
WELSH STATUTORY INSTRUMENTS

2013 No. 1723

The Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (Wales) Order 2013

Amendments to Part 1 of Schedule 1 to the Mobile Homes Act 1983

- 2.—(1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 is amended as follows.
 - (2) In Chapter 1—
 - (a) in paragraph 1(1) omit the words “in England” in the second place they occur; and
 - (b) in paragraph 1(2) and (3) after “England” insert “and Wales”.
 - (3) In Chapter 2—
 - (a) in the heading omit the words “in England” in the second place they occur;
 - (b) in paragraph 29 (interpretation)—
 - (i) for “this Schedule” substitute “this Chapter”; and
 - (ii) omit the definition of “pitch”.
 - (4) In the heading of Chapter 3 after “England” insert “and Wales”.
 - (5) In Chapter 4—
 - (a) in the heading, after “England” insert “and Wales”;
 - (b) after paragraph 6 (termination by owner) insert—

“Assignment of agreement in Wales”

- 6A.—(1) This paragraph and paragraph 6B apply to an agreement that relates to a pitch in Wales.
 - (2) 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 (3) are met.
 - (3) The conditions are—
 - (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.
 - (4) A relevant site for the purposes of sub-paragraph (3) is a local authority gypsy and traveller site in the area of the local authority where the site on which the pitch to which A’s agreement relates is located.
 - (5) 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.

Application in relation to assignment in Wales

6B.—(1) The occupier may serve on the owner a request to approve, for the purposes of paragraph 6A, an assignment to a person named in the request (“the proposed occupier”).

(2) Where the request relates to an assignment under paragraph 6A(2)(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 the approval is withheld, the decision notice must specify the reasons for withholding it.

(5) 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 6A may be given subject to a condition requiring the occupier to pay the outstanding fee, remedy the breach or perform the obligation.

(6) Except as provided by sub-paragraph (5), the approval required for the purpose of paragraph 6A cannot be given subject to a condition and a condition imposed otherwise than as so provided is to be disregarded.

(7) 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 6A and the tribunal may make such an order if it thinks fit.

(8) 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.

(9) 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.

(10) A request or notice under this paragraph—

- (a) must be in writing, and
- (b) may be served by post.

(11) Subject to sub-paragraph (12), an application to the tribunal under sub-paragraph (7) by an occupier must be made—

- (a) within the period of three 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 three months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1).

(12) A tribunal may permit an application under sub-paragraph (7) to be made to the tribunal after the applicable period specified in sub-paragraph (11) 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.”;

(c) after paragraph 8(1) (re-siting of mobile home) insert—

“(1A) In the case of a protected site in Wales, 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.”;

- (d) in paragraph 16(2) (new pitch fee), at the beginning, insert “In the case of a protected site in England,”;
- (e) after paragraph 16(2) insert—

“(2A) In the case of a protected site in Wales, when calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(a)(iii) each pitch is to be taken to have only one occupier and, in the event of there being more than one occupier of a pitch, its occupier is to be taken to be whichever of them the occupiers agree or, in default of agreement, the one whose name first appears on the agreement.”;

- (f) in paragraph 18(1), at the beginning, insert “In the case of a protected site in England, ”;
- (g) after paragraph 18(1) insert—

“(1A) In the case of a protected site in Wales, unless it would be unreasonable having regard to paragraph 16(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.

(1B) In sub-paragraph (1A) the “latest index” means—

- (a) in the case where the owner serves a notice under paragraph 15(2), the latest index published before the day on which that notice is served, and
- (b) in the case where the owner serves a notice under paragraph 15(6)(b), the latest index published before the day by which the owner was required to serve a notice under paragraph 15(2).”

- (h) in paragraph 26(2) (qualifying residents' association), at the beginning, insert “In the case of a protected site in England,”;
- (i) after paragraph 26(2) insert—

“(2A) In the case of a protected site in Wales, when calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) each pitch is to be taken to have only one occupier and, in the event of there being more than one occupier of a pitch, its occupier is to be taken to be whichever of them the occupiers agree or, in default of agreement, the one whose name first appears on the agreement.”;

- (j) in paragraph 27—

(i) before the definition of “pitch fee” insert—

““consumer prices index” means the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board;”.