



**Northern Ireland  
Assembly**

## **Research and Library Service Research Paper**

---

21 May 2010

**Matthew Davies**

# **The Caravans Bill**

**NIAR 27**

This paper considers the issues surrounding the introduction of a private member's Bill to bring Northern Ireland into line with the rest of the UK in respect of rights and responsibilities of holiday and residential caravan owners and caravan site owners.



## Key Points

The primary purpose of The Caravans Bill is to provide improved legal protection for persons who own static holiday caravans and permanent residential “park home” caravans. The proposed Bill draws and expands upon the provisions of the *Mobile Homes Act 1983*. It is the aim of the proposed legislation to bring Northern Ireland (NI) in line with jurisdictions in Great Britain with regard to Residential sites and to update and refine the *Mobile Homes Act 1983*, thereby making it fit for purpose in a NI context.

The current legislation in NI regarding caravans is the *Caravans Act (NI) 1963*. It contains no specific statutory provision regulating or safeguarding caravan owners in NI. Critically the legislation is silent on the issue of security of tenure for residents who use their caravan as a main residence (park homes) and places no requirement on site owners to provide written agreements for the owners of long term holiday caravans or residents of park homes.

There have been concerns that the unregulated nature of the relationship between both caravan and park home owners, and site owners disproportionately disadvantages the former in exercising their consumer rights and thus leaves them potentially open to exploitation by more unscrupulous site owners.

It is a key aim of the proposed Bill therefore to ensure that caravan owners, whether seasonal or permanent residents will be provided with a written contract. This document should contain the express terms set out within the Bill and any further subordinate legislation from the Department for Social Development. In the case of park homes further implied terms are to be included also.

The legislation will also provide protection to residential occupiers against eviction and harassment. This is achieved through the creation of a series of offences engaged if a site owner interferes with the peace or comfort of the occupier and persons living with the occupier; if the site owner breaches the occupier’s contracted right of residence during or after the contract term; or persistently withdraws services or facilities.

The legislation also aligns the definition of caravan with that utilised in England and Wales for both the purposes of this Bill and the *Caravans Act (NI) 1963*.

# Contents

- 1 Introduction .....5
- 2 Background .....5
- 3. Current Situation in NI.....6
  - 3.1 Legislation .....6
  - 3.2 Guidance .....7
  - 3.3 Court Decisions.....7
  - 3.4 Northern Ireland Assembly Debates .....7
- 4. Legislation in Great Britain .....8
  - 4.1 England & Wales.....8
  - 4.2 Scotland .....8
- 5. The Consultations .....9
  - 5.1 The Initial Consultation.....9
  - 5.2 The Second Consultation based upon a draft of the Bill .....10
- 6. Purpose of the Bill .....10
- 7. Overview of the Bill.....10
- 8. Options Considered .....13
- 9. Costs .....14
- 10. Human Rights and Equality Impact Assessment .....14
- 11. Regulatory Impact Assessment .....14

## 1 Introduction

Caravan owners in Northern Ireland (NI) currently do not enjoy the same statutory rights as their counterparts in England, Scotland or Wales. The pieces of legislation which pertain to the ownership of Caravans in Great Britain are the *Mobile Homes Act 1983*, as amended by the *Housing Act 2004*, s 206(1) in England and Wales, and Section 167 of the *Housing (Scotland) Act 2006* s.167 in Scotland. These legislative devices articulate the rights of caravan owners who use a caravan as their main or only residence. Those rights include security of tenure, the right to sell a mobile home on the site, the right to pass a mobile home on within the family, and rights of inheritance.

The proposed Bill introduces statutory provisions similar to those existent within Great Britain for those members of the public who use a caravan as their sole or primary residence on land which has been formally approved with a licence for that purpose. This includes a right to a written contract and security of tenure.

The Bill also expands upon the provisions within Great Britain in offering protection for caravan owners within seasonal sites through the introduction of a requirement that site owners provide written agreements enunciating the terms of the contract to all caravan owners on their property.

Finally, the Bill intends to provide a definition of Caravans which matches the one in England and Wales. This will apply to previous NI legislation in this area.

