Queensland

Manufactured Homes (Residential Parks) Act 2003

Current as at 1 August 2025

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Manufactured Homes (Residential Parks) Act 2003

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Manufactured Homes (Residential Parks) Act 2003

An Act to provide for the positioning and occupancy of manufactured homes in residential parks, and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Manufactured Homes (Residential Parks) Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act binds all persons

(1) This Act binds all persons, including the State.

(2) However, nothing in this Act makes the State liable to be prosecuted for an offence.

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Division 2 Objects of Act and relationship with FTI Act

4 Objects of Act

(1) The main object of this Act is to regulate, and promote fair trading practices in, the operation of residential parks—

(a) to protect home owners from unfair business practices; and

(b) to enable home owners, and prospective home owners, to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners.

(2) The main object is achieved by—

(a) declaring particular rights and obligations of the park owner, and home owners, for a residential park; and

(b) facilitating the disclosure of information about a residential park, and this Act, to a prospective home owner for a site; and

(c) regulating—

(i) the making, content, assignment and ending of a site agreement; and

(ii) the sale of an abandoned manufactured home positioned on a site in a residential park; and

(iii) the variation of site rent; and

(d) facilitating participation by home owners for a residential park in the affairs, maintenance and operation of the park; and

(e) providing ways of resolving a residential park dispute; and

(f) protecting home owners from unfair or excessive increases in site rent; and

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(g) preserving the safety and security of tenure of home owners.

(3) The following are also important objects of this Act—

(a) encouraging the continued growth and viability of the residential park industry in the State;

(b) providing a clear regulatory framework to ensure certainty for the residential park industry in planning for future expansion.

4A Relationship with Fair Trading Inspectors Act 2014

(1) The *Fair Trading Inspectors Act 2014* (the ***FTI Act***) enacts common provisions for this Act and particular other Acts about fair trading.

(2) Unless this Act otherwise provides in relation to the FTI Act, the powers that an inspector has under that Act are in addition to and do not limit any powers the inspector may have under this Act.

(3) In this section—

inspector means a person who holds office under the FTI Act as an inspector for this Act.

Note—

See also the modifying provisions for this Act stated in the FTI Act, section 5.

Division 3 Rights or remedies not restricted

5 Rights and remedies of persons

(1) A right or remedy given to a person under this Act is in addition to, and not in substitution for, a right or remedy the person would have apart from this Act.

(2) Without limiting subsection (1), this Act does not operate to reduce the effect of a right or remedy a person would have apart from this Act.

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(3) In subsections (1) and (2), a reference to a right or remedy a person would have apart from this Act is a reference to a right or remedy that is consistent with this Act.

Part 2 Interpretation

6 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

8 Who is a *home owner*

(1) Each of the following is a ***home owner***—

(a) a person who owns a manufactured home that is positioned on a site in a residential park under a site agreement;

(b) a person who intends to position a manufactured home on a site in a residential park under a site agreement for use by the person as the person's principal place of residence;

(c) a person who obtains an interest in a site agreement as the personal representative, or a beneficiary of the estate, of a deceased individual who immediately before the individual's death was a person mentioned in paragraph (a) or (b);

(d) another successor in title of a person mentioned in paragraph (a) or (b).

(2) A person mentioned in subsection (1)(a) is a ***home owner*** whether—

(a) the person occupies the home as the person's principal place of residence; or

(b) a tenant of the person occupies the home.

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10 What is a *manufactured home*

(1) A ***manufactured home*** is a structure, other than a caravan or tent, that—

(a) has the character of a dwelling house; and

(b) is designed to be able to be moved from one position to another; and

(c) is not permanently attached to land.

(2) A ***manufactured home*** does not include a converted caravan.

(3) However, if a park owner and the owner of a converted caravan enter into an agreement, that would be a site agreement if it related to a manufactured home, for a site on which the converted caravan is positioned or intended to be positioned—

(a) the converted caravan is taken to be a manufactured home; and

(b) the agreement is taken to be a site agreement.

(4) To remove any doubt, it is declared that an agreement entered into under another Act or a former Act, other than the repealed *Mobile Homes Act 1989*, is not a site agreement under subsection (3).

Example—

A residential tenancy agreement entered into under the *Residential Tenancies and Rooming Accommodation Act 2008* is not a site agreement under subsection (3).

10A What is a *converted caravan*

A ***converted caravan*** is a structure that—

(a) as originally designed, was a caravan; and

(b) is no longer a caravan because of a structural addition or structural alteration.

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11 Who is a *park owner*

(1) A person who owns a residential park is a ***park owner***.

(2) Each of the following is also a ***park owner***—

(a) the personal representative, or a beneficiary of the estate, of a deceased individual who immediately before the individual's death was a person mentioned in subsection (1);

(b) a mortgagee in possession of a residential park for which site agreements are in force;

(c) another successor in title of a person mentioned in subsection (1).

12 What is a *residential park*

A ***residential park*** is an area of land that includes—

(a) sites; and

(b) common areas; and

(c) facilities for the personal comfort, convenience or enjoyment of persons residing in manufactured homes positioned on sites.

13 What is a *site*

A ***site*** is land that is available for rent under a site agreement.

