5 working days beginning with the day after the day on which the action was taken.

(3) The notice of action must set out—

(a) the date the notice of action is served;

(b) the fact that they have taken the action;

(c) the reasons for doing so;

(d) the date the action was taken;

(e) unless the notice of action is in respect of the removal of a condition, information about—

(i) the right of appeal under paragraph 9; and

(ii) the period within which an appeal may be made;

(f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulation 4(1); and

(g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

Withdrawal or amendment of notice

8.—(1) The local authority may withdraw or amend—

(a) a preliminary decision notice before service of the final decision notice;

(b) a final decision notice before the decision to which it relates takes effect; or

(c) a notice of proposed action before the proposed action is taken.

(2) The power in sub-paragraph (1) is to be exercised by serving notice on the person on whom the original notice was served.

Appeals

9.—(1) A person on whom a final decision notice is served may appeal to the First-tier Tribunal against—

(a) any decision to include the relevant person on the register for an effective period of less than 5 years;

(b) any decision to include the relevant person on the register subject to conditions; and

(c) any decision to reject the application.

(2) A person on whom a notice of action is served may appeal to the First-tier Tribunal against—

(a) any decision to remove the relevant person from the register;

(b) any decision to impose a condition on the inclusion of the relevant person in the register; and

(c) any decision to vary a condition.

(3) No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority—

(a) making a final decision; or

(b) taking an action mentioned in regulation 8(1)(a), (b) or (c).

SCHEDULE 5

Regulation 11(2)(a)

Specified circumstances and relevant periods for the purposes of regulation 11(2)(a)

Interpretation

1. In this Schedule—

"in-time application" means an application made in the circumstance specified in any of rows (a) to (h) of the table which is made within the relevant period;

"relevant day" means—

(a) in relation to an application in the circumstance that a person appointed to manage the site no longer does so, the later of the day on which—

(i) the person ("P") ceased to manage the site; and

(ii) the day on which the occupier had knowledge that P had ceased to manage the site, or, if earlier, the day on which the occupier would have had that knowledge if the occupier had taken all reasonable steps to ensure compliance with regulation 4(1);

(b) in relation to a local authority's decision to remove a person from the register—

(i) the day after the day on which the notice of action was served; or

(ii) where an appeal was brought against the notice of action, the day after the day on which any appeal against such a decision or against any relevant decision of the First-tier Tribunal was finally determined;

(c) in relation to a rejected application;

(i) the day after the day on which the final decision notice was served; or

(ii) where an appeal was brought against the final decision, the day after the day on which any appeal against such a decision or against any relevant decision of the First-tier Tribunal was finally determined;

"notice of action" and "final decision notice" have the meaning given in paragraph 1 of Schedule 4.

Specified circumstances and relevant periods for the purposes of regulation 11(2)(a)

2.

Row	*Circumstance*	*Relevant period for making an application in the circumstance*
(a)	the occupier held a site licence immediately before the day on which regulation 4 came into force	before the day on which regulation 4 came into force
(b)	the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a)	not less than two months before the end of the period of the person's inclusion in the register
(c)	at the time that the occupier became entitled to	within the period of 3 months

	possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6	beginning with the day after the day on which the person became the occupier of the land
(d)	at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row (c)	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
(e)	a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
(f)	a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row (e)	within the period of 28 days beginning with the day after the relevant day
(g)	the breach of regulation 4(1) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 in relation to the site	within the period of 3 months beginning with the relevant day
(h)	the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row (g)	within the period of 28 days beginning with the relevant day
(i)	the breach of regulation 4(1) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	within the period of 3 months beginning with the relevant day
(j)	the breach of regulation 4(1) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row (i)	within the period of 28 days beginning with the relevant day

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prohibit the use of land as a residential mobile homes site ("site") unless the local authority is satisfied that the occupier is a fit and proper person to manage the site; a person appointed by the occupier to manage the site is a fit and proper person to do so; or have, with the occupier's consent, appointed a fit and proper person to manage the site. They also make related provision.

Regulation 4 sets out the prohibition described above. It applies to all relevant protected sites apart from non-commercial family-occupied sites. Relevant protected site is defined in section 5A(5) of

the Caravan Sites and Control of Development Act 1960. Non-commercial family-occupied site is defined in regulation 3.

Regulation 5 and Schedule 1 provide for the establishment by a local authority of a register of persons that they are satisfied are fit and proper persons to manage a site in their area ("register"), the information that must be included in the register, the length of time an entry in the register has effect and inspection of the register.

Regulation 6 and Schedule 2 specify the requirements for making an application for inclusion on the register and the decisions the local authority may make on such an application.

Regulation 7 and Schedule 3 specify the matters to which a local authority must or may have regard when making a fit and proper person assessment. They must have regard to the matters relating to the person in question specified in Schedule 3, but they may also have regard to any other relevant matters, including the conduct of any associate.

Regulation 8 makes provision for removal of a person from the register and variation of conditions of inclusion in the register.

Regulation 9 and Schedule 4 provide for the procedure that a local authority must follow in making a decision on an application under regulation 5 or for taking action under regulation 8 to remove a person from the register or vary conditions of inclusion in the register. Paragraph 8 of Schedule 4 gives a right of appeal in respect of such decisions.

Regulation 10 provides that a local authority may charge an application fee and annual fee for inclusion on the register in accordance with a published fees policy. Paragraph (7) also enables a local authority to recover, from an occupier, their reasonable costs incurred in appointing a person to manage a site, with the occupier's consent.

Regulation 11 provides that operating a site in contravention of the prohibition set out in regulation 4 is an offence, for which a person would be liable on summary conviction to an unlimited fine. Paragraph (2) and Schedule 5 specify the relevant defences.

Regulation 12 sets out other offences under these Regulations. Paragraph (1) provides that an occupier commits an offence if the occupier withholds information from or includes false or misleading information in a registration application. Paragraph (2) provides for an offence of failure to comply with a condition attached to an entry in the register. A person is liable on summary conviction for either or these offences to an unlimited fine. Paragraphs (4) and (5) set out defences to the paragraph (2) offence.

Regulation 13 makes provision for revocation of a site licence where there has been a contravention of regulation 4(1) by the licence holder. Paragraph (1) gives the First-tier Tribunal the power to revoke a site licence on application by the local authority. Paragraph (2) applies if the licence holder is convicted of the offence of contravening regulation 4(1) and has been convicted of the same offence in relation to the site on two or more previous occasions. In such a case the court before which the licence holder is convicted may, on the application of the local authority, revoke the site licence.

Regulation 14 is a transitional provision that applies if a local authority includes a person on the register before regulation 4 comes into force ("the implementation date"). It provides that such an entry becomes effective on the implementation date.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

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