FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case references	**:**	CAM/42UD/PHI/2022/0049, 50 & 52
Property	**:**	49 Milano Avenue, 9 Woodside & 30 Woodside, Falcon Park, Martlesham Heath, Ipswich, Suffolk IP5 3RZ
Applicant	**:**	Tingdene Parks Limited
Applicant's Representative	**:**	Mr Ryan, solicitor
Respondents	**:**	(1) Sheila Smith (2)Terry & Jacqueline Shipham (3)John & Linda Orvis
Respondents' Representative	**:**	In person
Type of application	**:**	Application to fix a pitch fee pursuant to paragraph 16(b) of Chapter 2 of Schedule 1 to Mobile Homes Act 1983
Tribunal members	**:**	Mr Max Thorowgood and Mrs Mary Hardman FRICS, IRRV(Hons)
Venue	**:**	Ipswich Magistrates Court
Date of Decision	**:**	28th June 2023

DECISION

---

1. The application

1.1. The Applicant applies, pursuant to §§16(b) & 17(8)(a) of Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 ("MHA 83"), for a determination as to the amount of the new pitch fees which should be payable to it by the Respondents subsequent to the notices served by the Applicant upon them.

1.2. There are no procedural disputes between the parties as to the service of the notices or the applicable timescales, we are asked simply to determine whether the Respondents' pitch fees should be increased in accordance with the notices served by the Applicant which provide for an 8.2% increase in the pitch fees, in line with the increase in the Retail Prices Index to February 2022, from £1,977.96 to £2,140.08.

2. The applicable law

2.1. We begin by setting out the applicable law. It is contained within §§16-20 of Chapter 2 of Schedule 1 to the MHA 83. The relevant parts of those provisions are as follows:

> **The pitch fee**
>
> 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 [appropriate 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.
>
> …
>
> (8) If the occupier has not agreed to the proposed pitch fee—

(a) the owner [or . . . the occupier] may apply to the [appropriate 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 [appropriate judicial body] under paragraph 16(b); and

(c) if the [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) [but. . . no later than four months after the date on which the owner serves that notice].

...

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 [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;

[(aa) *. . . 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);***[1]

[1] 26th May 2013

(ab) . . . *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);]***[2]

...

[(1A) But. . . 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.]

(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.

...

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

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

[(3) [When] determining the amount of the new pitch fee, no regard may be had 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).]

[(4) [When] determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in connection with—

[2] 26th May 2013

(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. [(A1) ***[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 [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.

(Our emphasis)

2.2. The essence of these rather cumbersome provisions is that, unless, having had regard to the various factors identified in §18(1), the Tribunal considers that it would be unreasonable, it is to be presumed that an increase in the pitch fee which does not exceed the increase in RPI over the relevant period is reasonable and that the Tribunal should therefore approve the increase.

2.3. The first of the §18 considerations is a positive one in the sense that if a site owner has spent money for the benefit of occupiers which a majority wanted or at least did not object to, that will be a consideration which might make an increase limited to RPI unreasonable.

2.4. The second two are negative in the sense that, if applicable, they would point against a rise because they concern reductions in the benefits, whether in terms of amenities or services, which occupiers of the park are entitled to enjoy.

2.5. The fact that the provisions are structured in this way, in terms of a presumption, indicates to us that the factors identified in paragraph 18

are not the only considerations which might possibly render an increase in line with RPI unreasonable but that they are the most important ones.

2.6. The Upper Tribunal considered these provisions in *Britaniacrest Ltd v Bamborough* [2016] UKUT 0144 (LC). In that case Martin Rodger KC considered a submission, based in part at least upon a previous decision of his own, sitting as the Upper Tribunal, in *Re: Sayer* [2014] UKUT 0283 (LC), that it was the effect of the presumption in favour of an increase up to the level of the increase in RPI to create an absolute upper limit, or cap, upon the amount of any increase in the pitch fee. At §22 of his decision he explained that the statutory presumption in favour of an RPI increase is, "… a very strong steer…" but went on to say that it is, "… not the beginning and end of the determination." He then summarised his conclusions at §33 in the following very broad terms:

> "We therefore agree with the basic submission advanced on behalf of Britaniacrest by Mr Mullan, namely, that the FTT has a wide discretion to vary the pitch fee to a level of a reasonable pitch fee taking into account all of the relevant circumstances, and that the increase in RPI in the previous 12 months is important, but it is not the only factor which may be taken into account."

