



# Mobile Homes Act 2013

## 2013 CHAPTER 14

### *Pitch agreements*

#### **9 Site rules**

(1) After section 2B of the Mobile Homes Act 1983 insert—

##### **“2C Site rules**

- (1) In the case of a protected site in England (other than a gypsy and traveller site) for which there are site rules, each of the rules is to be an express term of each agreement to which this Act applies that relates to a pitch on the site (including an agreement made before commencement or one made before the making of the rules).
- (2) The “site rules” for a protected site are rules made by the owner in accordance with such procedure as may be prescribed which relate to—
  - (a) the management and conduct of the site, or
  - (b) such other matters as may be prescribed.
- (3) Any rules made by the owner before commencement which relate to a matter mentioned in subsection (2) cease to have effect at the end of such period beginning with commencement as may be prescribed.
- (4) Site rules come into force at the end of such period beginning with the first consultation day as may be prescribed, if a copy of the rules is deposited with the local authority before the end of that period.
- (5) Where a site rule is varied, the rule as varied comes into force at the end of such period beginning with the first consultation day as may be prescribed, if—
  - (a) the rule is varied in accordance with such procedure as may be prescribed, and
  - (b) a copy of the rule as varied is deposited with the local authority before the end of that period.

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- (6) Where a site rule is deleted, the deletion comes into force at the end of such period beginning with the first consultation day as may be prescribed, if—
  - (a) the rule is deleted in accordance with such procedure as may be prescribed, and
  - (b) notice of the deletion is deposited with the local authority before the end of that period.
- (7) Regulations may provide that a site rule may not be made, varied or deleted unless a proposal to make, vary or delete the rule is notified to the occupiers of the site in question in accordance with the regulations.
- (8) Regulations may provide that site rules, or rules such as are mentioned in subsection (3), are of no effect in so far as they make provision in relation to prescribed matters.
- (9) Regulations may make provision as to the resolution of disputes—
  - (a) relating to a proposal to make, vary or delete a site rule;
  - (b) as to whether the making, variation or deletion of a site rule was in accordance with the applicable prescribed procedure;
  - (c) as to whether a deposit required to be made by virtue of subsection (4), (5) or (6) was made before the end of the relevant period.
- (10) Provision under subsection (9) may confer functions on a tribunal.
- (11) Regulations may—
  - (a) require a local authority to establish and keep up to date a register of site rules in respect of protected sites in its area;
  - (b) require a local authority to publish the up-to-date register;
  - (c) provide that any deposit required to be made by virtue of subsection (4), (5) or (6) must be accompanied by a fee of such amount as the local authority may determine.

## **2D Section 2C: supplementary provision**

- (1) This section applies for the purposes of section 2C.
- (2) “Commencement” means the commencement of that section.
- (3) “First consultation day” means the day on which a proposal made under regulations under subsection (7) of that section is notified to the occupiers of the site in accordance with the regulations.
- (4) A reference to the local authority is a reference to the local authority in whose area the protected site in question is situated.
- (5) A reference to a gypsy and traveller site is a reference to a county council gypsy and traveller site or a local authority gypsy and traveller site (each of which has the meaning given by paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1).
- (6) “Prescribed” means prescribed in regulations; and the power to make regulations is exercisable by the Secretary of State.
- (7) The regulations must be made by statutory instrument and may—

- (a) make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) contain incidental, supplementary, transitional or saving provisions.
- (8) The regulations are subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 1(2)(c) of the Mobile Homes Act 1983 (requirement for proposed express terms to be set out in written statement), after “to be contained in the agreement” insert “(including any site rules (see section 2C))”.
- (3) In section 1(5) of that Act (enforcement of express terms), after “any express term” insert “other than a site rule (see section 2C)”.
- (4) In section 2(3) of that Act (application to tribunal to vary express term etc.)—
  - (a) in paragraph (a), after “any express term of the agreement” insert “other than a site rule (see section 2C)”, and
  - (b) in paragraph (b), after “any express term to which section 1(6) above applies” insert “other than a site rule (see section 2C)”.

## **10 Implied terms: removal of requirement for site owner consent to sale or gift**

- (1) The Mobile Homes Act 1983 is amended as follows.
- (2) In Chapter 2 of Part 1 of Schedule 1 (implied terms in pitch agreements except those relating to pitches in England on certain gypsy and traveller sites), before paragraph 8 but after the cross-heading above it (sale of mobile home) insert—
  - “7A (1) This paragraph and paragraph 7B apply in relation to a protected site in England.
  - (2) Where the agreement is a new agreement, the occupier is entitled to sell the mobile home and to assign the agreement to the person to whom the mobile home is sold (referred to in this paragraph as the “new occupier”) without the approval of the owner.
  - (3) In this paragraph and paragraph 7B, “new agreement” means an agreement—
    - (a) which was made after the commencement of this paragraph, or
    - (b) which was made before, but which has been assigned after, that commencement.
  - (4) The new occupier must, as soon as reasonably practicable, notify the owner of the completion of the sale and assignment of the agreement.
  - (5) The new occupier is required to pay the owner a commission on the sale of the mobile home at a rate not exceeding such rate as may be prescribed by regulations made by the Secretary of State.
  - (6) Except to the extent mentioned in sub-paragraph (5), the owner may not require any payment to be made (whether to the owner or otherwise) in connection with the sale of the mobile home and the assignment of the agreement to the new occupier.