## 2 Background Issues

Caravans which are used as a main or sole residence are also predominantly known as park homes. Most residents own the structure of the home and pay the site owner a rent (the 'pitch fee') for its occupation and the services which the site owner provides. These include maintenance of the common areas of the site and for the services provided thereon. While park homes are a relatively new phenomenon within NI, they are an attractive housing choice for groups such as the elderly who are looking to free up equity from property and meet the housing needs of other groups. Park homes greatly vary in size and condition. Some resemble bungalows while others are closer in appearance to traditional caravans. The structures alone may cost anything from around £10,000 to more than £250,000.<sup>1</sup>

Issues arise in this area because residents do not own the land on which their home resides. Therefore, paradoxically they are legally classified as homeowners by virtue of their ownership of the structure even though they are not owners of the land in the full sense. The outcome is that permanent park home residents enjoy less protection under the law than those in rented property as their enforceable rights against the site owner are limited.

The lack of legal protection gives rise to issues such as fear of eviction at short notice, a lack of clarity regarding the rights to sell a park home on site and creates ambiguous implications for inheritance. During the Private Members Motion debate in the Assembly on the 4<sup>th</sup> June 2007, the case of the Seahaven Caravan Park was particularly prominent within discussions as a change in the site ownership had thrown into question the informal and verbal agreements which had previously existed. Replacement agreements with substantial and

---

<sup>1</sup> Communities and Local Government website: Park homes: key facts and figures.  
<http://www.communities.gov.uk/housing/buyingselling/parkmobile/>

potentially onerous requirements were being pressured upon residents.<sup>2</sup> Within that debate the current situation in NI was equated with 'monopolistic behaviour'<sup>3</sup> by two Members.

In terms of caravan owners on sites either licensed for holiday purposes or open part of the year, there has been widespread and long term concern over the 'absence of written contracts'<sup>4</sup>. This leaves caravan owners largely unaware of their rights and obligations. While the Office of Fair Trading (OFT) recognises that site owners can be separated between 'responsible and less responsible owners' within its guidelines<sup>5</sup> the status quo can result in caravan owners 'facing excessive, unexpected and unexplained increases in annual pitch fees'. Several codes of practice exist from trade associations which establish a minimum standard for membership, but these are not legally enforceable against the site owner. Subsequently consumers' only recourse is through the Courts using consumer protection legislation where they face substantial evidential burdens if no written agreements exist.<sup>6</sup>

### 3 Current situation in Northern Ireland

#### 3.1 Legislation

Current legislative provisions for caravan owners in NI fall under the *Caravans Act (NI) Order 1963*<sup>7</sup> ('the 1963 Act') which is primarily concerned with land usage for caravan sites and the licensing of such sites by district councils. It does not address rights of tenures or agreements between the owners of caravan, mobile homes or park homes and site owners. It would not therefore be an appropriate vehicle for legislation protecting owners of caravans, mobile homes or park home. Therefore, a new Bill is required to include tenancy rights for park home residents.

Section 25(1) of the 1963 Act defines "caravan" as follows:

"Caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place or another (whether by being towed, or being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted but does not include -

- (a) Any railway rolling stock which is for the time being on rails forming part of a railway system for the time being in use as such; or
- (b) Any tent."

The *Unfair Contract Terms Act 1977*<sup>8</sup> is a piece of consumer legislation which applies in NI and would be engaged under the current system where a written contract exists between the caravan owner and site owner. It regulates contracts by restricting the operation and legality of some contract terms, particularly those which seek to limit or exclude liability subject, in some cases, to the test of 'reasonableness.'

A second piece of consumer legislation which would impact those who have written contracts already is the *Unfair Terms in Consumer Contracts Regulations 1999*.<sup>9</sup> This legislation extends the scope of the Unfair Contract Terms Act and includes further types of contract

<sup>2</sup> Hansard Official Report, 'The Rights of Caravan Owners', Monday 4 June 2007  
<http://www.niassembly.gov.uk/record/reports2007/070604.htm#6>

<sup>3</sup> Ibid

<sup>4</sup> The Consumer Council, 'Caravan Park Owners Urged to Trade Fairly' 31/3/2010  
<http://www.consumerline.org/newsroom/news/44/caravan-park-owners-urged-to-trade-fairly/>

<sup>5</sup> Office of Fair Trading, 'Guidance on unfair terms in holiday caravan agreements', September 2005