On that basis he held that an increase in excess of the increase in RPI was reasonable on account of expenditure by the site owner for the benefit of residents.

2.7. In *Re Sayer* Martin Rodger KC explained the position as follows:

> 22. The effect of these provisions as a whole is that, unless a change in the pitch fee is agreed between the owner of the site and the occupier, the pitch fee will remain at the same level unless the RPT considers it reasonable for the fee to be changed. If the RPT decides that it is reasonable for the fee to be changed, then the amount of the change is in its discretion, provided that it must have "particular regard" to the factors in paragraph 18(1), and that it must not take into account of the costs referred to in paragraph 19 incurred by the owner in connection with expanding the site. *It must also apply the presumption in paragraph 20(1) that there shall be an increase (or decrease) no greater than the percentage*

change in the RPI since the last review date unless that would be unreasonable having regard to the factors in paragraph 18(1). In practice that presumption usually means that annual RPI increases are treated as a right of the owner.

23. Although annual RPI increases are usually uncontroversial, it should be noted that the effect of paragraph 20(1) is to create a limit, by reference to RPI, on the increase or decrease in the pitch fee. There is no invariable entitlement to such an increase, even where none of the factors referred to in paragraph 18(1) is present to render such an increase unreasonable. The overarching consideration is whether the RPT considers it reasonable for the pitch fee to be changed; it is that condition, specified in paragraph 16(b), which must be satisfied before any increase may be made (other than one which is agreed). *It follows that if there are weighty factors not referred to in paragraph 18(1) which nonetheless cause the RPT to consider it reasonable for the pitch fee to be changed, the presumption in paragraph 20(1) that any variation will be limited by reference to the change in the RPI since the last review date may be displaced.*" (Our emphasis)

2.8. It is clear, therefore, in our view, that whilst the Tribunal does have a broad discretion to increase (or decrease) the pitch fee by whatever amount it deems reasonable, unless it would be unreasonable having particular regard of the specific considerations identified in §18 and to any other exceptional considerations besides those specifically excluded by §19, it is to be presumed that an increase in line with RPI is reasonable.

3. The Respondents' grounds of objection

3.1. The most substantial and long-standing complaint is that made by Mrs Smith who lives at 49 Milano Avenue. Milano Avenue is part of the 'old park', that is to say, the part of the Falcon Park developed before it was purchased by the Applicant. Mr and Mrs Shipham and Mr and Mrs Orvis both live in the new part of the park.

3.2. Mrs Smith did not attend the hearing but we did meet her in the course of our visit to the park before the hearing and she confirmed to us in the course of our conversation that she wished to maintain her objection.

3.3. The documents produced by Mrs Smith in support of her case date from 2008 and it is clear from them that the question of the resurfacing of the roads serving the old part of the park to bring them up to the standard of the new part has been a long-running theme of the correspondence between the Falcon Park Residents' Association and the Applicant. A more recent theme has been the poor drainage particularly in that area of the park.

3.4. Specifically:

3.4.1. By its letter dated 21st December 2011 FPRA asked the Applicant to give an assurance which could be reported to its members at its forthcoming AGM in respect of the surfacing on the roads in the old part of the park;

3.4.2. In its letter dated 3rd September 2014 FPRA referred to its letter of 21st December 2011 and the Applicant's response that, "… it was [its] intention to top coat the roads when the last home and redevelopment in that area is complete.";

3.4.3. The FPRA's letter to the Applicant of 6th March 2015 taking issue with the assertion of Mr Pearson that, "top surfacing of roadways is merely cosmetic.";