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- (7) The Secretary of State may by regulations prescribe procedural requirements to be complied with by the owner, the occupier or the new occupier in connection with—
- (a) the sale of the mobile home and assignment of the agreement;
  - (b) the payment of commission by virtue of sub-paragraph (5).
- 7B (1) Where the agreement is not a new agreement, the occupier is entitled to sell the mobile home and assign the agreement without the approval of the owner if—
- (a) the occupier serves on the owner a notice (a “notice of proposed sale”) that the occupier proposes to sell the mobile home, and assign the agreement, to the person named in the notice (the “proposed occupier”), and
  - (b) the first or second condition is satisfied.
- (2) The first condition is that, within the period of 21 days beginning with the date on which the owner received the notice of proposed sale (“the 21-day period”), the occupier does not receive a notice from the owner that the owner has applied to a tribunal for an order preventing the occupier from selling the mobile home, and assigning the agreement, to the proposed occupier (a “refusal order”).
- (3) The second condition is that—
- (a) within the 21-day period—
    - (i) the owner applies to a tribunal for a refusal order, and
    - (ii) the occupier receives a notice of the application from the owner, and
  - (b) the tribunal rejects the application.
- (4) If the owner applies to a tribunal for a refusal order within the 21-day period but the occupier does not receive notice of the application from the owner within that period—
- (a) the application is to be treated as not having been made, and
  - (b) the first condition is accordingly to be treated as satisfied.
- (5) A notice of proposed sale must include such information as may be prescribed in regulations made by the Secretary of State.
- (6) A notice of proposed sale or notice of an application for a refusal order—
- (a) must be in writing, and
  - (b) may be served by post.
- (7) An application for a refusal order may be made only on one or more of the grounds prescribed in regulations made by the Secretary of State; and a notice of an application for a refusal order must specify the ground or grounds on which the application is made.
- (8) The person to whom the mobile home is sold (“the new occupier”) is required to pay the owner a commission on the sale of the mobile home at a rate not exceeding such rate as may be prescribed by regulations made by the Secretary of State.

- (9) Except to the extent mentioned in sub-paragraph (8), the owner may not require any payment to be made (whether to the owner or otherwise) in connection with the sale of the mobile home and the assignment of the agreement.
- (10) The Secretary of State may by regulations prescribe procedural requirements to be complied with by the owner, the occupier, a proposed occupier or the new occupier in connection with—
- (a) the sale of the mobile home and assignment of the agreement;
  - (b) the payment of commission by virtue of sub-paragraph (8).
- 7C (1) Regulations under paragraph 7A or 7B must be made by statutory instrument and may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas or for sales at different prices;
  - (b) contain incidental, supplementary, transitional or saving provisions.
- (2) Regulations under paragraph 7A or 7B are subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In that Chapter, in paragraph 8, before sub-paragraph (1) insert—
- “(A1) This paragraph applies in relation to a protected site in Wales.”
- (4) In Part 3 of Schedule 1 (supplementary provisions), before paragraph 1 and the cross-heading above it, insert—

*“Sale pursuant to paragraph 7A or 7B of Chapter 2 of Part 1: provision of information*

- A1 (1) This paragraph applies where the occupier proposes to sell the mobile home, and assign the agreement, pursuant to paragraph 7A or 7B of Chapter 2 of Part 1.
- (2) The occupier must, not later than 28 days before the completion of the sale of the mobile home and assignment of the agreement, provide the proposed occupier with—
- (a) such documents, or documents of such description, as may be prescribed in regulations made by the Secretary of State, and
  - (b) such other information as may be so prescribed, in the form so prescribed.
- (3) But if the proposed occupier consents in writing to the documents and other information concerned being provided by a date (“the chosen date”) which is less than 28 days before the completion of the sale and assignment of the agreement, the occupier must provide the documents and other information to the proposed occupier not later than the chosen date.
- (4) The documents and other information which may be prescribed in regulations under sub-paragraph (2) include in particular—
- (a) a copy of the agreement;