<sup>6</sup> The Unfair Terms in Consumer Contracts Regulations 1999

<sup>7</sup> [http://www.opsi.gov.uk/RevisedStatutes/Acts/apni/1963/capni\\_19630017\\_en\\_1](http://www.opsi.gov.uk/RevisedStatutes/Acts/apni/1963/capni_19630017_en_1)

<sup>8</sup> Full Act: [http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1977/cukpga\\_19770050\\_en\\_1](http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1977/cukpga_19770050_en_1)

<sup>9</sup> Full regulations: <http://opsi.gov.uk/si/si19992083.htm>

terms which can be ruled ineffective by a Court. It provides a statutory basis in particular for the protection of consumers whose contracts show 'a significant imbalance' of the parties' rights to the detriment of the consumer.

Establishing a case under the latter two pieces of legislation can be much easier and more effective for consumers where a written agreement exists.

### 3.2 Guidance

In November 2005 the Department of Enterprise, Trade and Investment produced a guidance document '*Caravan Holiday Homes, The questions you should ask*'<sup>10</sup>. This guidance was geared towards those people considering buying a caravan holiday home. The advice resulted from a survey of 'park owners and users of local static caravan sites to assess the fairness of trading practices, customer contracts and park rules.'<sup>11</sup> The guidance does not apply to residential park homes.

The two main caravan associations, the National Caravan Council and the British Holiday and Home Parks Association, produced *A Code of Practice for Selling and Siting Holiday Caravans*. The Code sets out the principles of good practice in the operation of parks where these are under private ownership. However, as suggested by its title it is not applicable to caravan owners who occupy them as their main or permanent residences.

The relevance of current guidance and industry codes of practice is piecemeal dependent upon the caravan owner's status; as the owner of a holiday caravan or the permanent resident of a caravan. Guidance for the latter is largely absent.

### 3.3 Court Decisions

In the High Court judicial review, *57 Developments v Department of the Environment for Northern Ireland*<sup>12</sup> Mr Justice Weatherup framed the definition of a caravan by way of the terms established within the 1963 Act. As the statutory definition contained within that legislation refers to the capacity of the structure to be moved from one place to another, the Motor Vehicles (Authorisation of Special Types) Order 1997 made by what is now the Department of Regional Development, authorises the use on roads of motor vehicles and trailers carrying loads where the overall width exceeds 4.3 metres but does not exceed 6.1 metres. This therefore informed the overall definition, meaning that a caravan, for the purposes of the 1963 Act, cannot exceed a width of 6.1 metres.

### 3.4 Northern Ireland Assembly Debates

This issue has been the subject of debate in Northern Ireland for a number of years and was first debated in the Northern Ireland Assembly in June 2007<sup>13</sup>. Concern was expressed then about the lack of protection for caravan owners in Northern Ireland as compared with caravan owners in the rest of the UK, and the then Minister for the Environment was called upon to enact similar legislation to the *Mobile Homes Act 1983*. However, legislation of the type sought was argued not to fall within the power of the Minister and no further proposals resulted.

---

<sup>10</sup> Department of Enterprise, Trade and Investment, '*Caravan Holiday Homes, The questions you should ask.*' <http://www.detini.gov.uk/consumer-pubs-9>

<sup>11</sup> 'Caravan Holiday Home Booklet', On Your Behalf  
[http://www.bbc.co.uk/northernireland/oyb/legal\\_financial/caravan\\_holiday\\_homes.shtml](http://www.bbc.co.uk/northernireland/oyb/legal_financial/caravan_holiday_homes.shtml)  
[2004] NICh 3, 9 February 2004

<sup>13</sup> <http://www.niassembly.gov.uk/record/reports2007/070604.htm#6>

## 4 Legislation in Great Britain

The *Mobile Homes Act 1983* replaced sections 1 to 6 of the *Mobile Homes Act 1975* and applies to privately-owned licensed sites and to sites owned by local authorities. It does not apply to people who rent the mobile home from the site owner or people who use a mobile home or caravan for holiday purposes.

The Act gives rights to all residents who have an agreement with the site owner to allow them to live in their mobile homes on the site as their main residence. These include:

- Security of tenure;
- The right to sell a mobile home on site;
- The right to give a mobile home to a member of the resident's family; and
- Rights concerning the inheritance of the mobile home.

This Act applied retrospectively i.e. regardless of any agreement made prior to enactment of the legislation between the mobile home owner and the site owner or even if the agreement was made under the previous legislation.