3.4.4. The minutes of the meeting of FPRA in October 2019 which record that after numerous complaints about the condition of the roads on the park, in May 2016, the Applicant commissioned a report into the condition of the roads which had concluded that they were in generally good order and could be maintained by means of patching. The minutes further record that after that report was produced the Applicant said it would not correspond with FPRA any further in relation to the roads;

3.4.5. Mrs Smith's own letter to the Applicant dated 14th August 2021 in which she complained about both the surfacing of the road and drainage onto her pitch. She produced together with it a

supporting letter from Mr and Mrs Woolnough, of 3 Milano, in which they said that they were promised when they purchased their pitch in 2018 the Milano Avenue would be "resurfaced/repaired";

3.4.6. The minutes of a meeting on 17th August 2021 between the Applicant and representatives of FPRA which record that complaints were made about the condition of the road surface on the park generally and the positioning of the drain on Milano Avenue specifically and that Mr Pearson (of the Applicant) was, "… prepared to look at drainage in Milano."; and

3.4.7. Finally, a letter from FPRA to 'Paul' (the site manager) dated 6th October 2021 following up on Mr Pearson's offer to look at the drainage in Milano in light of flooding caused by heavy rain over the previous days.

3.5. Mr and Mrs Shipham and Mr Orvis have all been officers of FPRA for some time and have been actively engaged in the management of the relationship between the residents of the park and the Applicant. In that capacity they have assisted Mrs Smith in the presentation of her grounds of objection, no doubt because they correctly perceived that it is Mrs Smith's pitch which is most directly affected by the problems regarding road surfacing and drainage of which the FPRA has complained for so long.

3.6. Mr and Mrs Shipham, whose pitch is located in a small cul de sac off Woodside complain specifically in respect of what seems possibly to have been an excess of zeal on the part of the Park Manager in putting up a sign prohibiting parking by residents in a small space opposite their pitch. That space is one that, hitherto, Mr and Mrs Shipham had always used for their own purposes and which it seemed highly unlikely anyone else would use. Nevertheless, despite their cogent statement of their position, it was not until after they made their objection to this

application, indeed it was only shortly before the hearing of the application, that the dispute was resolved by the removal of the sign.

3.7. In addition Mr and Mrs Shipham make complaints about the Applicant's handling of the metering of the water supplies to the pitches, a dispute which has now been resolved, about charges in respect of works to boundary fencing (also resolved) and the failure by the Applicant to return an area of undeveloped land behind the site office which had been being used as a contractors' yard during the Applicant's expansion of the site to its original use as an amenity space within the park.

3.8. Mr and Mrs Orvis second these objections but also raise a further objection that the rise should be pegged to CPI rather than RPI. It is well-known that RPI is no longer the Government's preferred measure of inflation and in its response to consultation regarding changes to the governing legislation (to which we have referred above) in 2018 the Government indicated that it was minded to change the RPI measure in the legislation for the CPI measure. In fact, since we heard this case, the Mobile Home (Pitch Fees) Act 2023 has been passed the effect of which we shall consider below.

4. Evidence and discussion

4.1. As mentioned above, we conducted a lengthy visit to the park before conducting the hearing at which Mr Pearson on behalf of the Applicant and Mr and Mrs Shipham and Mr Orvis give evidence. We were accompanied on our visit by the solicitor for the Applicant, Mr Ryan, and Mr Pearson, a director of the Applicant and for the Respondents, Mr and Mrs Shipham and Mr Orvis. The conclusions which we express in this decision are informed by our observations in the course of our site visit as well as the evidence and submissions which were addressed to us at the hearing.

4.2. We devoted the bulk of the site visit to a consideration of the condition of the roads and drainage but we also inspected Mr and Mrs Shiphams'

cul de sac and saw the proposed green space amenity area. It is our conclusion that whilst the roads on the older part of the park are certainly in a less good condition than those on the newer part, they are, as the report prepared for the Applicant in 2016 concluded, in reasonably good order. Patch repairs have been carried out, the kerbs are somewhat lower than might be expected and they are in places somewhat undulating and uneven but on the whole they seemed to us to be in reasonably good condition. The roads on the newer parts of the estate are in better condition than those which serve the older part but not significantly so.

