

Status: Point in time view as at 01/10/2014.

Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, CHAPTER 4. (See end of Document for details)

SCHEDULE 2

TERMS OF MOBILE HOME AGREEMENTS

PART 1

TERMS IMPLIED BY ACT

CHAPTER 4

AGREEMENTS RELATING TO PERMANENT PITCHES ON LOCAL AUTHORITY GYPSY AND TRAVELLER SITES

Duration of agreement

- 35 Subject to paragraph 36, the right to station the mobile home on land forming part of the protected site subsists until the agreement is determined under paragraph 37, 38, 39 or 40.

Commencement Information

- I1** Sch. 2 para. 35 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 36 (1) If the owner's estate or interest is insufficient to enable the owner to grant the right for an indefinite period, the period for which the right subsists does not extend beyond the date when the owner's estate or interest determines.
- (2) If planning permission for the use of the protected site as a site for mobile homes has been granted in terms such that it will expire at the end of a specified period, the period for which the right subsists does not extend beyond the date when the planning permission expires.
- (3) If before the end of a period determined by this paragraph there is a change in circumstances which allows a longer period, account is to be taken of that change.

Commencement Information

- I2** Sch. 2 para. 36 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Termination

- 37 The occupier is entitled to terminate the agreement by notice in writing given to the owner not less than 4 weeks before the date on which it is to take effect.

Commencement Information

- I3** Sch. 2 para. 37 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 38 The owner is entitled to terminate the agreement immediately if, on the application of the owner, the appropriate judicial body—

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- (a) is satisfied that the occupier has breached a term of the agreement and, after service of a notice to remedy the breach, has not complied with the notice within a reasonable time, and
- (b) considers it reasonable for the agreement to be terminated.

Commencement Information

I4 Sch. 2 para. 38 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 39 The owner is entitled to terminate the agreement immediately if, on the application of the owner, the appropriate judicial body—
- (a) is satisfied that the occupier is not occupying the mobile home as the occupier's only or main residence, and
 - (b) considers it reasonable for the agreement to be terminated.

Commencement Information

I5 Sch. 2 para. 39 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 40 (1) The owner is entitled to terminate the agreement immediately if—
- (a) on the application of the owner, a tribunal has determined that, having regard to its condition, the mobile home is having a detrimental effect on the amenity of the site, and
 - (b) then, on the application of the owner, the appropriate judicial body, having regard to the tribunal's determination and to any other circumstances, considers it reasonable for the agreement to be terminated.
- (2) Sub-paragraphs (3) and (4) apply if, on an application to the tribunal under sub-paragraph (1)(a)—
- (a) the tribunal considers that, having regard to the present condition of the mobile home, it is having a detrimental effect on the amenity of the site, but
 - (b) it also considers that it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in the mobile home not having that detrimental effect, and
 - (c) the occupier indicates to the tribunal that the occupier intends to carry out those repairs.
- (3) In such a case, the tribunal may make an interim order—
- (a) specifying the repairs that must be carried out and the time within which they must be carried out, and
 - (b) adjourning the proceedings on the application for such period specified in the interim order as the tribunal considers reasonable to enable the repairs to be carried out.
- (4) If the tribunal makes an interim order under sub-paragraph (3), it must not make a determination under sub-paragraph (1)(a) unless it is satisfied that the specified period has expired without the repairs having been carried out.

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Commencement Information

I6 Sch. 2 para. 40 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Assignment of agreement

- 41 (1) The occupier (“A”) may assign the agreement—
- (a) to a person who is a member of A's family, or
 - (b) to another person (“B”) if the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) A must have the approval of the owner, and
 - (b) B must—
 - (i) be an occupier of a permanent pitch on a relevant site, and
 - (ii) have the approval of the owner to the assignment of B's agreement to A or to another occupier of a permanent pitch on a relevant site.
- (3) A relevant site for the purposes of sub-paragraph (2) is a local authority Gypsy and Traveller site in the area of the local authority in which the site on which the pitch to which A's agreement relates is located.
- (4) Neither the occupier nor the owner may require any payment to be made (whether to the occupier or owner or otherwise) in connection with the assignment of the agreement under this paragraph.

Commencement Information

I7 Sch. 2 para. 41 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 42 (1) The occupier may serve on the owner a request to approve for the purposes of paragraph 41, an assignment to a person named in the request (“the proposed occupier”).
- (2) Where the request relates to an assignment under paragraph 41(1)(a) the request must include satisfactory evidence that the proposed occupier is a member of the occupier's family.
- (3) Where the owner receives a request under sub-paragraph (1), the owner must, within 28 days beginning with the date on which the request is received—
- (a) approve the assignment, unless it is reasonable for the owner not to do so, and
 - (b) serve on the occupier notice of the owner's decision (“a decision notice”).
- (4) If a person (“P”) receives a request under sub-paragraph (1) and P—
- (a) while not being the owner, has an estate or interest in the land, and
 - (b) believes that another person is the owner,
- and that other person has not received such a request, P owes a duty to the occupier (enforceable by a claim in tort for breach of statutory duty, as well as by action for breach of an implied term) to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which P receives it.