### 4.1 England and Wales

The Act was amended in England in October 2006 and in November 2007 in Wales. These changes addressed the provisions regarding Implied Terms. The principal changes were in relation to:

- The termination of agreements;
- Sale of park homes;
- Gift of a home; and
- The re-siting of a home

In addition new terms were introduced on the quiet enjoyment of a pitch; site owners' right of entry to the pitch; terms relating to pitch fee reviews; residents obligations; site owners obligations; and recognition of residents' associations.

Further consultations have been undertaken in England and Wales regarding the best way to resolve disputes between site owners and park home owners, whether that be through county courts; residential property tribunals; or special tribunals.<sup>14</sup> A further consultation report was issued also about Park Home site licensing reform and the potential for a 'fit and proper' person requirement linked to the granting of licenses.<sup>15</sup>

### 4.2 Scotland

The *Housing (Scotland) Act 2006* extends the *Mobile Homes Act 1983* in Scotland by amending aspects of the Act to rebalance the rights of mobile home and site owners on issues around tenancy conditions, security of occupation, and the selling of mobile homes. Another amendment provides rights for renters of park homes and came into force on the 27<sup>th</sup> May 2007. Specific areas which are covered by the Scottish legislation include:

- Ensuring that it is condition and not age which will be taken into account when deciding whether a mobile home is detrimental to a site. Courts may also offer the

---

<sup>14</sup> Department for Communities and Local Government, 2008. A new approach for resolving disputes and to proceedings relating to Park Homes under the *Mobile Homes Act 1983* (as amended). A consultation paper. <http://www.communities.gov.uk/documents/housing/pdf/parkhomesdisputes>

<sup>15</sup> Department for Communities and Local Government, 2010 '[Park Homes Licensing Reform](#): The way forward and next steps'

park home owners the chance to undertake repairs where it is reasonably practicable to rectify the effects.

- Giving Scottish Ministers the power to amend by order the implied terms of the Mobile Homes Act 1983<sup>16</sup>.
- Amending the Caravan Sites Act 1968 to define it as an offence if services or facilities are persistently withdrawn or if a person interferes with the peace or comfort of the occupier, knowing, or having reasonable cause to believe that such acts will cause the occupier to leave or give up relevant rights.
- Requiring the owner of a protected site to give a proposed occupier a written agreement not later than 28 days before an agreement on letting a stance or the agreement for the sale of the mobile home, whichever is earlier, If the site owner fails to do so, the occupier may apply for a court order requiring it to be done.

## 5 The Consultations

Two separate consultations were undertaken in the course of preparing the proposed Bill. The first was initiated in 2008 prior to drafting instructions being issued, and the second followed the creation of an initial draft of the Bill in 2009.

### 5.1 The Initial Consultation

An initial three month consultation closed on the 11 September 2008. 'During that time 230 interested parties were contacted and made aware of the proposals to update Northern Ireland's legislation'<sup>17</sup> including local councils. John McCallister MLA also 'met with holiday park owners, holiday caravan owners, residential park home site owners, residential park home owners, holiday and residential resident groups, local caravan manufacturers and representatives of the National Caravan Council and British Holiday and Home Parks Association.'<sup>18</sup> Potential difficulties and issues of a contentious nature were raised at this stage. These included:

- The legislation should distinguish between the different contractual arrangements e.g. touring caravans, travelling community etc and to ensure it does not encompass those sectors that do not require additional protection.
- Park Owners need to maintain control of who is accepted on to the park to maintain an appropriate environment for residents.
- The "10 year rule" was deemed completely unfair by all caravan owners who responded. One site owner explained there was a need for this to enhance the park's appearance and to stimulate turnover, particularly where there are a limited number of "prime sites."
- Site fees should be protected from unreasonable increases. The written agreement should identify the annual increase in line with the RPI.
- Caravan owners want to see a restriction on the % commission payable to park owners on sale of the unit.
- Residential rights should not be given to holiday caravan owners where holiday or leisure is specified in the agreement.

<sup>16</sup> Residential Mobile Homes in Scotland. The Scottish Government, 2007.

<sup>17</sup> <http://www.scotland.gov.uk/Publications/2007/11/27135104/0>

<sup>17</sup> 'John Mccallister MLA Private Member's Bill - Draft Caravan Legislation Key Issues Emerging From Consultation.'

