

SCHEDULE 1

Article 2

1. Part 1 of Schedule 1 to the Mobile Homes Act 1983 (terms implied into agreements to which the Act applies) is amended as follows.

2. After the heading “Terms implied by Act” insert—

“CHAPTER 1

Application and interpretation

1.—(1) The implied terms set out in Chapter 2 apply to all agreements which relate to a pitch in England and Wales except an agreement which relates to a pitch in England on a local authority gypsy and traveller site or a county council gypsy and traveller site.

(2) The implied terms set out in Chapter 3 apply to an agreement which relates to a transit pitch in England on a local authority gypsy and traveller site or a county council gypsy and traveller site.

(3) The implied terms set out in Chapter 4 apply to an agreement which relates to a permanent pitch in England on a local authority gypsy and traveller site or a county council gypsy and traveller site.

(4) In this Part of this Schedule—

“caravan site” has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960,

“county council gypsy and traveller site” means any land which—

- (a) is occupied by a county council as a caravan site providing accommodation for gypsies and travellers, and
- (b) is a protected site,

“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 showpeople, or persons engaged in travelling circuses, travelling together as such,

“local authority gypsy and traveller site” means any land which—

- (a) is occupied by a local authority as a caravan site providing accommodation for gypsies and travellers, and
- (b) is a protected site,

“permanent pitch” means a pitch which is not a transit pitch,

“pitch” means the land, forming part of a protected site and including any garden area, on which an occupier is entitled to station a mobile home under the terms of the agreement, and

“transit pitch” means a pitch on which a person is entitled to station a mobile home under the terms of the agreement for a fixed period of up to 3 months.

CHAPTER 2

Agreements relating to pitches in England and Wales except pitches in England on local authority gypsy and traveller sites and county council gypsy and traveller sites”

3. In paragraph 29 of Part 1 of Schedule 1 (interpretation)—

- (a) for “this Schedule” substitute “this Chapter”; and
- (b) the definition of “pitch” is repealed.

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4. After paragraph 29 of Schedule 1 insert—

“CHAPTER 3

Agreements relating to transit pitches in England on a local authority gypsy and traveller site or a county council gypsy and traveller site

Duration of agreement

1. Subject to paragraph 2, the right to station the mobile home on the transit pitch subsists until the fixed period set out in the agreement expires or termination of the agreement under paragraph 3 or 4, whichever is sooner.

2.—(1) If the owner’s estate or interest is insufficient to enable the owner to grant the right for the fixed period set out in the agreement, 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 such terms 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 planning permission for the use of the protected site as a site for mobile homes has been granted in terms such that it requires the owner to limit the duration of stay for mobile homes on the site, the period for which the right subsists does not extend beyond that duration.

Early termination by occupier

3. The occupier may terminate the agreement before the expiry of the fixed period set out in the agreement by giving written notice to the owner.

Early termination by owner

4. The owner may terminate the agreement before the expiry of the fixed period set out in the agreement—

(a) without being required to show any reason, by giving written notice not less than four weeks before the date on which that notice is to take effect, or

(b) forthwith, where—

(i) 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

(ii) the owner considers it reasonable for the agreement to be terminated.

Recovery of overpayments by occupier

5. Where the agreement is terminated as mentioned in paragraph 3 or 4, 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.

Quiet enjoyment of the mobile home

6. The occupier is entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 7, 8 and 9.

Owner's right of entry to the pitch

7. The owner may enter the pitch without prior notice between the hours of 9am and 6pm—

- (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.

8.—(1) 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.

(2) In this paragraph, “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.

9. Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in paragraph 7 or 8 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.

10. The rights conferred by paragraphs 7 to 9 do not extend to the mobile home.

Owner's name and address

11.—(1) The owner must by notice inform the occupier of the address in England or Wales at which notices (including notices of proceedings) may be served on the owner by the occupier.

(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 so comply.

(3) Where in accordance with the agreement the owner gives any written notice to the occupier the notice must contain the name and address of the owner.

(4) Where—

- (a) the occupier 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 in respect of the notice.

(5) Nothing in sub-paragraphs (3) and (4) applies to any notice containing a demand to which paragraph 12(1) applies.

12.—(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.

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(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.

Interpretation

13. In this Chapter, “pitch fee” means the amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water, sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts.

CHAPTER 4

Agreements relating to permanent pitches in England on a local authority gypsy and traveller site or a county council gypsy and traveller site

Duration of agreement

1. Subject to paragraph 2, the right to station the mobile home on land forming part of the protected site subsists until the agreement is determined under paragraph 3, 4, 5 or 6.

