

# Traveller Law Reform Bill

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# Traveller Law Reform Bill

A

BILL

To

Reform the law in England and Wales as it applies to Gypsies and Travellers.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

### SUBSTANTIVE PROVISIONS

#### TRAVELLER LAW REFORM IN ENGLAND AND WALES

##### *Part I (The Gypsy and Traveller Accommodation Commission)*

##### **Clause 1**     *The Gypsy and Traveller Accommodation Commission.*

- (1) There shall be a body known as the Gypsy and Traveller Accommodation Commission (referred to in this Act as "the Commission").
- (2) The Secretary of State shall pay to the Commission such sums as he thinks fit to enable it to meet its expenses.
- (3) Schedule 1 (the Commission's constitution and related matters) has effect.

##### **Clause 2**     *General functions.*

- (1) The Commission shall have the following duties—
  - a) to promote the equalisation of opportunities for Gypsies and Travellers;
  - b) to issue guidance on such matters as it deems appropriate in order to promote the equalisation of opportunities for Gypsies and Travellers, including:
    - i) the most appropriate measures for improving, at local level, consultation with, and participation of Gypsies and Travellers in the provision and management of accommodation;

- ii) the adequacy and suitability of accommodation in individual local authority areas, for the purposes of section 3(1);
- (c) to take such steps as it considers appropriate with a view to encouraging good practice in the treatment of Gypsies and Travellers; and
- (d) to keep under review—
  - i) the adequacy of provision for Gypsies and Travellers in the Development Plans issued by authorities under Part II Town and Country Planning Act 1990;
  - ii) the adequacy of individual authority's accommodation programmes for the purposes of section 5 including any relevant directions and guidance issued thereto;
  - iii) the numbers of Gypsies and Travellers living in and resorting to individual local authority areas.

(2) The Commission may, for any purpose connected with the performance of its functions—

- (a) make proposals or give other advice to any Minister of the Crown as to any aspect of the law or a proposed change to the law;
- (b) make proposals or give other advice to any Government agency or other public authority as to the practical application of any law;
- (c) undertake, or arrange for or support (whether financially or otherwise), the carrying out of research or the provision of advice or information or assistance in relation to the discharge of any of its functions.

(3) The Commission may make charges for facilities or services made available by it for any purpose.

(4) In this section—

*"Gypsies and Travellers"* has the same meaning as in section 4(3) save only that it also includes persons who were formerly of a nomadic habit of life but have since settled in housing or other permanent accommodation.

*Part II (Substantive provisions)*

**Clause 3**      *Duty to facilitate site provision.*

(1) It shall be the duty of every local authority being a district council, the council of a metropolitan district or London borough or unitary authority to exercise their powers under section 24 of the Caravan Sites and Control of Development Act 1960 (provision of caravan sites) so far as may be necessary to provide or to facilitate the provision of adequate and suitable accommodation for Gypsies and Travellers residing in or resorting to their area.

(2) Any local authority may defray or contribute towards expenditure incurred under this section by any other authority.

(3) Where it appears to a local authority that any other authority could, by taking any specified action, help in the discharge of their duty under subsection (1), they may request the help of that other authority specifying the action in question.

(4) An authority whose help is so requested under sub-section (3) above shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions

(5) In sub-section (1)—

*"accommodation"* includes temporary stopping places as well as permanent accommodation;

In sub-section (3)—

*"other authority"* means any local authority, including a county council, district council, the council of a metropolitan district or London borough or unitary authority.

**Clause 4**      *Provision of sites by local authorities.*

(1) Section 24 of the Caravan Sites and Control of Development Act 1960 (power of local authorities to provide caravan sites) is amended as follows.

(2) In subsection (2) for paragraph (c) (which concerns the provision of working space on Gypsy sites) there is substituted —

(c) to provide, in or in connection with sites for the accommodation of Gypsies and Travellers:

- i) safe play areas and play equipment for the children living on such sites; and
- ii) working space and facilities for the carrying on of such activities as are normally carried on by Gypsies and Travellers; and
- iii) such other facilities or equipment as may be necessary to ensure a safe and healthy environment for the occupants of the site and their visitors.

(3) For subsection (8) (definitions) there is substituted —

In this section

“*Gypsies and Travellers*” means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or persons engaged in travelling circuses, travelling together as such. A person does not lose his nomadic habit of life merely because he resides (or intends to reside) in permanent accommodation.

and

the expression “*local authority*” includes the council of a county.