14 What is a *site agreement*

A ***site agreement*** is an agreement between a park owner and a home owner that—

(a) provides for—

(i) the rental by the home owner of particular land in a residential park; and

(ii) the positioning on the land of a manufactured home; and

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(iii) the home owner's non-exclusive use of the park's common areas and communal facilities; and

(b) includes provision about anything else required or permitted by this Act to be in the agreement.

Example for paragraph (b)—

provision about how site rent may be increased

14A What is a *residential park dispute*

(1) A ***residential park dispute*** is—

(a) a dispute about a proposal for a change in a park rule for which a non-resolution notice has been given or a park liaison committee has made a proposal decision; or

(b) a dispute between a seller and park owner about the park owner's failure or refusal to consent to the assignment of the seller's interest in a site agreement to a buyer; or

(c) a dispute between the park owner and home owner under a site agreement about—

(i) the parties' rights or obligations under the agreement or this Act; or

(ii) without limiting subparagraph (i), how site rent is to be paid; or

(iii) another matter provided for under this Act; or

(d) a dispute about a matter relating to the day-to-day running or operation of a residential park (including a failure to communicate or cooperate in dealing with the matter) between—

(i) the park owner; and

(ii) either—

(A) the home owners committee for the park; or

(B) if no home owners committee has been established for the park—a home owner; or

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(e) a dispute between the home owners for 2 or more sites in a residential park about a home owner's rights or obligations under this Act; or

(f) a dispute, other than a dispute mentioned in paragraph (b), between 2 or more of a seller, buyer and park owner about the seller's, buyer's or park owner's rights or obligations under this Act relating to an assignment or proposed assignment of the seller's interest in a site agreement to the buyer; or

(g) a dispute about whether a person is entitled to have a park owner enter into a site agreement with the person; or

(h) a dispute about whether a park owner is entitled to have a person enter into a site agreement with the park owner; or

(i) a dispute about whether a seller is entitled to assign the seller's interest in a site agreement to a buyer; or

(j) a dispute about whether a buyer is entitled to be assigned a seller's interest in a site agreement; or

(k) a dispute between a home owner and a park owner about whether a manufactured home is an eligible home under part 9A; or

(l) a dispute between a home owner and a park owner about noncompliance by the home owner or the park owner with their obligations under part 9A.

(2) For subsection (1), a dispute about a person's obligation includes a complaint that the person has not complied with the obligation.

(3) Despite subsection (1), neither of the following is a residential park dispute—

(a) a dispute about whether a person is entitled to have a park owner enter into a site agreement with the person relating to a converted caravan;

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(b) a dispute about whether a park owner is entitled to have a person enter into a site agreement with the park owner relating to a converted caravan.

Part 3 Basic responsibilities of park owners and home owners

15 What this part is about

(1) This part states some of the basic responsibilities of park owners and home owners.

(2) Other parts of the Act deal with more specific rights and responsibilities.

(3) This part does not limit a park owner's, or home owner's, rights or responsibilities under this Act.

16 Home owner's responsibilities

A home owner under a site agreement has the following responsibilities—

(a) to use the site only as a place of residence;

(b) to use the residential park's common areas only for a purpose associated with the home owner's residential use of the site;

(c) not to use, or allow the home owner's tenant or guests to use, the site or residential park's common areas for an illegal purpose;

(d) to comply with the home owner's obligations under section 105;

(e) to pay the site rent and other charges payable by the home owner under the agreement;

(f) not to intentionally or recklessly damage or destroy, or allow the home owner's tenant or guests to intentionally

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or recklessly damage or destroy, the residential park's communal facilities;

(g) to maintain the manufactured home positioned on the site in a reasonable state of cleanliness and repair, and fit to live in;

(h) otherwise, to comply with the agreement and the park rules for the residential park.

Note—

The responsibilities mentioned in this section are taken to be included as terms of the site agreement under section 19.

17 Park owner's responsibilities

The park owner for a residential park has the following responsibilities in relation to a home owner—

(a) to take reasonable steps to ensure the home owner or the home owner's tenant—

(i) always has access to the home owner's site in the park; and

(ii) has reasonable access to the common areas;

(b) to maintain the common areas and communal facilities in a reasonable state of cleanliness and repair, and fit for use by the home owner or the home owner's tenant;

(c) to ensure the times the park owner or park manager is available to be contacted by the home owner or the home owner's tenant are reasonable, having regard to all the circumstances, including the utilities supplied by the park owner to the site;

(d) to the extent it is within the park owner's control, to ensure the continuity of supply of a utility to the park and the site;

(e) to comply with the park owner's obligations under section 104;

(f) otherwise, to comply with the site agreement for the site and the park rules.

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Note—

The responsibilities mentioned in this section are taken to be included as terms of a site agreement under section 19.

Part 4 Residential parks

Division 1 Preliminary

18 Definitions for part

In this part—

information includes a document.

registered, in relation to a residential park, means registered under division 2.

residential park register see section 18C(1).

unregistered residential park means a residential park that is not registered.

Division 2 Registration

18A Application for registration of residential park

(1) The park owner for a residential park may apply to the chief executive to register the residential park.

(2) The application must—

(a) if there is an approved form for the application—be in the approved form; and

(b) be accompanied by the fee prescribed by regulation.

