
STATUTORY INSTRUMENTS

2013 No. 1505

MOBILE HOMES, ENGLAND

**The Mobile Homes (Pitch Fees) (Prescribed
Form) (England) Regulations 2013**

<i>Made</i>	- - - -	<i>21st June 2013</i>
<i>Laid before Parliament</i>		<i>27th June 2013</i>
<i>Coming into force</i>	- -	<i>26th July 2013</i>

The Secretary of State, in exercise of the powers conferred by paragraph 25A(1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983⁽¹⁾, makes the following Regulations:

Application, citation and commencement

1. These Regulations, which apply in relation to England only, may be cited as the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013 and come into force on 26th July 2013.

Pitch fees: Prescribed form

2. The document referred to in paragraph 17(2A) and (6A) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983⁽²⁾ shall be in the form prescribed in the Schedule to these Regulations or in a form substantially to the like effect.

Signed by authority of the Secretary of State for Communities and Local Government

Mark Prisk
Minister of State
Department for Communities and Local
Government

21st June 2013

(1) 1983 c.34. Paragraph 25A(1) was inserted into the 1983 Act by section 11 of the Mobile Homes Act 2013 (c.14).
(2) 1983.c.34. Paragraphs 17(2A) and (6A) were inserted into the 1983 Act by section 11 of the Mobile Homes Act 2013 (c.14).

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SCHEDULE

Regulation 2

Pitch fee review form

<p>FORM TO ACCOMPANY A PITCH FEE REVIEW NOTICE Form prescribed under paragraph 25A(1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983</p>
<p>Important note: This form, or a form substantially to the like effect, must be sent with the pitch fee review notice where the site owner proposes to increase the pitch fee otherwise the pitch fee review will not be valid. This form may also be used if the site owner is proposing to reduce the pitch fee. Both the site owner and the occupier(s) should read the notes at the end of this form as they contain important information about pitch fee reviews.</p>
<p>Section 1: Parties</p> <p>From[Insert name of the site owner(s)]</p> <p>To[Insert name of occupier(s)]</p>
<p>Section 2: Proposed new pitch fee</p> <p>I/ we propose to increase / reduce your pitch fee for: [Insert address of the home]</p> <p>The last review date was:.....[insert date]</p> <p>The current pitch fee is £.....[insert amount] per week/month/quarter/year</p> <p>The proposed new pitch fee is £.....[insert amount] per week/month/quarter/year</p>
<p>Section 3: Date new pitch fee proposed to take effect (effective date)</p> <p>The review date is twelve months after the last review date.</p> <p>The effective date is the date when it is proposed the new pitch fee is payable from, which may be on the review date or, in the case of a late review, a later date.</p> <ul style="list-style-type: none"> • The proposed pitch fee will take effect on the review date on..... • The proposed pitch fee will take effect on..... which is later than the review date <p>(Complete whichever is appropriate)</p> <p>Note: For further information on the review, late reviews and effective dates see the notes at the end of the form.</p>
<p>Section 4: Calculation of the proposed new pitch fee</p> <p>The proposed new pitch fee has been calculated as (A) + (B) + (C) - (D) where:</p> <p>(A) is the current pitch fee of £..... [insert figure]</p> <p>(B) is the Retail Prices Index (RPI) Adjustment £..... [insert +/- figure] [calculated from a percentage increase/decrease of%]</p> <p>(C) is the recoverable costs of £..... [insert figure]</p> <p>(D) is the relevant deductions of £.....[insert figure]</p>

The effect of the pitch fee review notice & making an application to the tribunal

- If the occupier accepts the new pitch fee they can let the site owner know or simply pay the proposed amount from the effective date.
- The occupier is not obliged to accept the proposal or pay the proposed amount. Failure to pay the new pitch fee will not result in the occupier being in arrears.
- If the occupier does not accept the proposed pitch fee they can let the site owner know, but the occupier does not have to do so. Provided the current pitch fee continues to be paid that is the maximum amount payable unless the tribunal decides a different figure.
- If there is no agreement as to the new pitch fee the site owner or the occupier may make an application to a tribunal for it to make a determination.
- Where the pitch fee review notice was served at least 28 clear days before the review date, an application to the tribunal may be made after the end of the period of 28 days beginning with the review date but not later than three months after the review date.
- Where the pitch fee review notice was served later, an application to the tribunal may be made after the end of the period of 56 days beginning with the date on which the site owner serves the notice but not later than four months after that date.
- In either case, a late application to the tribunal is permitted only if there are good reasons for the failure to apply within the time limit and for any delay since then in applying for permission to apply out of time.
- Before deciding a case the tribunal will invite representations from the parties and may hold a hearing and inspect the site.
- If you act unreasonably in connection with an application the tribunal can impose a costs order against you.
- If the tribunal makes a determination its decision will apply from the effective date. This means any proposed increase could be backdated by several months. However, the occupier shall not be treated as being in arrears until 28 days after the date of the order made by the tribunal determining the new pitch fee.
- If no agreement as to the pitch fee is reached and the tribunal does not make a determination (i.e. because the site owner has not made an application or because an application is refused or withdrawn) the occupier must continue to pay the existing pitch fee, but the proposed pitch fee cannot be charged, there are no arrears and the review process has ended for the year to which the notice refers.