4.3. The bigger problem, somewhat surprisingly given that the park adjoins an area of apparently free-draining heathland, is with drainage. The Respondents produced a large number of pictures showing the quantity of standing water left after rain and we were able to observe for ourselves that there was still a substantial quantity of standing water on the site from overnight rain at the time of our morning visit. We also observed that the Applicant had taken measures to provide for surface run off in the worst affected areas of the site by means of a hollowed area of ground the grassed surface of which was supported by 'egg crates'. Nevertheless, it is clear that there is a problem with surface water drainage on the site in the sense that after moderately heavy rain the water takes some time to seep away; there being no mains drainage. The nature of the problem was considered in a report prepared for the purposes of this hearing by JFG Park Services Ltd which was exhibited to Mr Pearson's witness statement dated 8th February 2023. That report was prepared by Mr Grant Higton and the tenor of it is that the water table in the area is historically high, that there are no ditches surrounding the site into which storm water might be drained and there was no possibility that Anglian Water might permit storm water to be discharged into its sewers because they are already at full capacity.

4.4. Mr Pearson told us that the cost of rebuilding the roads on the site was estimated to be in the region of £140,000.00 and that finding a solution to the drainage problem would also be expensive. He said that he did not believe the condition of the roads warranted that level of expenditure

which the Applicant would inevitably want to pass on to the residents, especially not when perfectly adequate patch repairs could be effected. He also recovering the road surfaces would only exacerbate the existing difficulties with the low curb heights. Although Mr Pearson did not produce any evidence to support his costings for a substantial overhaul of the site roads, his estimate seemed broadly accurate to us.

4.5. Otherwise, we were impressed on the whole by the presentation of the site which seemed to us to be very clean, tidy and well managed. Indeed, none of the Respondents was generally critical of the Applicant's management of the site. They each had specific concerns which they wished to articulate and were plainly well-schooled in doing so.

4.6. So far as the amenity green space is concerned Mr Pearson said that the company had withdrawn from the David Bellamy promotional scheme to which it had been party because it felt that it was just a money making enterprise which conferred no actual benefit on residents but that, now the expansion of the park had been completed it was the Applicant's intention to return the space to an amenity area although he also said that there were some technical matters relating to the site licence and the planning permission which needed to be resolved before that could happen.

4.7. The last point to consider concerns the adoption of CPI as opposed to RPI as the benchmark for the increase. RPI is no longer a generally favoured measure of inflation and the Government has now, by the Mobile Homes (Pitch Fees) Act 2023, legislated to amend §20(A1) to substitute CPI for RPI as the default measure. That amendment is to take effect in relation to Pitch Fee Review notices given after 2nd July 2023.

4.8. The fact of this change to the legislation indicates the following to us:

4.8.1. Parliament has decided that a change in the default measure should take effect from 2nd July 2023 and, in accordance with

general legislative principles, that it should not operate retrospectively;

4.8.2. Parliament has decided that it is right to retain a consumer price index of inflation as the default mechanism for determining increases in pitch fees. There are no doubt sound policy reasons for that decision, not the least of which is the fact that the costs of determining the amount by which pitch fees should be increased would otherwise be much more uncertain, complex and expensive.

4.8.3. We also consider that there is an element of taking the rough with the smooth in the adoption of such a measure. Inflation has been low for a sustained period and increases in pitch fees have accordingly been moderate for a number of years. We are now entering a period in which they will increase more rapidly. Whilst it is possibly true that site operator's costs are not closely tied to inflation, that is not a matter about which we heard any evidence because the parties were operating on the assumption that the question was governed by the considerations specifically identified by the statutory framework rather than the effects of inflation on the park owner's input costs. That is a situation which the adoption of a simple measure by the means of which the pitch fee can be indexed to inflation was designed to avoid.

