

Changes to legislation: There are currently no known outstanding effects for the Mobile Homes (Wales) Act 2013, Cross Heading: Assignment of agreement. (See end of Document for details)

SCHEDULE 2

TERMS OF MOBILE HOME AGREEMENTS

PART 1

TERMS IMPLIED BY ACT

CHAPTER 4

AGREEMENTS RELATING TO PERMANENT PITCHES ON LOCAL AUTHORITY GYPSY AND TRAVELLER SITES

Assignment of agreement

- 41 (1) The occupier (“A”) may assign the agreement—
- (a) to a person who is a member of A's family, or
 - (b) to another person (“B”) if the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) A must have the approval of the owner, and
 - (b) B must—
 - (i) be an occupier of a permanent pitch on a relevant site, and
 - (ii) have the approval of the owner to the assignment of B's agreement to A or to another occupier of a permanent pitch on a relevant site.
- (3) A relevant site for the purposes of sub-paragraph (2) is a local authority Gypsy and Traveller site in the area of the local authority in which the site on which the pitch to which A's agreement relates is located.
- (4) Neither the occupier nor the owner may require any payment to be made (whether to the occupier or owner or otherwise) in connection with the assignment of the agreement under this paragraph.

Commencement Information

II Sch. 2 para. 41 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

- 42 (1) The occupier may serve on the owner a request to approve for the purposes of paragraph 41, an assignment to a person named in the request (“the proposed occupier”).
- (2) Where the request relates to an assignment under paragraph 41(1)(a) the request must include satisfactory evidence that the proposed occupier is a member of the occupier's family.
- (3) Where the owner receives a request under sub-paragraph (1), the owner must, within 28 days beginning with the date on which the request is received—
- (a) approve the assignment, unless it is reasonable for the owner not to do so, and
 - (b) serve on the occupier notice of the owner's decision (“a decision notice”).

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- (4) If a person (“P”) receives a request under sub-paragraph (1) and P—
- (a) while not being the owner, has an estate or interest in the land, and
 - (b) believes that another person is the owner,
- and that other person has not received such a request, P owes a duty to the occupier (enforceable by a claim in tort for breach of statutory duty, as well as by action for breach of an implied term) to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which P receives it.
- (5) If the approval is withheld, the decision notice must specify the reasons for withholding it.
- (6) Where a fee lawfully due from the occupier has not been paid or any term of the agreement has been broken or not performed, the approval required for the purpose of paragraph 41 may be given subject to a condition requiring the occupier to pay the outstanding fee, remedy the breach or perform the obligation.
- (7) Except as provided by sub-paragraph (6), the approval required for the purpose of paragraph 41 cannot be given subject to a condition and a condition imposed otherwise than as so provided is to be disregarded.
- (8) If the owner fails to serve the notice or withholds approval to the assignment the occupier may apply to the tribunal for an order declaring that the assignment is approved for the purposes of paragraph 41 and the tribunal may make such an order if it thinks fit.
- (9) If the question arises as to whether the notice required by sub-paragraph (3)(b) was served within the required period of 28 days, it is for an owner to show that the notice was so served.
- (10) If the owner did not approve the assignment and the question arises whether it was reasonable for the owner not to do so, it is for the owner to show that it was reasonable.
- (11) A request or notice under this paragraph—
- (a) must be in writing, and
 - (b) may be served by post.
- (12) Subject to sub-paragraph (13), an application to the tribunal under sub-paragraph (8) by an occupier must be made—
- (a) within the period of 3 months beginning with the day after the date on which the occupier receives the decision notice, or
 - (b) where the occupier receives no decision notice, within the period of 3 months beginning with the date which is 29 days after the date upon which the occupier served the request under sub-paragraph (1).
- (13) A tribunal may permit an application under sub-paragraph (8) to be made to the tribunal after the applicable period specified in sub-paragraph (12) 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.

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I2 Sch. 2 para. 42 in force at 1.10.2014 by S.I. 2014/11, art. 3(1)(d) (with art. 4)

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