(3) Also, the application must include or be accompanied by the following information for the residential park—

(a) the name of the park;

(b) the address of the park;

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(c) the name of the park owner;

(d) contact details for the park owner;

(e) details of the land on which the sites in the park will be located;

(f) details of the communal facilities, services and amenities available to home owners and other residents of the park;

(g) a list of all proposed bases on which site rent may be increased under a site agreement for a manufactured home positioned on a site in the park;

(h) a copy of the emergency plan for the park;

(i) a copy of the park rules;

(j) any other information prescribed by regulation.

(4) The chief executive may, by notice given to the applicant, ask the applicant for further information the chief executive reasonably requires to decide the application.

18B Registration of residential park

(1) The chief executive must consider the application and decide to—

(a) register the residential park; or

(b) refuse to register the residential park.

(2) The chief executive's decision must be made within 90 days after the later of the following days—

(a) the day the application is received;

(b) if the chief executive asks for further information under section 18A(4)—the day the applicant gives the chief executive the further information.

(3) The chief executive may register the residential park only if the chief executive is satisfied—

(a) the application complies with section 18A; and

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(b) if the chief executive has asked for further information under section 18A(4)—the applicant has given the chief executive the further information.

(4) The chief executive must, after deciding the application, promptly give the applicant notice of the decision.

(5) If the decision is to refuse to register the residential park, the notice must be an information notice for the decision.

Note—

See sections 18P and 18Q for offences in relation to operating, and engaging in other conduct in relation to, an unregistered residential park.

(6) If the chief executive fails to decide the application within the period required under subsection (2), the chief executive is taken to have refused the application.

(7) If the application is taken to be refused under subsection (6), the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 3 Residential park register

18C Residential park register

(1) The chief executive must keep a register of residential parks that are registered (the ***residential park register***).

(2) The residential park register may include the following information for each residential park that is registered—

(a) the name of the park;

(b) the address of the park;

(c) the postal address of the park;

(d) the name of the park owner;

(e) contact details for the park owner;

(f) the number of manufactured homes positioned on sites in the park;

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(g) details of the land on which the sites in the park are located;

(h) details of the communal facilities, services and amenities available to home owners and other residents of the park;

(i) details of all bases on which site rent may be increased under a site agreement for a manufactured home positioned on a site in the park;

(j) a copy of the emergency plan for the park;

(k) a copy of the park rules;

(l) any other information prescribed by regulation.

(3) The register may be kept in the way the chief executive considers appropriate, including in electronic form.

(4) The chief executive may publish information included in the residential park register at the times, and in the way, decided by the chief executive.

18D Inspecting and obtaining information about residential park

(1) A person may, on payment of the fee prescribed by regulation, inspect or obtain a copy of information included in the residential park register for a residential park.

(2) The information may be inspected, or a copy of the information may be obtained—

(a) at a place decided by the chief executive; or

(b) if the register is kept in electronic form—electronically.

18E Changes in information for residential park

(1) This section applies if there is a material change in any of the information for a residential park that may be included in the residential park register.

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(2) The park owner for the residential park must, within 28 days after becoming aware of the material change, give the chief executive notice, in the approved form, of the change unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

18F Chief executive may require information

(1) The chief executive may, by notice given to the park owner for a residential park, require the park owner, within a stated period of at least 30 days after the notice is given, to give the chief executive stated information about any information for the park that may be included in the residential park register.

(2) The park owner must comply with the requirement unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

Division 4 Park website and comparison document

18G Residential park website

(1) The park owner for a residential park must maintain a website for the park.

Maximum penalty—50 penalty units.

(2) A website maintained under subsection (1) may relate to more than 1 residential park.

(3) A regulation may exempt a residential park, or residential parks of a class, in stated circumstances from the requirement under subsection (1).

18H Meaning of *comparison document*

A ***comparison document***, for a residential park, is a document in the approved form that—

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(a) includes a declaration about site rent under section 70B; and

(b) contains details of the following information for the residential park—

(i) the communal facilities, services and amenities available in the park;

(ii) the frequency of site rent increases in the park;

(iii) the bases for increasing site rent in the park;

(iv) the services and utilities included in the site rent;

(v) any other details prescribed by regulation; and

(c) is formatted in the way prescribed by regulation.

18I Requirement to prepare comparison document

The park owner for a residential park must prepare a comparison document for the residential park.

Maximum penalty—200 penalty units.

18J Requirement to publish comparison document

If a park owner is required under section 18G to maintain a website for a residential park (the ***park website***), the park owner must—

(a) publish the comparison document for the residential park on the park website; and

(b) ensure the comparison document for the residential park, or a link to the comparison document, appears prominently on the park website; and

(c) ensure any advertisement on the park website for the sale of a manufactured home in the residential park—

(i) states that the manufactured home is a manufactured home regulated under the *Manufactured Homes (Residential Parks) Act 2003*; and

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(ii) includes a link to the comparison document for the residential park.

Maximum penalty—20 penalty units.

18K Park owner or sales person to give copy of comparison document on request

(1) This section applies if a person asks either of the following persons, in writing, for a copy of the comparison document for a residential park—

(a) the park owner for the residential park;

(b) a person engaged in the sale or marketing of manufactured homes in the residential park.