4.9. Accordingly, it is our view that the onus is firmly upon the Respondents to show that it would be unreasonable to adopt the RPI measure in this case and/or that the proposed 8.2% increase is in itself unreasonable for reasons identified in §18. Given the current rate of inflation, as measured by the increase in CPI for the same period the rate of inflation is 6.2%, we do not consider that in general terms it would. Nor do we think that the Respondents have succeeded in showing that the matters of which they complain have resulted in any significant reduction in the level of the amenities or services which they are entitled to enjoy in return for their payment of their pitch fee.

5. Conclusions

5.1. Our conclusions are therefore as follows:

5.1.1. The condition of the roads which serve the older part of the park is less good than those which serve the newer part but work has been done to keep them in a reasonable state of repair by periodic patching. We accept that various assurances have been made over the years since 2008 that the roads on the old part of the park would be brought up to the same standard as the newer parts and that these have not been honoured. We consider that these assurances were more in the nature of aspirations which fell short of firm commitments and that they were not strictly binding upon the Applicant;

5.1.2. To effect a complete overhaul of the roads serving the older part of the site would entail significant expenditure of the order of £140,000.00 which it would not be reasonable to expect the Applicant to undertake without consulting the residents of the site with a view to recovering the costs. At this stage we do not consider that the condition of the roads warrants that level of expenditure even making allowance for the fact that the residents of the site are generally elderly. We find that having those considerations in mind the Applicant decided not to carry out a full-scale repair;

5.1.3. It might be possible to address some of the problems by means of a new top coat but that would lead to problems with the heights of the kerbing, indeed the problem with flooding from the road over the existing kerb into her garden was the main point which Mrs Smith was keen to stress to us in the course of the site visit;

5.1.4. There is a problem with the drainage of surface water on the site. That problem is essentially that the system is based on natural percolation rather than mains drainage. The Applicant has taken some measures to try to alleviate the problem which have not been

entirely effective but the problem is not so serious that it requires the level of investment which would be required in order to remedy the problem completely if indeed that would be possible;

5.1.5. These findings, coupled with our observations in the course of our site visit, satisfy us that there has been no diminution in the level of amenities and services which the Respondents have been receiving from the Applicant in consideration for their pitch fee; and

5.1.6. As to the other specific matters of which the Respondents complain they have either been resolved or in the case of the green space do not significantly effect their amenity in such a way as to make an increase in line with RPI unreasonable. Afterall, the proposed increase of 8.2% is well within the range of the increases in inflation that have recently been reported, CPI being 6.2% for the same period.

5.2. For all these reasons it is our decision that the Applicant's proposed increases are reasonable and that the pitch fee payable by the Respondents from the review date shall be £2,140.08.

APPENDIX 1- RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

APPENDIX 2

RELEVANT LEGISLATION

2A Power to amend implied terms

(1) The [Secretary of State] may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as the [Secretary of State] considers appropriate.
(2) An order under this section—
(a) shall be made by statutory instrument;
(b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;
(c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the authority making the order considers appropriate.
(3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—
(a) make provision for or in connection with the determination by the court [or a tribunal] of such questions, or the making by the court [or a tribunal] of such orders, as are specified in the order;
(b) make such amendments of any provision of this Act as the authority making the order considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.
(4) The first order made under this section in relation to England or Wales respectively may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).
(5) No order may be made . . . under this section unless [the Secretary of State] has consulted—
(a) such organisations as appear to [the Secretary of State] to be representative of interests substantially affected by the order; and
(b) such other persons as [the Secretary of State] considers appropriate.
(6) No order may be made . . . under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.]

4 Jurisdiction of a tribunal or the court

(1) In relation to a protected site . . ., a tribunal has jurisdiction—
(a) to determine any question arising under this Act or any agreement to which it applies; and
(b) to entertain any proceedings brought under this Act or any such agreement,
subject to subsections (2) to (6).

(2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.
(3) In relation to a protected site . . ., the court has jurisdiction—
(a) to determine any question arising by virtue of paragraph 4, 5 or 5A(2)(b) of Chapter 2, or paragraph 4, 5 or 6(1)(b) of Chapter 4, of Part 1 of Schedule 1 (termination by owner) under this Act or any agreement to which it applies; and
(b) to entertain any proceedings so arising brought under this Act or any such agreement,
subject to subsections (4) to (6).
(4) Subsection (5) applies if the owner and occupier have entered into an arbitration agreement before the question mentioned in subsection (3)(a) arises and the agreement applies to that question.
(5) A tribunal has jurisdiction to determine the question and entertain any proceedings arising instead of the court.
(6) Subsection (5) applies irrespective of anything contained in the arbitration agreement mentioned in subsection (4).
(7) . . .]