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- (b) a copy of the site rules (within the meaning given by section 2C) (if any) for the protected site on which the mobile home is stationed;
  - (c) details of the pitch fee payable under the agreement;
  - (d) a forwarding address for the occupier;
  - (e) in a case within paragraph 7A, information about the requirement imposed by virtue of sub-paragraph (4) of that paragraph (obligation to notify owner of completion of sale and assignment);
  - (f) details of the commission which would be payable by the proposed occupier by virtue of paragraph 7A(5) or 7B(8);
  - (g) information about such requirements as are prescribed in regulations under paragraph 7A(7) or 7B(10).
- (5) Documents or other information required to be provided under this paragraph may be either delivered to the prospective purchaser personally or sent by post.
- (6) A claim that a person has broken the duty under sub-paragraph (2) or (3) may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.
- (7) Regulations under sub-paragraph (2) must be made by statutory instrument and may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) contain incidental, supplementary, transitional or saving provisions.
- (8) The first regulations to be made under sub-paragraph (2) are subject to annulment in pursuance of a resolution of either House of Parliament
- (9) But regulations made under any other provision of this Act which are subject to annulment in pursuance of a resolution of either House of Parliament may also contain regulations made under sub-paragraph (2).
- (10) In sub-paragraph (4)(c), “pitch fee” has the same meaning as in Chapter 2 of Part 1 of this Schedule (see paragraph 29 of that Chapter).”
- (5) In Chapter 2 of Part 1 of Schedule 1, before paragraph 9 but after the cross-heading above it (gift of mobile home) insert—
- “8A (1) This paragraph and paragraph 8B apply in relation to a protected site in England.
- (2) Where the agreement is a new agreement (as defined by paragraph 7A(3)), provided that the occupier has supplied the owner with the relevant evidence, the occupier is entitled to give the mobile home, and to assign the agreement, to a member of the occupier’s family (referred to in this paragraph as the “new occupier”) without the approval of the owner.
- (3) The relevant evidence is—
- (a) evidence, or evidence of a description, prescribed in regulations made by the Secretary of State that the person to whom the

- occupier proposes to give the mobile home, and to assign the agreement, is a member of the occupier's family, or
- (b) any other satisfactory evidence that the person concerned is a member of the occupier's family.
- (4) The new occupier must, as soon as reasonably practicable, notify the owner of the receipt of the mobile home and assignment of the agreement.
- (5) The owner may not require any payment to be made (whether to the owner or otherwise) in connection with the gift of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (2).
- (6) The Secretary of State may by regulations prescribe procedural requirements to be complied with by the owner, the occupier or the new occupier in connection with the gift of the mobile home, and assignment of the agreement, as mentioned in sub-paragraph (2).
- 8B (1) Where the agreement is not a new agreement (as defined by paragraph 7A(3)), the occupier is entitled to give the mobile home, and assign the agreement, to a member of the occupier's family (referred to in this paragraph as the "proposed occupier") without the approval of the owner if—
- (a) the occupier serves on the owner a notice (a "notice of proposed gift") that the occupier proposes to give the mobile home to the proposed occupier, and
- (b) the first or second condition is satisfied.
- (2) The first condition is that, within the period of 21 days beginning with the date on which the owner received the notice of proposed gift ("the 21-day period"), the occupier does not receive a notice from the owner that the owner has applied to a tribunal for an order preventing the occupier from giving the mobile home, and assigning the agreement, to the proposed occupier (a "refusal order").
- (3) The second condition is that—
- (a) within the 21-day period—
- (i) the owner applies to a tribunal for a refusal order, and
- (ii) the occupier receives a notice of the application from the owner, and
- (b) the tribunal rejects the application.
- (4) If the owner applies to a tribunal for a refusal order within the 21-day period but the occupier does not receive notice of the application from the owner within that period—
- (a) the application is to be treated as not having been made, and
- (b) the first condition is accordingly to be treated as satisfied.
- (5) A notice of proposed gift must include—
- (a) the relevant evidence (as defined by paragraph 8A(3)), and
- (b) such other information as may be prescribed in regulations made by the Secretary of State.
- (6) A notice of proposed gift or notice of an application for a refusal order—
- (a) must be in writing, and

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- (b) may be served by post.
- (7) An application for a refusal order may be made only on one or more of the grounds prescribed in regulations made by the Secretary of State; and a notice of an application for a refusal order must specify the ground or grounds on which the application is made.
- (8) The owner may not require any payment to be made (whether to the owner or otherwise) in connection with the gift of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (1).
- (9) The Secretary of State may by regulations prescribe procedural requirements to be complied with by the owner, the occupier, a proposed occupier or the person to whom the mobile home is given in connection with the gift of the mobile home, and assignment of the agreement, as mentioned in sub-paragraph (1).
- 8C (1) Regulations under paragraph 8A or 8B must be made by statutory instrument and may—
  - (a) make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) contain incidental, supplementary, transitional or saving provisions.
- (2) Regulations under paragraph 8A or 8B are subject to annulment in pursuance of a resolution of either House of Parliament.”
- (6) In that Chapter, in paragraph 9, before sub-paragraph (1) insert—
 

“(A1) This paragraph applies in relation to a protected site in Wales.”
- (7) In section 3 (successors in title), in subsection (4)(b), for “or 9” substitute “, 8A, 8B or 9”.