**Clause 5**        *Gypsy and Traveller Accommodation Programmes.*

(1) Every local authority with responsibilities under section 3(1)—

- (a) shall, within such period after the day appointed for the coming into force of this section as the Secretary of State may direct, prepare and publish an accommodation programme; and
- (b) shall keep the programme prepared by them under paragraph (a) above and any further plans prepared by them under this section under review; and
- (c) shall, at no more than three yearly intervals, prepare and publish modifications to the current programme, or if the case requires, a new programme.

(2) In preparing an accommodation programme, or a replacement of it, the authority shall—

- (a) comply with any directions made by the Secretary of State under subsection (4) of this section;
- (b) include the most recent assessment (if any) made by the Gypsy and Traveller Accommodation Commission under section 2(1)(b)(ii);
- (c) include a statement of the authority’s policy for securing the implementation of the accommodation programme;
- (d) specify the authority’s strategy for securing the implementation of the accommodation programme, including the proposed measures in relation to:
  - i) the provision of a range of accommodation required to meet accommodation needs which have been identified;
  - ii) the provision of assistance (including financial assistance) to Gypsies and Travellers to provide accommodation for their own use;
  - iii) the proper management, including assistance towards the management, of such accommodation for Gypsies and Travellers;
- (e) include such particulars as the Secretary of State may direct in relation to such programmes.

(3) In carrying out any of their functions under subsections (1) and (2) above, the authority shall consult—

- a) the Gypsy and Traveller Accommodation Commission;
- b) (in respect of a district council) the county council within whose area the district council lies;
- c) any health authority the whole or any part of whose district lies within the area of the local authority;
- d) local Gypsies and Travellers and their representative bodies;
- e) such other persons as the Secretary of State may direct.

(4) Directions under this section—

- a) shall be given in writing; and
- b) may be given to a particular authority, or to authorities of a particular class, or to authorities generally; and
- c) may contain a provision as to the time within which the authority must comply with the direction; and
- d) shall be enforceable, on the application of the Secretary of State, by mandamus.

**Clause 6**        *Accommodation Programmes as material considerations.*

(1) In any enforcement proceedings taken by a local authority of whatsoever nature against Gypsies and Travellers and in any proceedings relating to a planning application by a Gypsy or other Traveller the following shall be a material considerations:

- a) the extent to which the local authority has complied with its duties under section 3(1);
- b) the extent to which the local authority has complied with any direction of the Secretary of State under 5(2) or guidance issued under section 7;
- c) The extent to which the local authority has complied with any guidance issued by the Gypsy and Traveller Accommodation Commission under section 2(1);
- d) The extent to which the local authority has complied with its duty under section 3(4) to co-operate.

**Clause 7**        *Guidance.*

(1) In deciding what is ‘adequate’ and what is ‘suitable’ for the purposes of section 3(1) the relevant authority shall act under the general guidance of the Gypsy and Traveller Accommodation Commission.

(2) In the exercise of all their other functions under this Act authorities shall have regard to such guidance as may from time to time be given by—

- a) the Secretary of State; and
- b) the Gypsy and Traveller Accommodation Commission under s2(1)(b).

(3) The Secretary of State and the Gypsy and Traveller Accommodation Commission may give guidance to a particular authority, or to authorities of a particular class, or to authorities generally.

*Part III (The Rights and Duties of Gypsies and Travellers)*

**Clause 8**        *The rights and duties of Gypsies and Travellers.*

There shall be no interference with the right of Gypsies and Travellers to live a nomadic life unless the interference is necessary in a democratic society in the interests of

national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others

*Part IV (Amending provisions – England & Wales)*

*Race Relations.*

**Clause 9**      *Non-discrimination.*

(1) Section 3 of the Race Relations Act 1976 (meaning of “racial grounds”, “racial group” etc) is amended as follows.

(2) After subsection (1) there is inserted —

“(1A) In this Act “racial grounds” includes the grounds of belonging to the Irish Traveller community, the Scottish Gypsy or Traveller community or the Welsh Gypsy or Traveller community, that is to say the community of people commonly so called who are identified (both by themselves and by others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland, in Scotland or in Wales as the case may be.”

*Education.*

**Clause 10**      *Traveller Education Plans.*

(1) Section 6 of the School Standards and Framework Act 1998 (education development plans) is amended as follows.