SCHEDULE 1 Agreements under Act/Part I Terms implied by Act

SCHEDULE 1 Agreements under Act

Part I Terms implied by Act

Chapter 1

Application and Interpretation

1
(1) The implied terms set out in Chapter 2 apply to all agreements which relate to a pitch . . . except an agreement which relates to a pitch . . . 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 . . . 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 . . . 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 . . . Except Pitches . . . on Local Authority Gypsy and Traveller Sites and County Council Gypsy and Traveller Sites]

Duration of Agreement

1
Subject to paragraph 2 below, the right to station the mobile home on land forming part of the protected site shall subsist until the agreement is determined under paragraph 3, 4, 5 *or 6* [or 5A] below.
[1A
(1) The right to station the mobile home under in paragraph 1 is not affected by—
(a) the expiry of a Part 1A site licence in accordance with section 32J(1)(b)(ii) of the 1960 Act,
(b) the refusal to issue or renew a Part 1A site licence under section 32D of the 1960 Act,
(c) the revocation of a Part 1A site licence under section 32L of the 1960 Act, or
(d) the expiry of a site licence in accordance with section 83(2) of the Housing (Scotland) Act 2014 (asp 14).
(2) Sub-paragraph (1) applies in relation to agreements that were made at any time before the day on which that sub-paragraph comes into force (as well as in relation to agreements made on or after that day).
(3) In this paragraph—
"the 1960 Act" means the Caravan Sites and Control of Development Act 1960 (c 62), and
"Part 1A site licence" has the same meaning as in section 32Z6 of the 1960 Act.]
2
(1) If the owner's estate or interest is insufficient to enable him to grant the right for an indefinite period, the period for which the right subsists shall 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 shall 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 shall be taken of that change.

Termination by occupier

3
The occupier shall be 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.
4
The owner shall be entitled to terminate the agreement *forthwith* [at a date to be determined by the court] if, on the application of the owner, the *court* [appropriate judicial body]—
(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 shall be entitled to terminate the agreement *forthwith* [at a date to be determined by the court] if, on the application of the owner, [the *court* [appropriate judicial body]—
(a) is satisfied that the occupier is not occupying the mobile home as his only or main residence; and
(b) considers it reasonable for the agreement to be terminated].
[5A
(1) . . .
(2) The owner is entitled to terminate the agreement forthwith 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.
(3) Sub-paragraphs (4) and (5) apply if, on an application to the tribunal under sub-paragraph (2)(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.
(4) 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.
(5) If the tribunal makes an interim order under sub-paragraph (4), it must not make a determination under sub-paragraph (2)(a) unless it is satisfied that the specified period has expired without the repairs having been carried out.]
6
. . .
. . .

Recovery of overpayments by occupier

7
Where the agreement is terminated as mentioned in paragraph 3, 4, 5 or 6 above, the occupier shall be entitled to recover from the owner so much of any payment made by him in pursuance of the agreement as is attributable to a period beginning after the termination.

[Repayment of sums paid by occupier on termination of agreement

7
Where the agreement is terminated as mentioned in paragraph 3, 4, 5 or 6, the owner must, within 2 months of the date of the termination, repay to the occupier so much of any payment made by the occupier in pursuance of the agreement as is attributable to a period beginning after the date of termination.]