(2) The park owner, or other person, of whom a request is made under subsection (1)—

(a) must, within 7 days after the request is made, give the home owner a copy of the comparison document; and

(b) must not charge a fee for the comparison document that is more than the amount prescribed by regulation.

Maximum penalty—10 penalty units.

18L Changes to comparison document

(1) The park owner for a residential park must, immediately after becoming aware of a material change in any of the information in the comparison document for the residential park, amend the comparison document to include the correct information.

Maximum penalty—50 penalty units.

(2) Within 28 days after amending a comparison document under subsection (1), or updating a comparison document to include a declaration about site rent under section 70B, the park owner must give the chief executive—

(a) notice of the amendment or declaration; and

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(b) a copy of the amended or updated comparison document.

Maximum penalty—200 penalty units.

Division 5 Cancelling registration

18M Cancelling registration at request of park owner

(1) The park owner for a residential park may ask the chief executive, in writing, to cancel the registration of the residential park if the park owner—

(a) has stopped operating the park; or

(b) proposes to stop operating the park.

(2) The chief executive may cancel the registration of the residential park if the chief executive is satisfied that cancelling the registration of the park is appropriate.

18N Cancelling registration on chief executive's own initiative

(1) The chief executive may, by notice given under this section to the park owner for a residential park, cancel the registration of the residential park if the chief executive is satisfied the park owner—

(a) has stopped operating the park; or

(b) proposes to stop operating the park.

(2) The chief executive must, before cancelling the registration of the residential park under this section, give the park owner a notice stating—

(a) that the chief executive proposes to cancel the registration of the residential park under this section; and

(b) the day (the ***proposed cancellation day***), at least 30 days after the day the notice is given, on which the chief

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executive proposes to cancel the registration of the residential park; and

(c) that the park owner may provide evidence to the chief executive, within the stated period ending not earlier than 14 days after the day the notice is given (the ***submission period***), that the park owner is continuing to operate the residential park.

(3) The chief executive must consider any evidence provided by the park owner within the submission period and decide to—

(a) cancel the registration of the residential park; or

(b) not cancel the registration of the residential park.

(4) If the decision is to cancel the registration of the residential park, the chief executive must promptly give the park owner an information notice for the decision that states the day the registration of the residential park is cancelled.

(5) For subsection (4), the stated day must be a day that is not earlier than—

(a) the day the information notice is given to the park owner; or

(b) the proposed cancellation day.

(6) If the decision is not to cancel the registration of the residential park, the chief executive must give the park owner notice of the decision.

18O Updating residential park register on cancellation of registration of residential park

If the registration of a residential park is cancelled under section 18M or 18N, the chief executive may record in the residential park register—

(a) that the registration of the residential park has been cancelled; and

(b) the date the registration was cancelled; and

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(c) whether the registration was cancelled at the request of the park owner or on the chief executive's initiative.

Division 6 Offences relating to unregistered residential parks

18P Offence to operate unregistered residential park

A person must not operate a residential park that is an unregistered residential park.

Maximum penalty—540 penalty units.

18Q Offence to induce or invite person to reside in, purchase or rent in unregistered residential park

(1) A person must not, in relation to a residential park the person knows, or ought reasonably to know, is an unregistered residential park—

(a) induce or invite another person to do any of the following things—

(i) reside in a manufactured home positioned on a site in the park;

(ii) purchase a manufactured home positioned on a site in the park;

(iii) enter into a site agreement in relation to land in the park;

(iv) pay site rent under a site agreement in relation to land in the park; or

(b) use a document, or publish an advertisement, to induce or invite another person to do a thing mentioned in paragraph (a).

Maximum penalty—540 penalty units.

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(2) However, a person does not contravene subsection (1) if the person, or the document or advertisement, only invites expressions of interest in the residential park.

(3) In this section—

advertisement includes an advertisement made by publishing a statement or claim—

(a) in a document, including a newspaper or magazine; or

(b) by broadcast, electronic communication, telecommunication, video or film.

induce includes attempt to induce.

18R Order to stop contravention of s 18P or 18Q

(1) This section applies if the chief executive considers, on reasonable grounds, that a person is contravening section 18P or 18Q.

(2) The chief executive may apply to the District Court for an order requiring the person to stop contravening the section.

(3) The court may make any order, including an interim order, it considers appropriate.

Part 5 Site agreements

Division 1 General

19 Terms of site agreement include responsibilities under Act etc.

The following are taken to be included as terms of a site agreement—

(a) the home owner's responsibilities under section 16;

(b) the park owner's responsibilities under section 17;

(c) the park rules for the residential park;

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(d) the terms of any tribunal order in force about the agreement;

(e) other duties imposed on, or entitlements given to, the park owner or home owner under this Act.

20 Standard terms

(1) A regulation may prescribe terms for inclusion in a site agreement.

(2) The terms prescribed for this section are the ***standard terms*** of a site agreement.

21 Special terms

The ***special terms*** of a site agreement are the terms of the agreement that are not—

(a) standard terms; or

(b) terms taken to be included in the agreement under section 19.

22 Variation of special term

(1) A special term of a site agreement may be varied at any time while the agreement is in force.

(2) A variation of a special term of a site agreement is void unless it is written and signed by the parties to the agreement.