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- (5) If the approval is withheld, the decision notice must specify the reasons for withholding it.
- (6) Where a fee lawfully due from the occupier has not been paid or any term of the agreement has been broken or not performed, the approval required for the purpose of paragraph 41 may be given subject to a condition requiring the occupier to pay the outstanding fee, remedy the breach or perform the obligation.
- (7) Except as provided by sub-paragraph (6), the approval required for the purpose of paragraph 41 cannot be given subject to a condition and a condition imposed otherwise than as so provided is to be disregarded.
- (8) If the owner fails to serve the notice or withholds approval to the assignment the occupier may apply to the tribunal for an order declaring that the assignment is approved for the purposes of paragraph 41 and the tribunal may make such an order if it thinks fit.
- (9) If the question arises as to whether the notice required by sub-paragraph (3)(b) was served within the required period of 28 days, it is for an owner to show that the notice was so served.
- (10) If the owner did not approve the assignment and the question arises whether it was reasonable for the owner not to do so, it is for the owner to show that it was reasonable.
- (11) A request or notice under this paragraph—
 - (a) must be in writing, and
 - (b) may be served by post.
- (12) Subject to sub-paragraph (13), an application to the tribunal under sub-paragraph (8) by an occupier must be made—
 - (a) within the period of 3 months beginning with the day after the date on which the occupier receives the decision notice, or
 - (b) where the occupier receives no decision notice, within the period of 3 months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1).
- (13) A tribunal may permit an application under sub-paragraph (8) to be made to the tribunal after the applicable period specified in sub-paragraph (12) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply before the end of that period and for any delay since then in applying for permission to make the application out of time.

Commencement Information

18 Sch. 2 para. 42 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Recovery of overpayments by occupier

- 43 Where the agreement is terminated as mentioned in paragraph 37, 38, 39 or 40, the occupier is entitled to recover from the owner so much of any payment made by the occupier in pursuance of the agreement as is attributable to a period beginning after the termination.

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Commencement Information

I9 Sch. 2 para. 43 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Re-siting of mobile home

- 44 (1) The owner is entitled to require that the occupier's right to station the mobile home is exercisable for any period in relation to another pitch forming part of the protected site or a pitch forming part of another protected site (“the other pitch”) if—
- (a) on the application of the owner, a tribunal is satisfied that the other pitch is broadly comparable to the occupier's original pitch and that it is reasonable for the mobile home to be stationed on the other pitch for that period, or
 - (b) the owner needs to carry out essential repair or emergency works that can only be carried out if the mobile home is moved to the other pitch for that period, and the other pitch is broadly comparable to the occupier's original pitch.
- (2) A pitch forming part of another protected site is, for the purposes of sub-paragraph (1) (a), broadly comparable to the occupier's original pitch only if it provides access to health and education services required by the occupier which is, as far as reasonably practicable, broadly comparable to the access provided by the occupier's original pitch.
- (3) If the owner requires the occupier to station the mobile home on the other pitch so that the owner can replace, or carry out repairs to, the base on which the mobile home is stationed, the owner must, if the occupier requires the owner to do so or a tribunal on the application of the occupier orders the owner to do so, secure that the mobile home is returned to the original pitch on the completion of the replacement or repairs.
- (4) The owner must pay all the costs and expenses incurred by the occupier in connection with the mobile home being moved to and from the other pitch.
- (5) In this paragraph and in paragraph 46 “essential repair or emergency works” means—
- (a) repairs to the base on which the mobile home is stationed,
 - (b) repairs to any outhouses and facilities provided by the owner on the pitch and to any gas, electricity, water, sewerage or other services or other amenities provided by the owner in such outhouses,
 - (c) works or repairs needed to comply with any relevant legal requirements, or
 - (d) works or repairs in connection with restoration following flood, landslide or other natural disaster.

Commencement Information

I10 Sch. 2 para. 44 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Quiet enjoyment of the mobile home

- 45 The occupier is entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 44 and 46.

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Commencement Information

I11 Sch. 2 para. 45 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Owner's right of entry to the pitch

- 46 (1) The owner may enter the pitch without prior notice between the hours of 9 am and 6 pm —
- (a) to deliver written communications, including post and notices, to the occupier, and
 - (b) to read any meter for gas, electricity, water, sewerage or other services supplied by the owner.
- (2) The owner may enter the pitch to carry out essential repair or emergency works on giving as much notice to the occupier (whether in writing or otherwise) as is reasonably practicable in the circumstances.
- (3) Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in sub-paragraph (1) or (2) only if the owner has given the occupier at least 14 clear days' written notice of the date, time and reason for the owner's visit.
- (4) The rights conferred by this paragraph do not extend to the mobile home.