Sale of mobile home

[7A
(1) . . .
(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.
(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.]
8
[*(A1) This paragraph applies in relation to a protected site in Wales.*]
(1) The occupier shall [*, subject to sub-paragraph (2A),*] *be entitled to sell the mobile home, and to assign the agreement, to a person approved of by the owner, whose approval shall not be unreasonably withheld.*
[*(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.*
(1B) Where the owner receives such a request, he must, within the period of 28 days beginning with the date on which he received the request—
(a) approve the person, unless it is reasonable for him not to do so, and
(b) serve on the occupier notice of his decision whether or not to approve the person.
[*(1C) The owner may not give his approval subject to conditions.*]
[*(1D) If the approval is withheld, the notice under sub-paragraph (1B) above must specify the reasons for withholding it.*]
(1E) If the owner fails to notify the occupier as required by [*sub-paragraph (1B) (and, if applicable, sub-paragraph (1D))*] *above, the occupier may apply to the* [*appropriate judicial body*] *for an order declaring that the person is approved for the purposes of sub-paragraph (1) above; and the* [*appropriate judicial body*] *may make such an order if it thinks fit.*
(1F) It is for the owner—
(a) if he served a notice as mentioned in [*sub-paragraph (1B) (and, if applicable, sub-paragraph (1D)*] *and the question arises whether he served the notice within the required period of 28 days, to show that he did;*
(b) . . .
(c) if he did not give his approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable.
(1G) A request or notice under this paragraph—
(a) must be in writing, and
(b) may be served by post.]
[*(1H) Subject to sub-paragraph (1I), an application to a tribunal under sub-paragraph (1E) 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 notice of the owner's decision under sub-paragraph (1B); or

(b) where the occupier receives no notice from the owner as required by sub-paragraph (1B), 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 (1A).
(1I) A tribunal may permit an application under sub-paragraph (1E) to be made to the tribunal after the applicable period specified in sub-paragraph (1H) 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.]
(2) Where the occupier sells the mobile home, and assigns the agreement, as mentioned in sub-paragraph (1) above, the owner shall be entitled to receive a commission on the sale at a rate not exceeding such rate as may be specified by an order made by [*the appropriate national authority*].
[*(2A) Except to the extent mentioned in sub-paragraph (2) above, the owner may not require any payment to be made (whether to himself or otherwise) in connection with the sale of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (1) above.*]
(3) An order under this paragraph—
(a) shall be made by statutory instrument which [*(if made by the Secretary of State)*] *shall be subject to annulment in pursuance of a resolution of either House of Parliament; and*
(b) may make different provision for different areas or for sales at different prices.

Gift of mobile home

[8A
(1) . . .
(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

(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.]

9

[*(A1) This paragraph applies in relation to a protected site in Wales.*]

[*(1)*] *The occupier shall be entitled to give the mobile home, and to assign the agreement, to a member of his family approved by the owner, whose approval shall not be unreasonably withheld.*

[*(2) Sub-paragraphs (1A) to* [*(1I)*] *of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.*]

[*(3) The owner may not require any payment to be made (whether to himself or otherwise) in connection with the gift of the mobile home, and the assignment of the agreement, as mentioned in sub-paragraph (1) above.*]

[9
(1) This paragraph applies to an agreement which relates to a pitch other than a pitch on—
(a) a local authority gypsy and traveller site; or
(b) a registered social landlord gypsy and traveller site.
(2) Subject to sub-paragraph (5), the occupier is entitled to gift the mobile home, and to assign the agreement, to a member of the occupier's family (the "new occupier") without the approval of the owner.
(3) The occupier must, if requested by the owner, give the owner such evidence as the owner, acting reasonably, may require to confirm that the new occupier is a member of the occupier's family.
(4) The new occupier must, as soon as practicable, notify the owner of the new occupier's acceptance of the gift of the mobile home and assignation of the agreement.
(5) Neither the gift nor the assignation are to have any effect until the owner has received the evidence mentioned in sub-paragraph (3) and the notification required in sub-paragraph (4).
(6) 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 assignation of the agreement.]