(3) If a party to a site agreement (the ***first party***) proposes a variation of a special term of the agreement and the other party does not agree to the variation, the first party may, subject to section 116, apply to the tribunal for an order under subsection (4).

(4) If a party applies under subsection (3), the tribunal may make the order the tribunal considers appropriate about the proposed variation.

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23 Contracting out prohibited

(1) An agreement is void to the extent to which it purports to exclude, change or restrict the application or operation of a provision of this Act about the terms of a site agreement.

(2) A person must not enter into an agreement with the intention, directly or indirectly, of defeating the operation of this Act.

Maximum penalty—200 penalty units.

(3) In this section—

agreement includes arrangement.

defeating includes evading and preventing.

24 Inconsistency

(1) If a provision of this Act is inconsistent with a special term of a site agreement, the provision prevails and the term is void to the extent of the inconsistency.

(2) If a standard term of a site agreement is inconsistent with a special term of the agreement, the standard term prevails and the special term is void to the extent of the inconsistency.

25 Written agreement

(1) The park owner for a residential park must ensure a site agreement is written to the extent, and in the way, required by this section.

Maximum penalty—200 penalty units.

(2) The agreement must include the standard terms, and any special terms, of the agreement.

(3) If, for a standard term of a site agreement to be effective, the term requires stated information to be included in it, the agreement is taken to include the standard term only if the information is properly included.

Example of information—

the names of the parties and a description of the site

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(4) The agreement must—

(a) be easily legible; and

(b) if it is produced by any mechanical or electronic means, for example, by a typewriter or computer—be in at least 12 point font; and

(c) be written in a precise way; and

(d) be clearly expressed in plain language; and

(e) precisely identify the site; and

(f) state each party's name and address; and

(g) state a phone number, if any, of the home owner; and

(h) state a business hours contact phone number, for the park owner or, if a park manager has been appointed, the park manager; and

(i) state the following—

(i) the site rent and other charges payable under the agreement;

(ii) when the site rent and other charges are payable and how they must be paid;

(iii) how and when the site rent may be varied, including that, under the Act, the tribunal may—

(A) make an order increasing the site rent on application by the park owner; or

(B) make an order reducing the site rent on application by the home owner; and

Note—

Part 11 (Varying site rent) states the circumstances in which the orders may be made.

(j) state the maximum number of persons who may reside on the site the subject of the agreement; and

(k) be signed by the parties; and

(l) comply with any other requirement prescribed under a regulation.

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(5) The park owner must pay the costs of preparing the agreement.

(6) Also, the park owner must keep a copy of the agreement until 1 year after the agreement is terminated.

Maximum penalty—20 penalty units.

(7) Nothing in this section affects the enforceability of a site agreement that is not written.

Note—

Section 151 deals with relevant agreements, under the repealed Act, in force immediately before the commencement of section 148 that are not in writing.

25A Plain language for special term of site agreement

(1) This section applies if a home owner under a site agreement proposes that a special term of the agreement be varied because it is not clearly expressed in plain language and the park owner does not agree about the language, or proposed variation, of the special term.

(2) The home owner may, subject to section 116, apply to the tribunal to consider whether the special term is not clearly expressed in plain language.

(3) If the home owner applies under subsection (2) and the tribunal considers the term is not clearly expressed in plain language, it may do 1 or more of the following—

(a) make an order varying the terms of the site agreement in the way the tribunal considers appropriate;

(b) make an order prohibiting the park owner from using the same or a similar term in any other site agreement entered into after the order.

25B Prohibited terms of site agreements and prohibited park rules

(1) A regulation may prohibit—

(a) a stated type of special term in a site agreement; or

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(b) a stated type of park rule.

(2) A park owner must not include a special term in a site agreement that is prohibited from being in a site agreement under subsection (1).

Maximum penalty—100 penalty units.

(3) A park owner must not make a type of park rule that is prohibited under subsection (1).

Maximum penalty—100 penalty units.

(4) A park owner must not attempt to enforce—

(a) a special term in a site agreement that is prohibited from being in a site agreement under subsection (1); or

(b) a park rule of a type that is prohibited under subsection (1).

Maximum penalty—100 penalty units.

(5) A term of a site agreement is void to the extent it is or contains a term that is prohibited under subsection (1).

(6) Subsection (7) applies if a home owner under a site agreement considers a special term of the agreement is wholly or partly void under subsection (5) and the park owner does not agree.

(7) The home owner may, subject to section 116, apply to the tribunal to consider whether part or all of the special term is void under subsection (5).

(8) If a home owner applies under subsection (7), the tribunal may do 1 of the following—

(a) declare that a stated term of the site agreement is void;

(b) declare that a stated term of the site agreement is not void;

(c) declare that a stated term of the site agreement is void to a stated extent;

(d) make an order varying a stated term of the site agreement.

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26 Duration of site agreement

A home owner's right under a site agreement to position a manufactured home on a site continues until the agreement is terminated.

27 Successor in title of park owner

A successor in title of the park owner under a site agreement obtains the benefits, and is subject to the obligations, of the park owner in relation to the agreement.

28 Notice to be given by successor in title of park owner to home owner

A person must, within 14 days after becoming a successor in title of the park owner under a site agreement, give the home owner under the agreement a notice—

(a) stating the person's name and business address; and

(b) directing the home owner to make all future payments of site rent payable under the agreement to the person.