<sup>18</sup> Ibid

Mr McCallister pledged to request further research and advice before the Bill was progressed with a view to ensuring ‘adequate protection is in place for site owners and caravan owners alike. Mr McCallister emphasised the need to remain mindful of the need to ‘strike a balance so that the industry is not over-burdened with bureaucracy.’<sup>19</sup>

## The Second Consultation based upon a draft of the Bill

The second consultation on the draft Bill raised several issues. Respondents in general welcomed the notion of extending the *Mobile Homes Act 1983* to NI for residential properties but raised issues where the draft Bill extended beyond the provisions therein. The issues which were raised within this more specific consultation are discussed in terms of the Bill's clauses within Section 7 below.

## 6 Purpose of the Bill

The Caravan Bill is to provide improved legal protection for persons who own static holiday caravans and permanent residential “park home” caravans.

The proposed Bill seeks to provide increased security for those who occupy caravans or mobile homes as their only or main residence through the statutory creation of rights of tenure (Part 1) and protection against eviction and harassment (Part 3).

Provision is also made for the creation of mandatory written agreements between site owners and caravan occupiers who will reside on a seasonal site for a period exceeding 28 days. (Part 2)

Furthermore, the Bill proposes a statutory definition of “caravan” (Part 5) which will bring NI in line with the existing definitions elsewhere in the UK.

The Bill generally seeks to regulate the nature of the relationship between both holiday and residential caravan owners, and site owners. In so doing it seeks to redress the disproportionate advantages some site-owners exercise in the course of running their sites, and codify some aspects of existing industry standards within law.

## 7 Overview of the Bill

The Bill has five parts, totaling seventeen clauses, and a Schedule (in three parts).

### **Part 1: Agreements for residential occupiers on protected sites**

Clauses 1 – 6

This Part seeks to redress the balance of power between site owners and Park home owners and ensures that the latter are able to deal in their property more transparently. It applies to the residential caravan sector and covers any residential agreement made either before or after commencement of the Bill relating to owner-occupiers of caravans who are entitled to station their caravan on a protected site, and occupy it as their only or main residence, for more than three months. It places a requirement on the owners of protected sites to provide caravan owners with written statements with certain express and implied terms covering a range of issues within a specific time period. The part also address issues of inheritance whereby residential agreements continue in effect when ownership of the caravan is lawfully

---

<sup>19</sup> Ibid

assigned or inherited on the death of the owner. Finally, the county court for the site's area will have jurisdiction to hear and make decisions on matters arising from this Part.

Following the consultation on the draft Bill it was felt that a stronger differentiation between 'Static Holiday Parks', 'Residential Parks' and 'Touring Parks' was required to target the Bill's provisions at particular areas rather than covering all caravans. The proposed Bill as introduced to the Assembly reflects this concern through the creation of separate Parts for Residential occupiers on protected sites (Part 1) and occupiers on seasonal (holiday) sites (Part 2).

As some respondents expressed concern regarding the potential for legislation to encompass more temporary and flexible areas of the caravan market such as motor homes or touring caravans, this Part establishes a threshold where the caravan must be occupied as that person's only or main residence 'for a period exceeding 3 months.'<sup>20</sup>

Further concerns were highlighted within the Consultation regarding the timescales proposed to ensure compliance with the provisions of the Bill, given there are 15,000 caravan pitches over 127 caravan parks which would have been potentially impacted. However the differentiation between residential and seasonal sites in the Bill as introduced, means that the more comprehensive agreements including implied terms are only required for residential-type arrangements and these constitute a much smaller section of the market in NI.

There are two areas within this Part which delegate power for subordinate legislation to the Department for Social Development. The first concerns regulations which may insert further express terms into agreements for residential occupiers. These powers are contained in Clauses 2(1)(e); 2(4)(e); & 2(9) and are subject to negative resolution of the Assembly.

The second area is contained within Clause 4, which delegates powers to the Department to amend Parts 1 & 2 of the Schedules to the Bill. To do so would amend the implied terms for residential occupier's agreements. Subordinate legislation emanating from this clause would be subject approval by an affirmative resolution of the Assembly.