Commencement Information

I12 Sch. 2 para. 46 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

The pitch fee

- 47 (1) The pitch fee can only be changed in accordance with this paragraph, either—
- (a) with the agreement of the occupier, or
 - (b) if a tribunal, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.
- (2) The pitch fee must be reviewed annually as at the review date.
- (3) At least 28 clear days before the review date the owner must serve on the occupier a written notice setting out the owner's proposals in respect of the new pitch fee.
- (4) If the occupier agrees to the proposed new pitch fee, it is payable as from the review date.
- (5) If the occupier does not agree to the proposed new pitch fee—
- (a) the owner may apply to a tribunal for an order under sub-paragraph (1)(b) determining the amount of the new pitch fee,
 - (b) the occupier must continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by a tribunal under sub-paragraph (1) (b), and

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- (c) the new pitch fee is payable as from the review date but the occupier is not to be regarded as being in arrears until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the order of the tribunal determining the amount of the new pitch fee.
- (6) An application under sub-paragraph (5)(a) may be made at any time after the end of the period of 28 days beginning with the review date but no later than 3 months after the review date.
- (7) Sub-paragraphs (8) to (12) apply if the owner—
 - (a) has not served the notice required by sub-paragraph (3) by the time by which it was required to be served, but
 - (b) at any time afterwards serves on the occupier a written notice setting out the owner's proposals in respect of a new pitch fee.
- (8) If (at any time) the occupier agrees to the proposed pitch fee, it is payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (7)(b).
- (9) If the occupier has not agreed to the proposed pitch fee—
 - (a) the owner may apply to a tribunal for an order under sub-paragraph (1)(b) determining the amount of the new pitch fee,
 - (b) the occupier must continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by a tribunal under sub-paragraph (1)(b), and
 - (c) if a tribunal makes such an order, the new pitch fee is payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (7)(b).
- (10) An application under sub-paragraph (9) may be made at any time after the end of the period of 56 days beginning with the date on which the owner serves the notice under sub-paragraph (7)(b) but no later than 4 months after the date on which the owner serves that notice.
- (11) A tribunal may permit an application under sub-paragraph (5)(a) or (9)(a) to be made to it outside the time limit specified in sub-paragraph (6) (in the case of an application under sub-paragraph (5)(a)) or in sub-paragraph (10) (in the case of an application under sub-paragraph (9)(a)) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply within the applicable time limit and for any delay since then in applying for permission to make the application out of time.
- (12) The occupier is not to be treated as being in arrears—
 - (a) where sub-paragraph (8) applies, until the 28th day after the date on which the new pitch fee is agreed, or
 - (b) where sub-paragraph (9)(b) applies, until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of a tribunal order determining the amount of the new pitch fee.

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I13 Sch. 2 para. 47 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

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- 48 (1) When determining the amount of the new pitch fee particular regard is to be had to—
- (a) any sums expended by the owner since the last review date on improvements—
 - (i) which are for the benefit of the occupiers of mobile homes on the protected site,
 - (ii) which were the subject of consultation in accordance with paragraph 52(1)(f) and (g), and
 - (iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, a tribunal, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee,
 - (b) any decrease in the amenity of the protected site since the last review date, and
 - (c) the effect of any enactment which has come into force since the last review date.
- (2) When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(a)(iii) each mobile home is to be taken to have only 1 occupier and, in the event of there being more than 1 occupier of a mobile home, its occupier is to be taken to be whichever the occupiers agree or, in default of agreement, the occupier whose name first appears on the agreement.
- (3) In a case where the pitch fee has not been previously reviewed, references in this paragraph to the last review date are to be read as references to the date when the agreement commenced.

Commencement Information

I14 Sch. 2 para. 48 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 49 When determining the amount of the new pitch fee no regard may be had to—
- (a) any costs incurred by the owner in connection with expanding the protected site, or
 - (b) any costs incurred by the owner in relation to the conduct of proceedings under this Part or the agreement.

Commencement Information

I15 Sch. 2 para. 49 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 50 (1) Unless it would be unreasonable having regard to paragraph 48(1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than any percentage increase or decrease in the consumer prices index calculated by reference only to—
- (a) the latest index, and
 - (b) the index published for the month which was 12 months before that to which the latest index relates.
- (2) In sub-paragraph (1) “the latest index” means—
- (a) in the case where the owner serves a notice under paragraph 47(3), the latest index published before the day on which that notice is served, and

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- (b) in the case where the owner serves a notice under paragraph 47(7)(b), the latest index published before the day by which the owner was required to serve a notice under paragraph 47(3).