Maximum penalty—10 penalty units.

Division 2 Entering into site agreements

29 Disclosure documents to be given to prospective home owner

(1) The park owner for a residential park must not enter into a site agreement for a site in the park with a prospective home owner unless the park owner has complied with subsections (2) and (3).

Maximum penalty—200 penalty units.

Note—

For another possible consequence of not complying with this section, see section 33.

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(2) Subject to subsection (3), the park owner must give the prospective home owner—

(a) the documents mentioned in schedule 1, part 1 (the ***initial disclosure documents***) for the site at least 21 days before entering into the site agreement (the ***default notice period***); and

(b) the following documents (the ***supplementary disclosure documents***) for the site at least 14 days before entering into the site agreement (also the ***default notice period***)—

(i) the documents mentioned in schedule 1, part 2;

(ii) 2 copies of a proposed site agreement.

(3) If, under section 29A, the prospective home owner waives the right to be given the initial disclosure documents and the right to be given the supplementary disclosure documents for the site in the default notice period, the park owner must give the prospective home owner the documents at least 7 days before entering into the site agreement.

29A Waiver of disclosure of documents in default notice period

(1) The prospective home owner may, by notice to the park owner, waive the right under section 29(2)(a) to be given the initial disclosure documents and the right under section 29(2)(b) to be given the supplementary disclosure documents for the site in the default notice period.

(2) The notice must—

(a) if there is an approved form for the notice—be in the approved form; and

(b) state that the prospective home owner—

(i) has obtained independent legal advice from a Queensland lawyer about entering into the site agreement for the site; and

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(ii) agrees to receive the initial disclosure documents less than 21 days but at least 7 days, and the supplementary disclosure documents less than 14 days but at least 7 days, before entering into the site agreement; and

(c) be signed by the lawyer and include the lawyer's name and contact details and the date the legal advice was given.

30 Obtaining independent legal advice about site agreement

The park owner for a residential park must not, at any time, restrict a person's right to obtain independent legal advice about a site agreement, including independent legal advice mentioned in section 29A(2)(b)(i).

Maximum penalty—100 penalty units.

31 Home owner's copy of site agreement

(1) This section applies if the park owner for a residential park—

(a) has received 2 copies of a proposed site agreement for a site, signed by a prospective home owner for the site; and

(b) has signed both copies.

(2) The park owner must, within 10 days after signing both copies, return a copy to the other party to the agreement.

Maximum penalty—100 penalty units.

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Part 6 Termination of site agreements

Division 1 Introduction

32 No other way of terminating site agreement

A site agreement may be terminated only under this part or part 8.

Division 2 Termination within cooling-off period

33 Cooling-off period

(1) This section applies if the park owner for a residential park and a prospective home owner for a site enter into a site agreement for the site.

(2) The home owner may, within the cooling-off period, terminate the site agreement by giving a signed notice of the termination to—

(a) the park owner; and

(b) if the home owner has granted a person a security interest in the manufactured home positioned on the site—that person.

(3) The notice must state the day, within 28 days after the notice is given, the termination is effective (the ***termination day***).

(4) The home owner may terminate the agreement under subsection (2) even though—

(a) the home owner has affirmed the agreement; and

(b) the agreement has been fully executed.

(5) If the agreement is terminated under subsection (2), the home owner is not liable to pay any amount otherwise payable under the agreement by the home owner to the park owner.

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(6) If the agreement is terminated under subsection (2), the park owner must, within 14 days after the termination day, refund any amount received under the agreement from the home owner.

Maximum penalty—100 penalty units.

(7) An amount payable to the home owner under subsection (6) is recoverable as a debt.

(8) In this section—

cooling-off period means the following period after the day the last person signed the site agreement—

(a) if the park owner has not given the prospective home owner the disclosure documents for the site as required under section 29—28 days;

(b) otherwise—7 days.

34 Automatic ending of sale agreement

(1) This section applies in relation to a site agreement if—

(a) in conjunction with the agreement, the parties to the agreement enter into an agreement (the ***sale agreement***) for the sale of a manufactured home positioned on the site; and

(b) the home owner terminates the site agreement under section 33.

(2) The sale agreement is taken to be at an end on the day the termination of the site agreement is effective.

(3) Also, on the ending of the sale agreement under subsection (2), ownership of the home reverts to the park owner.

(4) Subsections (2) and (3) apply even though—

(a) the home owner has affirmed the sale agreement; and

(b) the sale agreement has been fully executed.

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(4A) Subsection (4B) applies if the home owner has granted a person (a ***financier***) a security interest in the home and the financier has been given notice of the termination of the site agreement under section 33(2) or otherwise knows about the termination.

(4B) The financier must, within 7 days after the ending of the sale agreement under subsection (2), give the park owner a notice stating the amount owing under the security interest.

(5) The park owner must, within the refund period, pay the refundable amount as follows—

(a) first, if all or part of the refundable amount is owing to a financier under a security interest in the home—in payment of the amount owing under the security interest;

(b) second, in payment of any balance to the home owner.

Maximum penalty—100 penalty units.

(5A) For subsection (5)(a), the amount owing under the security interest is the amount stated in a notice given by the financier to the park owner.