## **Part 2: Agreements for occupiers of seasonal sites**

### **Clauses 7-8**

Part 2 applies to the seasonal (holiday) caravan sector and covers any seasonal agreement made either before or after commencement of the Bill relating to caravan owners who are entitled to station their caravan on a seasonal caravan site for a period exceeding 28 days. It places a requirement on the owners of seasonal sites to provide caravan owners with written statements covering the terms and conditions upon which their agreement is based within a specific time limit. This Part aims to increase the number of written agreements and thereby improve consumer rights protection in the holiday caravan sector.

This Part specifically deals with seasonal sites as a result of the consultation on the draft Bill. There have been several insertions to make the clauses in this Part more specific in targeting holiday "static" caravans, as John McCallister MLA pointed out, 'at no time, during either the drafting of the Bill or the process, did we ever want or try to include touring caravans or motor homes'<sup>21</sup>. Firstly the proposed legislation defines seasonal sites as those which have a

<sup>20</sup> The Caravans Bill Clause 1(1)(b)

<sup>21</sup> Official Report, 'Briefing by John McCallister on the Proposed Caravans Bill' to the Committee for Social Development – 4 March 2010  
<http://www.niassembly.gov.uk/record/committees2009/SocialDevelopment/100304ProposedCaravansBill.pdf>

licence expressed to be for holiday use only, or where the site limits human habitation on the land for certain times of the year.

Also, the Bill proposes a minimum threshold of 28 days in total to be spent in the caravan, on a seasonal site, before a written seasonal agreement is required. The agreement will not include all the same information as residential agreements and both the reduced content and time threshold result from the consultation. The committee may wish to satisfy itself that these measures are sufficient to exclude touring caravans and motor homes.

Further concerns were raised over the requirement that agreements not be given later than 28 days before any agreement for the sale of the caravan to the proposed occupier is made or, if earlier, the date on which the seasonal agreement is made. Some parties raised the question as to whether, given the broad spectrum of caravans which potentially fell under the draft Bill, this would include agreements to sell emanating from initial caravan manufacturers or distributors for touring homes and motor homes. The separate Part dedicated specifically to seasonal sites, and the threshold of occupation, aim to mitigate this problem.

### **Part 3: Protection of residential occupiers from eviction and harassment**

Clauses 9-12

This part covers both owner-occupiers entitled to station their caravan on a residential site and those who rent a caravan on a residential site, where, in both cases, the caravan is the person's only or main residence. It protects those living in caravans on residential caravan sites from eviction (other than through court proceedings) and harassment. It creates a series of offences for different forms of harassing behaviour from site owners or their agents. It also establishes powers for courts to suspend eviction orders.

Clause 12 excludes Part 9 of the *Rent (NI) Order 1978* from applying to any caravan stationed on a protected site. This means typical landlord-tenant arrangements will not apply on caravan sites.

### **Part 4 – The meaning of ‘caravan’**

Clauses 13-114

The Part updates the definition of ‘caravan’ for the purposes of this Bill in line with the current definition of ‘caravan’ which applies in England and Wales. Clause 13 would also insert the proposed definition of Caravan into the Caravans Act (Northern Ireland) 1963 (c17).

This measure was welcomed within both consultation processes. This Part also delegates a power to the Department of the Environment in Clause 13(5)&(6) to substitute by order any of the dimensions in the definition of a Caravan, subject to consultation with any persons or bodies as appear to be concerned. This measure would be subject to negative resolution.

### **Part 5 – Supplementary**

Clauses 15-17

This Part stipulates that all the provisions of the Bill will come into operation six months after it receives Royal Assent.

### **Schedule: Agreements under Part 1 of the Act**

**Part 1 - Terms implied by section 3 - Paragraphs 1-29**

Sets out the terms to be implied in any residential agreement, including: the duration; termination processes for occupiers and site owners; the recovery of overpayments; the selling and re-siting of caravans; various issues regarding pitch fees and site owners' obligations; and when residents' associations must be consulted.

Responses to the draft Bill consultation highlighted the provisions which mean contracts for all caravans can only be terminated by the occupier of the caravan with four weeks notice, or upon application of the site owner to a court. There were concerns that this placed undue bureaucracy and costs upon site owners and that the court service might come under strain from the potential glut of cases which would arise.

The Bill as introduced however limits the protection of occupiers from unlawful eviction in the case of residential homes only. Holiday caravans will fall instead under the terms of their individual agreements as agreed at the outset of the relationship and subject to the legislation for consumer protection discussed above.