Commencement Information

I16 Sch. 2 para. 50 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Occupier's obligations and owner's corresponding obligations

- 51 (1) The occupier must—
- (a) pay the pitch fee to the owner,
 - (b) pay to the owner all sums due under the agreement in respect of gas, electricity, water, sewerage or other services supplied by the owner,
 - (c) keep the mobile home in a sound state of repair,
 - (d) maintain—
 - (i) the outside of the mobile home, and
 - (ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home,in a clean and tidy condition, and
 - (e) if requested by the owner, provide the owner with documentary evidence of any costs or expenses in respect of which the occupier seeks reimbursement.
- (2) The owner must not do or cause to be done anything which may adversely affect the ability of the occupier to perform the occupier's obligations under sub-paragraph (1) (c) and (d).

Commencement Information

I17 Sch. 2 para. 51 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Owner's other obligations

- 52 (1) The owner must—
- (a) if requested by the occupier, and on payment by the occupier of a charge of not more than £30, provide accurate written details of—
 - (i) the size of the pitch and the base on which the mobile home is stationed, and
 - (ii) the location of the pitch and the base within the protected site,and such details must include measurements between identifiable fixed points on the protected site and the pitch and the base,
 - (b) if requested by the occupier, provide (free of charge) documentary evidence in support and explanation of—
 - (i) any new pitch fee,
 - (ii) any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement, and
 - (iii) any other charges, costs or expenses payable by the occupier to the owner under the agreement,

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- (c) be responsible for repairing the base on which the mobile home is stationed and for maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the mobile home,
 - (d) be responsible for repairing other amenities provided by the owner on the pitch including any outhouses and facilities provided,
 - (e) maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a mobile home stationed on the protected site,
 - (f) consult the occupier about improvements to the protected site in general, and in particular about those which the owner wishes to be taken into account when determining the amount of any new pitch fee, and
 - (g) consult a qualifying residents' association (if there is one) about all matters which relate to the operation and management of, or improvements to, the protected site and may affect the occupiers either directly or indirectly.
- (2) For the purposes of sub-paragraph (1)(f), to “consult” the occupier means—
- (a) to give the occupier at least 28 clear days' notice in writing of the proposed improvements which—
 - (i) describes the proposed improvements and how they will benefit the occupier in the long and short term,
 - (ii) details how the pitch fee may be affected when it is next reviewed, and
 - (iii) states when and where the occupier can make representations about the proposed improvements, and
 - (b) to take into account any representations made by the occupier about the proposed improvements, in accordance with paragraph (a)(iii), before undertaking them.
- (3) For the purposes of sub-paragraph (1)(g), to “consult” a qualifying residents' association means—
- (a) to give the association at least 28 clear days' notice in writing of the matters referred to in sub-paragraph (1)(g) which—
 - (i) describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term, and
 - (ii) states when and where the association can make representations about the matters, and
 - (b) to take into account any representations made by the association, in accordance with paragraph (a)(ii), before proceeding with the matters.

Commencement Information

I18 Sch. 2 para. 52 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

Owner's name and address

- 53 (1) The owner must by notice inform the occupier and any qualifying residents' association of the address in England or Wales at which notices (including notices of proceedings) may be served on the owner by the occupier or a qualifying residents' association.

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- (2) If the owner fails to comply with sub-paragraph (1), then any amount otherwise due from the occupier to the owner in respect of the pitch fee is to be treated for all purposes as not being due from the occupier to the owner at any time before the owner does comply with that sub-paragraph.
- (3) Where in accordance with the agreement the owner gives any written notice to the occupier or (as the case may be) a qualifying residents' association, the notice must contain the name and address of the owner.
- (4) Where—
- (a) the occupier or a qualifying residents' association receives such a notice, but
 - (b) it does not contain the information required to be contained in it by virtue of sub-paragraph (3),
- the notice is to be treated as not having been given until such time as the owner gives the information to the occupier or (as the case may be) the association in respect of the notice.
- (5) Nothing in sub-paragraphs (3) and (4) applies to any notice containing a demand to which paragraph 54(1) applies.

Commencement Information

I19 Sch. 2 para. 53 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 54 (1) Where the owner makes any demand for payment by the occupier of the pitch fee, or in respect of services supplied or other charges, the demand must contain the name and address of the owner.
- (2) Where—
- (a) the occupier receives such a demand, but
 - (b) it does not contain the information required to be contained in it by virtue of sub-paragraph (1), the amount demanded is to be treated for all purposes as not being due from the occupier to the owner at any time before the owner gives that information to the occupier in respect of the demand.

Commencement Information

I20 Sch. 2 para. 54 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

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