



## Safe as Houses?

*Andrew Barsby considers how the law draws the boundary between caravans and mobile homes on the one hand, and houses on the other, and how it protects their respective occupants.*

Caravans and mobile homes form the largest and most important class of chattels which fulfil the function of homes and yet which generally lack the essential character of a house, namely attachment to the land. The law has decisions to make about how to distinguish between caravans and houses, and whether occupiers of the former should be treated in the same way as occupiers of the latter. The results are by no means straightforward.

### **Caravan sites legislation**

The caravan sites legislation sets the scene. Subject to various exemptions, a site licence is required under the Caravan Sites and Control of Development Act 1960 in order to station a caravan on land for the purposes of human habitation.<sup>1</sup> A caravan is a structure designed or adapted for human habitation which is capable of being moved lawfully by road<sup>2</sup>; though the Caravan Sites Act 1968 widens the definition by including twin-unit caravans. The definition is not confined to structures which look like caravans in the everyday sense of the word. Caravan and mobile home are legally synonymous terms<sup>3</sup>.

Stationed is evidently meant to exclude, at one end of the scale, structures which are part of the land and hence buildings. Mobile homes may remain in position on concrete bases, attached to water, electricity and other services, for substantial periods of time. Yet the intention will generally be that they should remain movable, so as to permit improvements to and rearrangements of the site, and agreements for stationing a caravan (pitch agreements) usually provide for this<sup>4</sup>. By the *Elitestone*<sup>5</sup> purpose-of-annexation test, then, there is no difficulty in classifying them as chattels, though it means reading stationed in the 1960 Act as excluding structures which merely rest on the land but are intended to be permanent.

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1. Planning permission may also be required for a material change of use.
  2. Caravan Sites and Control of Development Act 1960, s.29(1). Railway rolling stock and tents are excluded from the definition.
  3. Mobile Homes Act 1983, s. 5(1).
  4. See particularly the standard form agreement produced by the industry bodies, the N.C.C., the N.P.H.C. and the B.H.& H.P.A.
  5. [1997] 1 W.L.R. 687.

At the other end of the scale, structures which do not rest constantly on the land are not stationed on it. This is particularly relevant to houseboats, some of which may be caravans in the technical sense. They may come to rest on land when the tide goes out, or may be fixed to the bank of a river, and yet are not stationed on land<sup>1</sup>.

The courts have had difficulty with the definition of caravan, and the concept of stationing, especially where a twin-unit caravan is involved. A twin-unit caravan is a structure which is within certain dimensions, composed of not more than two sections separately constructed and designed to be assembled on site, and physically capable of being moved by road when assembled. *Byrne v. Secretary of State for the Environment, Transport and the Regions*<sup>2</sup> was a planning case involving a log cabin, the question being whether the development was operational, with a four-year enforcement period, or a material change of use, with a ten-year period<sup>3</sup>. The planning inspector found that the log cabin was not a twin-unit caravan, so that its erection must have been operational development, and the decision was upheld by the High Court. Although the result seems right, the reasoning is odd: the fact that the log cabin was not a twin-unit caravan did not necessarily mean that it was a building whose erection must have involved building operations. The case should arguably have turned on the meaning of stationed rather than the meaning of twin-unit caravan.

### **The Caravan Sites Act 1968**

The 1968 Act offers a measure of protection to occupiers of caravans and mobile homes on protected sites, including:

¥ protection against harassment;

¥ a minimum notice requirement for terminating the occupier's licence;

¥ a power for the County Court to suspend an eviction order.

Protected sites are essentially those which require a licence under the 1960 Act and which are for year-round occupation, thus excluding holiday sites.

### **The Mobile Homes Act 1983**

The 1983 Act goes further than the 1968 Act, in that it gives occupiers of mobile homes the benefit of statutory terms and conditions which (among other things) limit the grounds on which they can be removed from the site, and allow them to transfer the mobile home<sup>4</sup>. But its scope is narrower than the 1968 Act's: it applies only where there is an agreement between the occupant and the site-owner, whereas the 1968 Act applies to licences and contracts, and it applies only to owner-occupiers. The latter conclusion emerges from the wording of s. 1(1): the

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1. *Roy Crimble Ltd v. Edgecombe* N.L.J. 3 September 1981.

2. (1997) 74 P.&C.R. 420.

3. See the Town and Country Planning Act 1990, s. 171B.

4. Sched. 1, Part I: other terms can be added by the court, under Part II.

agreement must entitle the occupant to station the mobile home, implying that a mobile home stationed by the site-owner is not within the Act.

Where the 1983 Act does not apply, an occupier may still be protected under the 1968 Act, and this may be the case where the occupier is not the owner of the mobile home, or where there is no contract between the occupier and the site owner.

