SCHEDULES

SCHEDULE 1

AGREEMENTS UNDER ACT

PART I

TERMS IMPLIED BY ACT

[F1CHAPTER 2

AGREEMENTS RELATING TO PITCHES F2... EXCEPT PITCHES F3... ON LOCAL AUTHORITY GYPSY AND TRAVELLER SITES AND COUNTY COUNCIL GYPSY AND TRAVELLER SITES]

Textual Amendments

F1 Sch. 1 Pt. 1 renumbered as Sch. 1 Pt. 1 Ch. 2 (E.) (30.4.2011) by The Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 (S.I. 2011/1003), art. 1(1), **Sch. 1 para. 2** (with art. 1(3))

F2 Words in Sch. 1 Pt. I Ch. 2 heading omitted (W.) (1.10.2014) by virtue of Mobile Homes (Wales) Act 2013 (anaw 6), s. 64(1), **Sch. 4 para. 4(9)(b)** (with Sch. 5 para. 7); S.I. 2014/11, art. 3(2)

F3 Words in Sch. 1 Pt. I Ch. 2 heading omitted (10.7.2013) by virtue of The Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (Wales) Order 2013 (S.I. 2013/1723), arts. 1(1), **2(3)(a)** (with art. 1(3))

[F4The pitch fee

Textual Amendments

F4 Sch. 1 Pt. 1 paras. 10-29 and cross-headings substituted for Sch. 1 Pt. 1 para. 10 and cross-heading (E.) (1.10.2006) by The Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1755), arts. 1(1), 2(6) (with arts. 1(2)(3), 4) and (W.) (30.11.2007) by by The Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I. 2007/3151), arts. 1(1), **2(6)** (with arts. 1(2)(3), 4)

16 The pitch fee can only be changed in accordance with paragraph 17, either—

(a) with the agreement of the occupier, or

(b) if the [F5appropriate judicial body], 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.

17 (1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

F6(2A) **[** **[**F7A**]** 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.**]**

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

(a) the owner F8**[**F9... the occupier**]** may apply to the **[**F10appropriate judicial body**]** for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall 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 the **[**F10appropriate judicial body**]** under paragraph 16(b); and

(c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated 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 **[**F10appropriate judicial body**]** order determining the amount of the new pitch fee.

(5) An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date **[**F11but F12... no later than three months after the review date**]**.

(6) Sub-paragraphs (7) to (10) apply if the owner—

(a) has not served the notice required by sub-paragraph (2) by the time by which it was required to be served, but

(b) at any time thereafter serves on the occupier a written notice setting out his proposals in respect of a new pitch fee.

F13(6A) **[** **[**F14A**]** 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.**]**

(7) If (at any time) the occupier agrees to the proposed pitch fee, it shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(8) If the occupier has not agreed to the proposed pitch fee—

(a) the owner **[**F15or F16... the occupier**]** may apply to the **[**F10appropriate judicial body**]** for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall 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 the **[**F10appropriate judicial body**]** under paragraph 16(b); and

(c) if the **[**[F10]appropriate judicial body**]** makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(9) An application under sub-paragraph (8) may be made at any time after the end of the period of 56 days beginning with date on which the owner serves the notice under sub-paragraph (6)(b) **[**[F17]but [F18]... no later than four months after the date on which the owner serves that notice**]**.

[[F19](9A) A tribunal may permit an application under sub-paragraph (4)(a) or (8)(a) [F20]... to be made to it outside the time limit specified in sub-paragraph (5) (in the case of an application under sub-paragraph (4)(a)) or in sub-paragraph (9) (in the case of an application under sub-paragraph (8)(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.**]**

(10) The occupier shall not be treated as being in arrears—

(a) where sub-paragraph (7) applies, until the 28th day after the date on which the new pitch fee is agreed; or

(b) where sub-paragraph (8)(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 the **[**[F10]appropriate judicial body**]** order determining the amount of the new pitch fee.

[[F21](11) Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch [F22]..., 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.**]**

18 (1) When determining the amount of the new pitch fee particular regard shall 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 22(e) and (f) below; and

(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the **[**[F23]appropriate judicial body**]**, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;

[[F24](aa) [F25]... 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) [F25]... 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);**]**

[F26](b) . . . . . .

[[F28]... any direct effect on the costs payable by the owner in relation to the [F27](ba) maintenance or management of the site of an enactment which has come into force since the last review date; and**]**

[F29](c) . . . . . .

[But[F31]... no regard shall be had, when determining the amount of the new pitch fee, [F30](1A) 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.**]**

(2) When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(b)(iii) each mobile home is to be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be 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.

19 **[** When determining the amount of the new pitch fee, any costs incurred by the owner [F32](1)**]** in connection with expanding the protected site shall not be taken into account.

[[F34]... When determining the amount of the new pitch fee, no regard may be had to [F33](2) any costs incurred by the owner in relation to the conduct of proceedings under this Act or the agreement.**]**

[**[**[F36]When**]** when determining the amount of the new pitch fee, no regard may be had [F35](3) to any fee required to be paid by the owner by virtue of—

(a) section 8(1B) of the Caravan Sites and Control of Development Act 1960 (fee for application for site licence conditions to be altered);

(b) section 10(1A) of that Act (fee for application for consent to transfer site licence).**]**

[**[**[F36]When**]** determining the amount of the new pitch fee, no regard may be had to any [F37](4) 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).**]**

20 **[** **[**[F39]Unless**]** this would be unreasonable having regard to paragraph 18(1), there is a [F38](A1) presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the **[**[F40]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.

(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).**]**

[F41](1) . . . . . .

[[F41](2) Paragraph 18(3) above applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.**]]**

Changes to legislation:
There are currently no known outstanding effects for the Mobile Homes Act 1983, Cross Heading: The pitch fee.