(2) After paragraph (b) of subsection (2) there is inserted—

“(c) a Gypsy and Traveller Education Plan which sets out the arrangements made or proposed to be made by the authority in connection with the education of persons to whom section 488(2) of the Education Act 1996 applies (Travellers and displaced persons) but without age limit and in particular describes—

- (i) the arrangements made or to be made by the authority for the provision of advice and resources to schools to meet the educational needs of Gypsies and Travellers, and other arrangements made or to be made by them, with a view to ensuring that all such persons to whom section 488(2) of the Education Act 1996 applies have unhindered access to, and are enabled to integrate fully into mainstream education;
- (ii) the arrangements to be made for pre-school educational assistance for Gypsies and Travellers;
- (iii) the arrangements to be made to promote life long learning and literacy skills for Gypsies and Travellers aged over 16.

**Clause 11**      *Grants for the education of Gypsies and Travellers.*



(1) Section 489 of the Education Act 1996 (conditions as to payment of grants for [*inter alia*] Travellers) is amended as follows.

(2) After sub-subsection (1) there is inserted—

“(1A) Regulations made under section 488 may, in so far as they relate to the education of Travellers, provide—

- (a) for the period over which the grant is to be paid, provided always that the duration of the specified period is not less than five years; and
- (b) for the payment of the grant under the regulations to be dependent on the provision by the local education authority of vocational training schemes.”

**Clause 12**     *Grants in respect of special provision for ethnic minorities.*

(1) Section 490 of the Education Act 1996 (conditions as to payment of grants for ethnic minorities) is amended as follows.

(2) In subsection (1), at the beginning there is inserted “Subject to subsection (1A)”

(3) After subsection (1) there is inserted—

“(1A) For the purposes of this section the persons as are referred to in section 11 of that Act include Gypsies and Travellers within the meaning of section 2(4) of the Traveller Law Reform Act 2002.”

*Criminal Justice.*

**Clause 13**      *Power to direct trespassers to leave land.*

(1) For section 61 of the Criminal Justice and Public Order Act 1994 (power to remove trespassers on land) there is substituted—

61—(1) If the senior police officer reasonably believes that twelve or more persons have entered land as trespassers and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and—

- (a) that any of those persons has caused significant damage to property on the land or used threatening words or behaviour towards the occupier, a member of his family or an employee or agent of his; or
- (b) that those persons have between them brought twelve or more vehicles on to the land,

he may, subject to the provisions of section 61A, direct those persons, or any of them, to leave the land by serving upon them a direction notice.

(2) If a person knowing that such a direction has been given which applies to him—

- (a) fails to leave the land as soon as reasonably practicable; or
- (b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

(3) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without warrant.

(4) In proceedings for an offence under this section it is a defence for the accused to show—

- (a) that his original entry on the land was not as a trespasser, or
- (b) that he was not trespassing on the land, or
- (c) that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(5) In this section—

“*land*” does not include—

- (a) buildings other than—
  - (i) agricultural buildings within the meaning of paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988; or
  - (ii) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.
- (b) land forming part of the highway.

“*occupier*” means the person entitled to possession of the land by virtue of an estate or interest held by him;

“*property*” means property within the meaning of section 10(1) of the Criminal Damage Act 1971;

“*senior police officer*” means an officer above the rank of ‘constable’ and who is the most senior in rank of the police officers present at the scene;

“*trespasser*”, in relation to land, means a person who is a trespasser as against the occupier of the land;

“*vehicle*” includes a caravan as defined in section 29(1) Caravan Sites and Control of Development Act 1960.

And a person may be regarded for the purposes of this section as having the purpose of residing in a place notwithstanding that he has a home elsewhere.

(2) After section 61 of the Criminal Justice and Public Order Act 1994 (as amended) there is inserted—

*Provisions as to directions under section 61.*

61A—(1) The following provisions apply in relation to the service of a direction notice under section 61.

(2) In so far as it is reasonably practicable, a direction under section 61 must be given verbally to every person to whom it applies.

(3) In addition a direction notice must be served on the persons to whom the direction applies, but it shall be sufficient for this purpose for the direction notice to specify the land and (except where the direction applies to only one person) to be addressed to all occupants of the vehicles on the land, without naming them.

(3) Where it is impracticable to serve a direction notice on a person to whom it applies, the notice shall be treated as duly served on him if it is fixed in a prominent place to the vehicle concerned; and where a notice is directed to the unnamed occupants of vehicles, it shall be treated as duly served on those occupants if a copy of it is fixed in a prominent place to every vehicle in the land in question at the time when service is thus effected.

(4) The senior police officer present shall take such steps as may be reasonably practicable to secure that a copy of any relevant document is displayed on the land in question (otherwise than by being fixed to a vehicle) in a manner designed to ensure that it is likely to be seen by any person camping on the land.