Furthermore, responses to the draft Bill Consultation raised issues with its proposal to place an upper limit of 10% sales commission to go to the site owner upon the sale of a caravan by its occupier. This matches the statutory minimum of 10% in the Mobile Homes Act 1983. However, site owners claim that industry practice in the holiday home sector in England, Wales and Scotland is to negotiate contract terms which allow commission payments upon sale of up to 15%; thus placing NI at a competitive disadvantage, and potentially undermining the park economics in NI.

The Bill as introduced is more specific in dealing with the issue of Commission firmly in terms of Residential Caravans only. The proposed Bill deals with this issue within Part 1 of the Schedule which addresses Implied Terms for Residential Contracts. Therefore other caravan types will not be affected by the upper limit of Commission articulated therein, and can be negotiated at the outset in line with industry standards.

#### **Part 2** - Matters over which terms may be implied by Court - Paragraphs 1-4

This part of the Schedule sets out in full the implied terms of residential agreements referred to in Clause 3 of the proposed Bill.

#### **Part 3** - Supplementary provisions - Paragraphs 1-2

Provides for circumstances in which a caravan owner makes a request to someone other than the site owner to approve a person to whom the caravan owner wishes to sell their caravan and assign the residential agreement. The Part also places a duty on recipients of these requests to pass them on to the site owner within 28 days. Failure to do so will be subject to civil proceedings for breach of statutory duty.

**Regulations:** Concerns were raised within the Draft Bill Consultation process about the impact of subordinate legislation made by the Department and the need, in so doing, to undertake appropriate consultation and debate in the Assembly. The Bill now contains such provisions in clause 4 which discusses the capacity for the Department for Social Development to make an amendment to the implied terms for Residential agreements. The clause makes that power subject to consultation of organisations and individuals who appear to be representative of interests substantially affected, and approval by a resolution of the Assembly.

## 8 Options Considered

A range of options was considered.

- I. The option of 'doing nothing' has been discounted by the Northern Ireland Assembly which, on 4 June 2007, carried a motion calling for greater statutory protection for caravan owners along the lines of existing legislation in Great Britain.
- II. Consultation identified the need to go further than the *Mobile Homes Act 1983* and include some level of protection for caravan owners on seasonal sites. This is a

departure from the statutory position in Great Britain where no similar protections currently exist.

- III. The option of providing a level of protection for caravan owners on seasonal sites, akin to that which the Bill provides for permanent caravan residents on protected sites, was considered. However, there is already a considerable body of consumer protection law which, in conjunction with the Bill's requirement for written agreements, can provide a significant level of protection for caravan owners on seasonal sites.

## 9 Costs

As the Bill places a requirement on site owners to produce written agreements for both new and existing caravan owners on their sites, it is anticipated that limited additional costs will be incurred by business. The British Holiday & Home Parks Association and the National Caravan Council, along with the Office of Fair Trading, have created a model contract for static caravans however which would limit the necessity of separate legal advice and attendant costs.<sup>22</sup>

## 10 Human Rights and Equality Impact Assessment

The provisions of the Bill are compatible with the Convention on Human Rights as they apply to both private and local authority properties as per the ruling of the European Court of Human Rights in *Connors v. The United Kingdom*<sup>23</sup>.

It is not considered that the Bill will have any adverse or negative impact on any of the sections of the community specified in section 75 of the NI Act 1998.

## 11 Regulatory Impact Assessment

The main purpose of the Bill is to introduce statutory protections, similar to those which already exist in Great Britain, for those who occupy a caravan as their main residence on sites which have been approved for that purpose.

The proposed Bill's introduction of a regulation regarding written agreements between site owners and caravan owners, while not matched by similar statutory provisions in Great Britain, are in line with existing industry standards in the UK.

The Bill does not give rise to any issues selectively affecting any groups listed in section 75 of the Northern Ireland Act 1998.

---

<sup>22</sup> BH&HPA, NCC & OFT, 'New model contracts for the selling and siting of caravan holiday homes and lodges.' <http://www.bhpha.org.uk/additional/files/modelcontracts-130.pdf>

<sup>23</sup> Case of *Connors v. The United Kingdom*, (Application No. 66746/01) 27 May 2004