### **Landlord and tenant law**

The fact that a plot of land for stationing a caravan is the subject of a lease rather than a licence does not in itself mean that the caravan sites legislation ceases to apply. But if the arrangement attracts protection under landlord and tenant law as a residential tenancy, then the caravan sites legislation should in principle cease to apply. For some purposes the boundary between the two areas of law is clearly marked. The Caravan Sites Act 1968 contains its own provisions on harassment, which largely mirror those in the Protection from Eviction Act 1977, and the former Act disapplies the latter in relation to any premises being a caravan stationed on a protected site.<sup>1</sup>

But by no means all occupiers of unattached structures enjoy protection under the caravan sites legislation. This may be because the structure is not legally a caravan<sup>2</sup>, or because it is not on a protected site. In such cases the courts have been asked to consider whether landlord and tenant protection is available to occupiers of caravans.

The Protection from Eviction Act 1977 Act turns on the definition of residential occupier in s. 1(1), and the Divisional Court had to examine the meaning of this expression<sup>3</sup> in *Norton v. Knowles*<sup>4</sup>. K had an agreement allowing him to occupy N's land, and he had lived in a caravan on the land for about ten years. The court found it irrelevant that the caravan was not attached to the land: land and caravan were together the premises, and as K was occupying them as a residence he was a residential occupier protected against harassment. The court said that the expression should be given a wide meaning so as to extend the protection as far as possible. But premises is usually taken to refer to the land itself, not chattels on it; and if chattels can give land the necessary residential quality, does this extend to minimal items such as a sleeping bag and camping equipment? It is not clear that the court meant to go as far as this. The case predated the 1968 Act, which as explained now protects some occupiers of caravans against harassment. However, those who remain unprotected can apparently still look to the 1977 Act for protection against harassment.

In *R v. Rent Officer of Nottingham Registration Area, ex parte Allen*<sup>5</sup> a successful application had been made to register a fair rent under the Rent Act 1977, in relation to a caravan not an option available under the legislation on caravan sites. On an application for judicial review, Farquharson J. was not prepared to say that a caravan could not be within the Rent Act. In

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1. S. 5(5).

2. Some of these structures will be regulated as moveable dwellings under s. 269 of the Public Health Act 1936, but this Act does not protect the position of occupiers.

3. Then in the Rent Act 1965, s. 30(5).

4. [1969] 1 Q.B. 572.

5. [1985] 2 E.G.L.R. 153

considering whether a caravan was a house for the purposes of the rent Act, it was necessary to have regard to the presence or absence of wheels and stabilising struts, the connection of services, and whether the caravan was ever moved and if so for what purpose. Rent officers must (said the Judge) be on their guard against landlords seeking to avoid the Rent Act by arrangements designed to suggest a degree of mobility. Here the impermanence of the connection to services, and the fact that the caravan was moved from time to time, meant that it was not a house, and the Rent Act did not apply.

At first sight, the implications of this decision seem troubling: can a caravan with the necessary degree of movability be subject both to landlord and tenant law and the caravan sites legislation? In practice, the problem is unlikely to arise in a conventionally-run mobile home park, where the site-owner's right to re-locate the mobile home will be explicit. Elsewhere, it seems likely that the issue must nowadays come down to the tests in *Elitestone*: if the caravan has been permanently incorporated into the land, or if there is an intention that it should remain in place permanently, then landlord and tenant law applies and the caravan sites legislation does not.

The most basic form of protection for occupiers, however the offence of using or threatening violence to gain entry to residential premises, under s. 6 of the Criminal Law Act 1977 applies equally to movable structures designed or adapted for use for residential purposes<sup>1</sup>.

## **Permutations**

The law described above gives rise to many different permutations in the protection it offers occupiers of caravans and mobile homes. For example:

(a) P runs a large estate. In the grounds he has placed a mobile home occupied by Q, a worker on the estate, who pays a weekly sum for it. A site licence is required under the 1960 Act. The Caravan Sites Act 1968 applies, but the Mobile Homes Act 1983 does not (because Q is not an owner-occupier); nor is there protection under the Housing Act 1988.

(b) The facts are as in (a), but the mobile home is fixed permanently in position. The caravan sites legislation does not apply, but Q is protected under the Housing Act and the Protection from Eviction Act.

(c) The facts are as in (a), but the caravan is for seasonal workers. The site is exempt from licensing under the 1960 Act, so cannot be protected under the 1968 and 1983 Acts. But the Protection from Eviction Act applies as does, for this and the preceding examples, the Criminal Law Act 1977.

## **Conclusion**

Establishing what legal protection is enjoyed by the occupier of a caravan or mobile home can be a complicated process. The chattel-or-building issue must first be settled, then a foray into the caravan sites legislation or landlord and tenant law will be required. It seems desirable that

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1. S. 12(2).

there should be as much common ground as possible between houses and caravans. Some rationalisation of the position may thus be in order.

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Andrew Barsby s *Caravan Sites and Mobile Home Parks: The Legal Framework* is now in its second edition. For further information see [www.barsby.com](http://www.barsby.com).