(5) The direction notice must contain the following information:

- (a) a description of the land (by way of a plan or otherwise) that the trespassers are required to leave;
- (b) the date and precise time by which the trespassers are required to leave;
- (c) the name, constabulary address and signature of the senior officer issuing the notice;
- (d) the date and time when the notice was served upon the trespassers;
- (e) the nature of any damage to property or of any threatening words or behaviour that are alleged to have occurred for the purposes of section 61(1); and

- (f) if any of the persons who are subject to the direction may not have been responsible for either—
  - (i) any alleged damage to property; or
  - (ii) any alleged threatening words or behaviour,the reasons why it is necessary for such persons to be directed to leave the land.

*Caravan Site Accommodation*

**Clause 14** *Eligibility for registration as a social landlord.*

Section 2(2)(c) Housing Act 1996 is amended by inserting, after paragraph (c)—

- (d) caravan sites for Gypsies and Travellers as defined by section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended.

**Clause 15** *Housing Corporation funding for caravan site construction.*

Section 18(1) of the Housing Act 1996 is amended by inserting the words ‘or caravan site management and provision activities’ after the word ‘housing’.

**Clause 16** *Security of tenure on Public Gypsy and Traveller Sites.*

Section 5(1) of the Mobile Homes Act 1983 is amended by substituting the following definition for a ‘protected site’

‘*protected site*’ has the same meaning as in Part I of the Caravan Sites Act 1968 except that it also includes any site owned or managed by a council of a district.

**Clause 17** *Protection from eviction and harassment.*

Sub-section (5)(5) of the Caravan Sites Act 1968 is amended by the substituting the word ‘applies’ for the words ‘shall not apply’.

*Possession proceedings*

**Clause 18** *Land in the ownership of public authorities.*

(1) Section 89 of the Housing Act 1980 is amended as follows.

(2) In subsection (1) after the word ‘unless’ the words ‘the provisions of subsection 1A below apply or’ are inserted.

(3) After subsection (1) there is inserted—

“(1A) Where an order for possession is made in favour of a public authority, the restrictions in subsection (1) above do not apply and instead, and subject to subsection (2) below, the giving up of

possession shall not be postponed (whether by the order or any variation, suspension or stay of execution) to a date later than fourteen days after the making of the order unless it appears to the court that disproportionate hardship would be caused by requiring possession to be given up by that date; and shall not in any event be postponed to a date later than six weeks after the making of the order, unless it appears to the court that exceptional hardship would be caused by requiring possession to be given up by that date.

- (1B) In this section ‘public authority’ has the same meaning as in section 6 Human Rights Act 1998.”

***Part V***  
***Miscellaneous and General***

**Clause 19**      *Repeals.*

The repeals set out in Schedule 2 are to have effect.

**Clause 20**      *Wales.*

The reference to the following Statutes in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 is to be treated as referring to those Acts as amended by this Act.

- 1) Caravan Sites and Control of Development Act 1960
- 2) Caravan Sites Act 1968
- 3) Race Relations Act 1976
- 4) Mobile Homes Act 1983
- 5) Education Act 1996
- 6) Housing Act 1996

**Clause 21**      *Financial provision.*

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.

**Clause 22**      *Short title, commencement and extent.*

- (1) This Act may be cited as the Traveller Law Reform Act 2002

- (2) Apart from this section, this Act comes into force on such day as may be appointed by order made by statutory instrument.

- (3) An order under subsection (2) is to be made—

- (a) in relation to England, by the Secretary of State; and
- (b) in relation to Wales, by the National Assembly for Wales.

- (4) Different days may be appointed for different provisions or for different purposes.
- (5) A statutory instrument containing an order under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This Act extends to England and Wales only.

## **SCHEDULE 1**

### **GYPSY AND TRAVELLER ACCOMMODATION COMMISSION CONSTITUTION ETC**

#### **Status**

- 1—(1) The Commission is a body corporate.  
(2) The Commission is not the servant or agent of the Crown, it does not enjoy any status, immunity or privilege of the Crown and its property is not to be regarded as property of or as held on behalf of the Crown.

#### *Membership*

- 2—(1) The Commission shall consist of not less than 10 and not more than 15 Officers appointed by the Secretary of State.  
  
(2) The Secretary of State may appoint as an Officer a person who is not a Gypsy or other Traveller only if satisfied that after the appointment no less than half of the Officers will be Gypsies and Travellers.  
  
(3) Sub-paragraph (2) shall not apply in respect of the first three appointments under this paragraph.

#### **Tenure of office of Officers**

- 3—(1) An Officer shall hold and vacate office in accordance with the terms of his appointment.  
  