2.—(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.

Termination by occupier

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

Termination by owner

4. The owner is entitled to terminate the agreement forthwith if, on the application of the owner, the court—

- (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.

5. The owner is entitled to terminate the agreement forthwith if, on the application of the owner, the court—

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- (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.
- 6.—(1) The owner is entitled to terminate the agreement forthwith if—
- (a) on the application of the owner, the court 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 court, having regard to its 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 court under sub-paragraph (1)(a)—
- (a) the court 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 court that the occupier intends to carry out those repairs.
- (3) In such a case the court 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 court considers reasonable to enable the repairs to be carried out.
- (4) If the court 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.

Recovery of overpayments by occupier

7. Where the agreement is terminated as mentioned in paragraph 3, 4, 5 or 6, 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.

Re-siting of mobile home

- 8.—(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 (and only if)—
- (a) on the application of the owner, the court 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.

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(2) 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 so requires, or the court on the application of the occupier so orders, secure that the mobile home is returned to the original pitch on the completion of the replacement or repairs.

(3) 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.

(4) In this paragraph and in paragraph 11, “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.

Quiet enjoyment of the mobile home

9. The occupier is entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 8, 10, 11 and 12.

Owner’s right of entry to the pitch

10. The owner may enter the pitch without prior notice between the hours of 9am and 6pm—

- (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.

11. 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.

12. Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in paragraph 10 or 11 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.

13. The rights conferred by paragraphs 10 to 12 do not extend to the mobile home.

The pitch fee

14. The pitch fee can only be changed in accordance with paragraph 15, either—

- (a) with the agreement of the occupier, or
- (b) if the court, 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.

15.—(1) The pitch fee will be reviewed annually as at the review date.

(2) 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.

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

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

(a) the owner may apply to the court for an order under paragraph 14(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 the court under paragraph 14(b); and

(c) the new pitch fee is payable as from the review date but the occupier is not to 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 court 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 but no later than three months after the review date.

(6) Sub-paragraphs (7) to (11) 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 the owner's proposals in respect of a new pitch fee.

(7) 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 (6)(b).

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

(a) the owner may apply to the court for an order under paragraph 14(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 the court under paragraph 14(b); and

(c) if the court 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 (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 the date on which the owner serves the notice under sub-paragraph (6)(b) but no later than four months after the date on which the owner serves that notice.

(10) The court may permit an application under sub-paragraph (4)(a) or (8)(a) 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.

(11) The occupier is not to 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

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- (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 court order determining the amount of the new pitch fee.

16.—(1) When determining the amount of the new pitch fee particular regard must 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 20(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, the court, 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 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.

17. 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 Act or the agreement.

18.—(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 retail prices index since the last review date, unless this would be unreasonable having regard to paragraph 16(1).

(2) Paragraph 16(3) applies for the purposes of this paragraph as it applies for the purposes of paragraph 16.

Occupier's obligations

19. 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

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- (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.

Owner's obligations

20. 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;
- (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.

21. 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 paragraph 19(c) and (d).

22. For the purposes of paragraph 20(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

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- (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.
- 23.** For the purposes of paragraph 20(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 paragraph 20(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.

Owner’s name and address

24.—(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.

(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 so comply.

(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 25(1) applies.

25.—(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.

Qualifying residents' association

26.—(1) A residents' association is a qualifying residents' association in relation to a protected site if—

- (a) it is an association representing the occupiers of mobile homes on that site;
- (b) at least 50 per cent of the occupiers of the mobile homes on that site are members of the association;
- (c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;
- (d) subject to paragraph (c), membership is open to all occupiers who own a mobile home on that site;
- (e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association;
- (f) it has a chair, secretary and treasurer who are elected by and from among the members;
- (g) with the exception of administrative decisions taken by the chair, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each mobile home; and
- (h) the owner has acknowledged in writing to the secretary that the association is a qualifying residents' association, or, in default of this, the court has so ordered.

(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1) (b), 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.

Interpretation

27. In this Chapter—

“pitch fee” means the amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water, sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;

“retail prices index” means the general index (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;

“review date” means the date specified in the written statement as the date on which the pitch fee will be reviewed in each year, or if no such date is specified, each anniversary of the date the agreement commenced; and

“written statement” means the written statement that the owner of the protected site is required to give to the occupier by section 1(2) of this Act.”