EXPLANATORY MEMORANDUM TO

THE MOBILE HOMES (PITCH FEES) (PRESCRIBED FORM) (AMENDMENT) (ENGLAND) REGULATIONS 2023

2023 No. 620

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities.

2. Purpose of the instrument

2.1 These Regulations prescribe the form which must be used where a site owner proposes to review the pitch fee on a mobile home site under the procedures for conducting a pitch fee review in the Mobile Homes Act 1983 ("the 1983 Act") (as amended by the Mobile Homes Act 2013). The effect of the Regulations is to prescribe a new pitch fee review form in which references to the pitch fee review inflationary index are now to the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI). They also revoke the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013, which prescribed the old pitch fee review form.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As the instrument is subject to no procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 Under the1983 Act, a site owner can review a pitch fee annually. There is a presumption in the 1983 Act that the pitch fee will only be changed by the annual change in RPI since the last review. In proposing a review of the pitch fee, site owners must use a pitch fee review form prescribed in The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013. The form makes references to RPI in the calculation of the proposed fee and in the notes attached to the form.

6.2 The Mobile Homes (Pitch Fees) Act 2023 ("the 2023 Act") amended the 1983 Act to change the inflationary index used in annual pitch fee reviews from RPI to CPI.

6.3 Under section 2 of the 2023 Act, the change to the use of CPI applies to any pitch fee review where the pitch fee review notice served by the site owner in accordance with paragraph 17(2) or (6)(b) of the 1983 Act is served on or after the date that the 2023 Act comes into force.

6.4 This instrument is being made to change references in the form to the pitch fee review inflationary index from RPI to CPI.

7. Policy background

What is being done and why?

7.1 There are around 100,000 mobile home pitches and about 1800 sites in England. These sites are often laid out as private estates and most services and facilities are provided by the site owner. Residents own their homes but have a licence to occupy particular plots (called pitches) on the sites in return for paying a "pitch fee".

7.2 The Mobile Homes Act 1983 governs the contractual arrangements between residents and site owners. The Act implies certain terms into the pitch agreement and sets out certain statutory obligations and rights of the parties. A key implied term sets out how and when pitch fee reviews are conducted and what can be included in such a review. Reviews are annual and there is a presumption that the pitch fee will only be changed by the annual change in RPI since the last review, unless this would be unreasonable having regard to certain matters set out in paragraph 18(1) of the implied terms. Certain other costs are also specifically excluded from being included in a pitch fee review.

7.3 Pitch fee reviews are regulated to ensure that site owners are sufficiently funded to meet their obligations to manage and maintain the sites, whilst residents are protected against unreasonable increases in pitch fees. Until 2013, there was no requirement for site owners to provide residents with any explanation about how the pitch fee had been calculated including whether the correct rate of RPI had been used. This lack of transparency often led to unlawful charges being included in reviews and disputes being taken to the First-tier Tribunal (Property Chamber), which could have been avoided altogether if the necessary information had been provided initially.

7.4 The Mobile Homes Act 2013 introduced a prescribed form to ensure that all relevant information, including the RPI figure used, was provided at the start of the review process. The aim was to reduce the opportunity for exploitation and ensure residents were given the necessary information to enable them to make an informed decision about whether to agree to or reject a proposal.

7.5 In 2017 the Government carried out a review of the legislation governing the park homes sector and the evidence showed that the use of the pitch fee review form had made the process more open and transparent. During the review, the Government also sought evidence of whether RPI remained the appropriate inflationary index to use in annual pitch fee reviews. Having considered the evidence, the Government concluded that CPI was the most appropriate index and committed to introduce legislation to change the inflationary index from RPI to CPI.

7.6 The Mobile Homes (Pitch Fees) Act 2023 amended the Mobile Homes Act 1983 to reflect the change to the inflationary index. These Regulations amend the prescribed form to reflect those changes and enable site owners to carry out pitch fee reviews in line with the statutory requirements.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not applicable to this instrument.

10. Consultation outcome

10.1 In November 2017 the Government carried out a review of the legislation governing the park homes sector. The review sought evidence of whether RPI remained the appropriate inflationary index to use in annual pitch fee reviews. Having considered the evidence, the Government concluded in 2018 that CPI was the most appropriate index and committed to introduce legislation to change the inflationary index from RPI to CPI.

10.2 The Government introduced the required changes through the Mobile Homes (Pitch Fees) Act 2023.

11. Guidance

11.1 No formal guidance is planned to be published. However, DLUHC will engage with local authorities, the Leasehold Advisory Service (LEASE), which provides advice for the park homes sector, and the relevant trade bodies and residents' associations to raise awareness of the changes to the pitch fee review form. A copy of the form will be made available on the GOV.UK website before the Regulations come into force.

12. Impact

12.1 There is no, or no significant impact on business, charities or voluntary bodies.

12.2 There is no, or no significant impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because the changes being made to the form have no impact on the statutory process for reviewing pitch fees.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to continue to make the form available on GOV.UK for site owners to download.

13.3 The basis for the final decision on what action to take to assist small businesses is that making the form available will enable site owners to meet their statutory duties during pitch fee reviews.

14. Monitoring and review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Housing Minister has made the following statement:

"As the Regulations have no significant impact on the sector, carrying out a review for this instrument would be disproportionate".

15. Contact

15.1 William Tandoh at The Department for Levelling Up, Housing and Communities Telephone: 0303 444 3699 or email: william.tandoh@levellingup.gov.uk can be contacted with any queries regarding the instrument.

15.2 Guy Horsington, Deputy Director for the Private Rented Sector Division at The Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rachel Maclean MP Minister of State at The Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.