(6) A term in the sale agreement is void to the extent it purports to exclude, change or restrict the operation of subsection (5).

(7) In this section—

refundable amount means the total of the following—

(a) the amount paid to the park owner, or at the park owner's direction, under the sale agreement;

(b) if the park owner did not give the home owner the disclosure documents for the site as required under section 29—the amount of any expenses reasonably incurred by the home owner arising out of or incidental to the sale agreement.

refund period means the period—

(a) if subsection (5)(a) applies, starting—

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(i) when the financier gives the park owner the notice as required under subsection (4B); or

(ii) 7 days after the ending of the sale agreement under subsection (2); and

(b) ending at the end of the day that is 14 days after the ending of the sale agreement under subsection (2).

35 Compensation may be payable to home owner

(1) This section applies if—

(a) the home owner under a site agreement terminates the agreement under section 33; and

(b) the park owner has not given the prospective home owner the disclosure documents for the site as required under section 29; and

(c) the home owner removes the manufactured home positioned by the home owner on the site from the site and relocates it to another place; and

(d) the home owner and park owner do not agree about compensation payable to the home owner for the removal and relocation of the home.

(2) The home owner may, subject to section 116, apply to the tribunal for an order under subsection (3).

(3) On application by the home owner, the tribunal may make an order (the ***compensation order***) that the park owner pay the home owner an amount of compensation to cover the reasonable costs of removing the home from the site and relocating it to another place.

(4) The application must be made within 6 months after the termination of the agreement is effective.

(5) In making the compensation order, the tribunal may have regard to the following—

(a) the costs of removing the home from the site;

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(b) the costs of transporting the home and the home owner's personal effects to the other location;

(c) the costs of positioning the home at the other location;

(d) the costs of repairing any damage to the home arising from its removal and relocation;

(e) whether the home owner has taken all reasonable steps to mitigate the costs of removal and relocation.

(6) In making the compensation order, the tribunal may only make an allowance for the costs mentioned in subsection (5)(b)—

(a) if the distance of transport was less than 300km—relating to the actual distance of transport; or

(b) if the distance of transport was 300km or more—relating to a distance of transport of 300km.

(7) The compensation order must not be for an amount that is more than the market value of the home.

(8) In conjunction with the compensation order, the tribunal may make any other order the tribunal considers appropriate.

Division 3 Termination of site agreement in other circumstances

35A Definitions for division

In this division—

compensation order see section 39C(2).

termination day see section 39A(1).

termination order see sections 38(1) and 39(3).

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36 Termination of site agreement by agreement between home owner and park owner

(1) The parties to a site agreement may agree, in the approved form, to terminate the site agreement.

(2) If a site agreement is terminated under subsection (1), the home owner must give the park owner vacant possession of the site on or before the day it is agreed by the parties the termination is effective.

(3) The park owner under a site agreement must not coerce, or attempt to coerce, the home owner to agree to terminate the agreement under subsection (1).

Maximum penalty—200 penalty units.

(4) A park owner must not—

(a) enter into a prohibited agreement; or

(b) vary a site agreement to include a term under which the parties to the site agreement agree to terminate the site agreement.

Maximum penalty—200 penalty units.

(5) A prohibited agreement is void.

(6) A variation of a site agreement as mentioned in subsection (4)(b) is void.

37 Termination of site agreement by home owner

(1) The home owner under a site agreement may terminate the agreement by notice, in the approved form, given to the park owner.

(2) The notice must state the day, not later than 28 days after the notice is given, the agreement is terminated.

(3) The home owner must give the park owner vacant possession of the site on or before the stated day.

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38 Termination of site agreement by tribunal—conduct of home owner etc.

(1) On application by the park owner under a site agreement, the tribunal may make an order (a ***termination order***) terminating the agreement on any of the following grounds—

(a) the home owner—

(i) has contravened a term of the agreement; and

(ii) has failed to remedy the contravention after being given by the park owner a notice, in the approved form, requiring the home owner to remedy the contravention within 28 days after the notice is given;

(b) the home owner has assaulted a person who was lawfully in the residential park;

(c) the home owner has wilfully destroyed property, other than the home owner's property, on the residential park or site;

(d) the home owner is using the site other than as a place of residence;

Example of the home owner using the site as a place of residence—

the home owner using the site as rental accommodation

(e) the home owner, or the home owner's tenant or guest—

(i) repeatedly interferes, or has repeatedly interfered, with the quiet enjoyment of the residential park by the park's residents; and

(ii) continues, or has continued, the behaviour mentioned in subparagraph (i) after the park owner gives the home owner a notice, in the approved form, requiring the home owner to stop the behaviour.

(2) In this section—

assault includes threaten to assault, procure someone else to assault and attempt to assault.

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39 Termination of site agreement by tribunal—residential park land to be used for other purpose

(1) The park owner for a residential park may apply to the tribunal to terminate a site agreement on the ground the park owner wishes to use the residential park land, or a part of the residential park in which the site is located, for another purpose stated in the application (the ***stated purpose***).

(2) The application must be accompanied by a document certified by the local government for the local government area in which the residential park is situated stating it is lawful for the residential park land, or a part of the residential park in which the site is located, to be used for the stated purpose.

(3) On application by the park owner under this section, the tribunal may make an order (a ***termination order***) terminating the site agreement.