[Re-siting of mobile home

10
(1) The owner shall be 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 ("the other pitch") if (and only if)—
(a) on the application of the owner, the [appropriate judicial body] 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) If the owner requires the occupier to station the mobile home on the other pitch so that he can replace, or carry out repairs to, the base on which the mobile home is stationed, he must if the occupier so requires, or the [appropriate judicial body] 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 shall pay all the costs and expenses incurred by the occupier in connection with his mobile home being moved to and from the other pitch.
(4) In this paragraph and in paragraph 13 below, "essential repair or emergency works" means—
(a) repairs to the base on which the mobile home is stationed;
(b) works or repairs needed to comply with any relevant legal requirements; or
(c) works or repairs in connection with restoration following flood, landslide or other natural disaster.

Quiet enjoyment of the mobile home

11
The occupier shall be entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 10, 12, 13 and 14.

Owner's right of entry to the pitch

12
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.
13
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.
14
Unless the occupier has agreed otherwise, the owner may enter the pitch for a reason other than one specified in paragraph 12 or 13 only if he has given the occupier at least 14 clear days' written notice of the date, time and reason for his visit.
15

The rights conferred by paragraphs 12 to 14 above do not extend to the mobile home.

The pitch fee

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 [appropriate 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.
[(2A) [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.]
(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 [. . . the occupier] may apply to the [appropriate 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 [appropriate 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 [appropriate judicial body's] 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 (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.
[(6A) [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.]
(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 [or . . . the occupier] may apply to the [appropriate 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 [appropriate judicial body] under paragraph 16(b); and
(c) if the [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) [but. . . no later than four months after the date on which the owner serves that notice].
[(9A) A tribunal 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.]
(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 [appropriate judicial body's] order determining the amount of the new pitch fee.
[(11) Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch . . ., 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 [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;
[(aa) . . . 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) . . . 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) . . .
[(ba) . . . 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]
(c) . . ..
[(1A) But. . . 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.]
(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
[(1)] When determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site shall not be taken into account.
[(2) . . . when determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in relation to the conduct of proceedings under this Act or the agreement.]
[(3) [When] determining the amount of the new pitch fee, no regard may be had 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).]
[(4) [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).]

20

[(A1) [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).]

(1) [*In the case of a protected site in Wales,*] *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 since the last review date, unless this would be unreasonable having regard to paragraph 18(1) above.*

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

Occupier's obligations

21

The occupier shall—

(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 him with documentary evidence of any costs or expenses in respect of which the occupier seeks reimbursement.

Owner's obligations

22

The owner shall—

(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) 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;
(e) 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
(f) 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.

23

The owner shall not do or cause to be done anything which may adversely affect the ability of the occupier to perform his obligations under paragraph 21(c) and (d) above.

24

For the purposes of paragraph 22(e) above, 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.

25

For the purposes of paragraph 22(f) above, 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 22(f) 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.
[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.]

Owner's name and address

26
(1) The owner shall 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 him by the occupier or a qualifying residents' association.
(2) If the owner fails to comply with sub-paragraph (1), then (subject to sub-paragraph (5) below) any amount otherwise due from the occupier to the owner in respect of the pitch fee shall 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 following information—
(a) the name and address of the owner; and
(b) if that address is not in England or Wales, an address in England or Wales at which notices (including notices of proceedings) may be served on the owner.
(4) Subject to sub-paragraph (5) below, 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) above,
the notice shall 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) An amount or notice within sub-paragraph (2) or (4) (as the case may be) shall not be treated as mentioned in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include receiving from the occupier the pitch fee, payments for services supplied or other charges.
(6) Nothing in sub-paragraphs (3) to (5) applies to any notice containing a demand to which paragraph 27(1) below applies.
27
(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—
(a) the name and address of the owner; and
(b) if that address is not in England or Wales, an address in England or Wales at which notices (including notices of proceedings) may be served on the owner.
(2) Subject to sub-paragraph (3) below, 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 shall 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.
(3) The amount demanded shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include receiving from the occupier the pitch fee, payments for services supplied or other charges.

Qualifying residents' association

28
(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 his is excluded from membership;
(d) subject to paragraph (c) above, 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 chairman, secretary and treasurer who are elected by and from among the members;
(g) with the exception of administrative decisions taken by the chairman, 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 [appropriate judicial body] has so ordered.
(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) above, each mobile home shall 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

29
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 and 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.]