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- If, on the application of the occupier, a tribunal is satisfied that a notice of pitch fee review is of no effect due to the failure to serve this form with the notice of pitch fee review, but the occupier has nevertheless paid the pitch fee proposed in the notice, the tribunal may order the site owner to pay back the difference between the amount which the occupier was required to pay for the period in question and the amount which they have actually paid.

Matters that can and cannot be taken into account on a proposed review

- The law says¹ there is a presumption that the pitch fee cannot be changed by more than the annual change in Retail Price Index (RPI), unless this would be unreasonable having regard to the matters set out in paragraph 18(1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.
- This part of the notes explains how the RPI adjustment is worked out and what other matters can be taken into account as part of the review.

RPI adjustment

- How the RPI adjustment has been worked out is in section 4 (B) of the form.
- The maximum RPI adjustment is limited to the RPI change in the previous year, even if the pitch fee has not changed for a number of years. (See above in the reviews and late reviews section for further details.)
- When applying the RPI adjustment to a pitch fee review which is proposed to take effect on the review date, the figure that must be used in the calculation is the latest published 12 month RPI figure available before the notice of review is served. The notice must be served at least 28 clear days before the review date.
- When applying the RPI adjustment to a pitch fee review which is proposed to take effect at a date later than the review date (a late review), the RPI figure that must be applied is the last 12 month RPI figure that was published before the day by which the site owner(s) should have served the review notice had the review taken place on time – i.e. the last 12 month RPI figure published prior to the day which was 28 clear days before the review date. So, if the review date is the 1st April 2014, the RPI figure to be applied would be the last RPI figure published before 4th March 2014.
- No other date or method for calculating the RPI adjustment is permitted.

Other matters that can be included in a review

- Costs incurred by the site owner, which are proposed to be recovered from the occupier, are shown in section 4 (C) of the form.

¹ Paragraph 20 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983. For matters that can be taken into account on a review more generally see paragraph 18 (as amended by the Mobile Homes Act 2013)

- Before undertaking any improvements to the site the owner must take account of any representations received from the occupiers¹¹. But the site owner cannot undertake any works the cost of which is proposed to be recovered through the pitch fee if the majority of occupiers have disagreed to the works by notification in writing, unless a tribunal has authorised in default that the costs can be recovered in the pitch fee¹².

Site Owner's Repairing and maintenance liabilities

- Paragraph 22 (c) and (d) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 sets out the site owner's repairing liabilities. These are that the owner :
 - 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;
 - 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.
- Examples of such repairs and maintenance that fall within paragraph 22 may include repair and maintenance of pipes, conduits, wires, structures, tanks or other equipment provided by the site owner and of the parts of the site that are under the control of the site owner, including access ways, roads, pavements, street furniture and lighting, boundary fences, buildings in common use, drains and the drainage system and any open spaces or facilities in common.
- The site owner is also obliged to provide the occupier, free of charge, on request, documentary evidence in support and explanation of:
 - any new pitch fee;
 - any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement and
 - any other charges, costs or expenses payable by the occupier to the owner under the agreement¹³.

¹¹ Paragraph 24(b) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.

¹² Paragraph 18(1)(a) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983. For definition of "majority" see paragraph 18(2).

¹³ Paragraph 22(b) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.

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Occupiers' Repairing Liabilities

- The occupier is required to
 - (a) keep the home in a sound state of repair and
 - (b) maintain the outside of the home and the pitch, including all fences and outbuildings belonging to, or enjoyed with, the pitch and the mobile home and ensure the same are kept in a clean and tidy condition¹⁴.
- Where the occupier is seeking the reimbursement of any costs or expenses from the site owner, if requested the occupier must supply to the owner documentary evidence in support of the claim¹⁵.

Further information

Further information on pitch fee reviews and other charges can be downloaded from the Fact Sheet at www.gov.uk/park-homes-guidance

Or by contacting LEASE on 020 7383 9800.

¹⁴ Paragraph 21(c) and (d) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.

¹⁵ Paragraph 21(e) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the form of the document that must accompany a pitch fee review notice (served under paragraph 17(2) or (6)(b) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983) which proposes an increase in the pitch fee. The document must be in the form prescribed in the Schedule to these Regulations or in a form substantially to the like effect. A pitch fee review notice which proposes an increase in the pitch fee is of no effect unless it is accompanied by such a document.

The document, to be completed by the site owner, provides occupiers with information about how the proposed new pitch fee has been calculated and information about the pitch fee review process.

No separate impact assessment has been prepared for these Regulations, but the impact assessment prepared for the Mobile Homes Bill 2013 is relevant:

<http://www.parliament.uk/documents/impact-assessments/IA12-031.pdf>.