



Mobile Homes (Wales) Act 2013

2013 anaw 6

PART 2

LICENSING OF MOBILE HOME SITES ETC.

Other enforcement provisions

33 Repayment orders

- (1) For the purposes of this section land is an “unlicensed site” if it is a regulated site in respect of which no site licence is in force.
- (2) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
 - (a) any provision requiring the payment of a pitch fee or the making of any other periodical payment in connection with any agreement to which Part 4 applies relating to an unlicensed site, or
 - (b) any other provision of such an agreement.
- (3) But amounts paid in respect of certain payments made under and in connection with such an agreement may be recovered in accordance with subsection (4).
- (4) If—
 - (a) an application in respect of an unlicensed site is made to a residential property tribunal by the occupier of a mobile home stationed on the site, and
 - (b) the tribunal is satisfied as to the matters mentioned in subsection (6),the tribunal may make an order (a “repayment order”).
- (5) A repayment order is an order requiring the owner or manager of the site to pay to the occupier of the mobile home such sums as are specified in the order in respect of—
 - (a) any payment made by the occupier of the mobile home (or any person through whom the occupier of the mobile home has acquired ownership of the mobile home) to the owner or manager of the site in respect of the purchase of a mobile home stationed on the site,

Status: This is the original version (as it was originally enacted).

- (b) any commission paid to the owner or manager of the site by any person in respect of the sale of a mobile home stationed on the site,
 - (c) the pitch fee paid in respect of such a mobile home, and
 - (d) any periodical payments paid in respect of such a mobile home.
- (6) The tribunal must be satisfied as to the following matters—
- (a) that owner of the site has been convicted of an offence under section 5 in relation to the site,
 - (b) that the occupier of the mobile home (or, in the case of payments referred to in subsection (5)(a) or (b), the person through whom the occupier of the mobile home has acquired ownership of the mobile home) made the payment to the owner or manager of the site during any period during which it appears to the tribunal that such an offence was being committed in relation to the site, and
 - (c) that the application is made within the period of 12 months beginning with the date of the conviction.
- (7) A repayment order may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for the owner or manager of the site to be required to pay.
- (8) The amount required to be paid by virtue of a repayment order under subsection (5) is (subject to subsections (9) to (11)) to be such amount as the tribunal considers reasonable in the circumstances.
- (9) The matters which the tribunal must take into account when determining the amount to be paid include (but are not limited to)—
- (a) the total amount of relevant payments paid in connection with ownership of the site during any period during which it appears to the tribunal that an offence was being committed by the owner of the site under section 5,
 - (b) the extent to which that total amount was actually received by the owner or manager of the site,
 - (c) whether the owner of the site has at any time been convicted of an offence under section 5 in relation to the site,
 - (d) the conduct and financial circumstances of the owner or manager of the site, and
 - (e) the conduct of the occupier of the mobile home;
- and in this subsection “relevant payments” means those payments referred to in subsection (5).
- (10) A repayment order may not require the payment of any amount which is in respect of any time falling outside the period of 12 months ending with the date of the occupier’s application, and the period to be taken into account under subsection (9)(a) is restricted accordingly.
- (11) Any amount payable to an occupier of a mobile home by virtue of a repayment order is recoverable as a debt due to the occupier of the mobile home from the owner or manager of the site.
- (12) In this section “occupier”, in relation to a mobile home and a regulated site, means a person who is entitled—
- (a) to station the mobile home on the site, and
 - (b) to occupy the mobile home as the person’s only or main residence.