## **11 Implied terms: pitch fees**

- (1) Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (implied terms in pitch agreements except those relating to pitches in England on certain gypsy and traveller sites) is amended as follows.
- (2) In paragraph 17 (review of pitch fee)—
  - (a) after sub-paragraph (2) insert—
 

“(2A) In the case of a protected site in England, a notice under sub-paragraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.”
  - (b) in sub-paragraph (4)(a), after “the owner” insert “or (in the case of a protected site in England) the occupier”,
  - (c) after sub-paragraph (6) insert—
 

“(6A) In the case of a protected site in England, a notice under sub-paragraph (6)(b) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.”



- (d) in sub-paragraph (8)(a), after “the owner” insert “or (in the case of a protected site in England) the occupier”, and
  - (e) after sub-paragraph (10) insert—
    - “(11) Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch in England, is satisfied that—
      - (a) a notice under sub-paragraph (2) or (6)(b) was of no effect as a result of sub-paragraph (2A) or (6A), but
      - (b) the occupier nonetheless paid the owner the pitch fee proposed in the notice.
    - (12) The tribunal may order the owner to pay the occupier, within the period of 21 days beginning with the date of the order, the difference between—
      - (a) the amount which the occupier was required to pay the owner for the period in question, and
      - (b) the amount which the occupier has paid the owner for that period.”
- (3) In paragraph 18 (matters to which to have particular regard when determining new pitch fee)—
- (a) in sub-paragraph (1), after paragraph (a) insert—
    - “(aa) in the case of a protected site in England, any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land which is occupied or controlled by the owner since the date on which this paragraph came into force (in so far as regard has not previously been had to that deterioration or decrease for the purposes of this sub-paragraph);
    - (ab) in the case of a protected site in England, any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services, since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this sub-paragraph);”,
  - (b) in that sub-paragraph, at the beginning of paragraph (b) insert “in the case of a protected site in Wales,”,
  - (c) in that sub-paragraph, omit the “and” following paragraph (b),
  - (d) in that sub-paragraph, after paragraph (b) insert—
    - “(ba) in the case of a protected site in England, any direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date; and”,
  - (e) in that sub-paragraph, at the beginning of paragraph (c) insert “in the case of a protected site in Wales,”, and
  - (f) after that sub-paragraph insert—
    - “(1A) But, in the case of a pitch in England, no regard shall be had, when determining the amount of the new pitch fee, to any costs incurred by the owner since the last review date for the purpose of compliance with the amendments made to this Act by the Mobile Homes Act 2013.”

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(4) In paragraph 19 (certain costs of owner to be disregarded when determining new pitch fee), after sub-paragraph (3) (inserted by section 1(8)) insert—

“(4) In the case of a protected site in England, when determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in connection with—

- (a) any action taken by a local authority under sections 9A to 9I of the Caravan Sites and Control of Development Act 1960 (breach of licence condition, emergency action etc.);
- (b) the owner being convicted of an offence under section 9B of that Act (failure to comply with compliance notice).”

(5) In paragraph 20 (effect of changes in RPI on amount of pitch fee)—

(a) before sub-paragraph (1) insert—

“(A1) In the case of a protected site in England, unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail 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.

(A2) In sub-paragraph (A1), “the latest index”—

- (a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;
- (b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2).”, and

(b) in sub-paragraph (1), at the beginning insert “In the case of a protected site in Wales,”.

(6) After paragraph 25 insert—

“25A (1) The document referred to in paragraph 17(2A) and (6A) must—

- (a) be in such form as the Secretary of State may by regulations prescribe,
- (b) specify any percentage increase or decrease in the retail prices index calculated in accordance with paragraph 20(A1),
- (c) explain the effect of paragraph 17,
- (d) specify the matters to which the amount proposed for the new pitch fee is attributable,
- (e) refer to the occupier’s obligations in paragraph 21(c) to (e) and the owner’s obligations in paragraph 22(c) and (d), and
- (f) refer to the owner’s obligations in paragraph 22(e) and (f) (as glossed by paragraphs 24 and 25).

(2) Regulations under this paragraph must be made by statutory instrument.

- (3) The first regulations to be made under this paragraph are subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) But regulations made under any other provision of this Act which are subject to annulment in pursuance of a resolution of either House of Parliament may also contain regulations made under this paragraph.”
- (7) The amendments made by this section apply in relation to an agreement to which the Mobile Homes Act 1983 applies that was made before the commencement of this section, as well as in relation to one made on or after that commencement.