(2) A person shall not be appointed an Officer for less than two or more than five years; but a person who has served as an Officer may be reappointed.  
  
4—An Officer may resign by notice in writing to the Secretary of State.  
  
5—The Secretary of State may terminate the appointment of an Officer if satisfied that—  
(a) without the consent of the chairman he has failed to attend meetings of the Commission during a continuous period of six months beginning not earlier than nine months before the termination;  
(b) he has become bankrupt, has had his estate sequestrated or has made a composition or arrangement with, or granted a trust deed for, his creditors; or  
(c) he is otherwise unable or unfit to carry out his functions as an Officer.

#### **Tenure of office of chairman and deputy chairmen**

- 6—(1) The Secretary of State shall appoint one Officer as chairman of the Commission and either one or two other Officers as deputy chairmen.  
  
(2) The Secretary of State shall exercise his powers of appointment under this paragraph with a view to securing that at least one of the persons holding office as chairman or deputy chairman is a Gypsy or other Traveller.  
  
7—A person appointed as chairman or deputy chairman—  
(a) shall hold and vacate that office in accordance with the terms of his appointment,  
(b) may resign that office by notice in writing to the Secretary of State, and  
(c) shall cease to hold that office if he ceases to be an Officer.

*Remuneration, pensions etc. of Officers*

8—The Commission may—

- (a) pay to any Officer such remuneration or expenses; and
- (b) pay, or make provision for the payment of, such sums by way of pensions, allowances or gratuities to or in respect of any Officer, as the Secretary of State may determine.

9—If the Secretary of State determines that there are special circumstances which make it right that a person who has ceased to be an Officer should receive compensation, the Secretary of State may direct the Commission to pay that person such sum by way of compensation as the Secretary of State may determine.

*Staff*

10—(1) The Commission shall have—

- (a) a chief executive appointed by the Commission, subject to the approval of the Secretary of State; and
- (b) such other employees as the Commission may appoint, subject to the approval of the Secretary of State as to numbers and terms and conditions of service.

(2) The first appointment of a chief executive shall be made by the Secretary of State.

11—(1) Employment with the Commission shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) at the end of the list of Royal Commissions and other Commissions there shall be inserted

"Gypsy and Traveller Accommodation Commission".

(2) The Commission shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

*Proceedings etc.*

12—(1) The Commission may regulate its own procedure (including quorum).

(2) The quorum for meetings of the Commission shall in the first instance be determined by a meeting of the Commission attended by at least five Officers.

13—The validity of any proceedings of the Commission is not affected by a vacancy among the Officers or by a defect in the appointment of an Officer.

*Delegation*

14—(1) The Commission may authorise any committee of the Commission or any Officer to exercise such of its functions (other than functions relating to the conduct of a formal investigation) as it may determine.

(2) This paragraph does not affect any power of the Commission to authorise its employees to do anything on its behalf.

*Accounts*

15—(1) The Commission shall—

- (a) keep proper accounts and proper records in relation to the accounts,
- (b) prepare a statement of accounts in respect of each accounting year, and



(c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General not later than the 31st August following the end of the accounting year to which it relates.

(2) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts and shall lay copies of the statement and of his report before each House of Parliament.

(3) The Commission's accounting year is the twelve months ending with 31st March.

(4) The Commission's first accounting year shall be the period of not more than 12 months beginning with the Commission's establishment and ending with 31st March.

#### *Annual reports*

16—(1) As soon as practicable after the end of each accounting year the Commission shall submit to the Secretary of State a report on its activities during that year.

(2) The report shall include (among other things)

(a) a report on anything done by the Commission, in the performance of its functions under section 2(1)(a) to (c), jointly or otherwise in co-operation with any other organisation;

(b) a general survey of developments in matters within the scope of the Commission's functions; and

(c) proposals for the Commission's activities in the current year.

(3) The Secretary of State shall lay a copy of the report before Parliament and arrange for such further publication of it as he considers appropriate.

#### *List of consultees*

17—(1) The Commission shall maintain a list of the organisations it has consulted generally for the purposes of any of its functions.

(2) An organisation may be removed from the list if it has not been consulted generally in the 12 months preceding its removal.

(3) The Commission shall make the list available to the public in whatever way it considers appropriate (subject to any charge it may impose).

## **SCHEDULE 2**

### **REPEALS**

1—Section 62 of the Criminal Justice and Public Order Act 1994 (Supplementary powers of seizure)

2—Sections 77 – 79 (Power of local authority to direct unauthorised campers to leave land) of the Criminal Justice and Public Order Act 1994