39A Termination day for termination order

(1) A termination order in relation to a site agreement must state the day (the ***termination day***) the termination of the site agreement is effective.

(2) The termination day must be a day, not later than 1 year after the day the termination order is made, that the tribunal considers just and equitable in the circumstances.

Examples of circumstances for subsection (2)—

- the home owner's personal and financial circumstances, including the home owner's health, age and mobility
- the availability and location of alternative accommodation at a similar cost
- the financial effect on the park owner of deferring the termination day

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39B Termination order must include order for vacant possession of site or transfer of manufactured home

(1) A termination order in relation to a site agreement under which a manufactured home is positioned on the site must include 1 of the following orders—

(a) an order requiring the home owner to give the park owner vacant possession of the site on or before the termination day;

(b) an order requiring the home owner to do both of the following on or before the termination day—

(i) transfer ownership of the manufactured home to the park owner;

(ii) give vacant possession of the manufactured home to the park owner.

(2) However, an order under subsection (1)(b) may be made only with the consent of the home owner.

(3) In deciding whether to make an order under subsection (1)(a) or (b), the tribunal must consider the following matters—

(a) the cost and practicality of relocating the manufactured home to another location;

(b) submissions by the home owner about whether the home owner intends to relocate the manufactured home to another location;

(c) submissions by the park owner and the home owner about whether the manufactured home should be resold in the residential park;

(d) the availability of alternative locations to position the manufactured home within a reasonable distance from the residential park;

(e) the condition and saleability of the manufactured home, and the likelihood of the manufactured home being resold in the residential park;

(f) the amount paid by the home owner for the manufactured home, and the amount of any reduction in

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the value of the home if the home owner is required to give vacant possession of the site;

(g) what the tribunal considers to be fair and reasonable in the circumstances.

(4) The tribunal may make any other order the tribunal considers appropriate.

39C Compensation order

(1) This section applies if the tribunal makes a termination order under section 38 or 39 in relation to a site agreement.

(2) The tribunal may, as well as making the termination order, make an order (a ***compensation order***) that the park owner pay the home owner compensation in relation to the termination of the site agreement.

(3) The tribunal may have regard to the matters mentioned in subsection (4) or (5) in making the compensation order.

(4) If the termination order includes an order under section 39B(1)(a), the matters are as follows—

(a) the estimated costs of dismantling the manufactured home from the site;

(b) the estimated costs of transporting the manufactured home and the home owner's personal effects to another location;

(c) the estimated costs of positioning the manufactured home at another location;

(d) the amount the home owner paid for the manufactured home;

(e) the difference between the market value of the manufactured home if sold on site and the market value of the home if sold separately from the site;

(f) whether the manufactured home was originally sold on site by the park owner, a former park owner or another

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entity involved in the development of the residential park;

(g) the amount of any arrears in site rent owed by the home owner under the site agreement;

(h) what the tribunal considers is otherwise fair and reasonable in the circumstances;

(i) anything else the tribunal considers relevant.

(5) If the termination order includes an order under section 39B(1)(b), the matters are as follows—

(a) the amount the home owner paid for the manufactured home;

(b) the market value of the manufactured home if it is sold on site and the residential park remains operational;

(c) whether the manufactured home was originally sold on site by the park owner, a former park owner or another entity involved in the development of the residential park;

(d) if the termination order is made under section 38—the likely time and expense for the park owner to resell the home;

(e) what the tribunal considers is otherwise fair and reasonable in the circumstances;

(f) anything else the tribunal considers relevant.

(6) The maximum distance for which transport costs mentioned in subsection (4)(b) may be allowed in the compensation order is the lesser of—

(a) the estimated distance of the transport; or

(b) 300km.

39D Compensation amount recoverable as debt

The amount payable to a home owner under a compensation order is recoverable as a debt.

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39E Appointment of valuer for making compensation order

(1) For the purposes of making a compensation order, the tribunal may appoint an appropriately qualified and independent registered valuer to assist the tribunal to decide the market value of a manufactured home positioned on a site in a residential park.

(2) If the tribunal appoints a valuer under subsection (1), the park owner must pay the valuer's costs of assisting the tribunal, including—

(a) the costs of preparing any written valuation required by the tribunal; and

(b) the fees and allowances for giving evidence, if required, in a proceeding.

(3) However, subsection (2) applies only if, before appointing the valuer, the tribunal—

(a) informs the park owner of the amount the park owner is likely to be required to pay under subsection (2); and

(b) gives the park owner the opportunity to be heard on the matter of appointing the valuer.

40A Other orders

(1) This section applies if the tribunal makes a termination order under section 39 in relation to a site agreement.

(2) With the consent of the home owner, the tribunal may order the park owner to make a comparable site within the park available to the home owner for the positioning of the manufactured home.

(3) However, the tribunal can not make an order under subsection (2) if the tribunal is satisfied there is no comparable site available.

(4) If the tribunal makes an order under subsection (2), the tribunal—

(a) must make an order varying the site agreement to identify the comparable site; and

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(b) may make any other order, including an order varying the site agreement in another way, the tribunal considers appropriate in relation to the comparable site.

(5) Subsection (2) does not prevent a compensation order being made in favour of the home owner.

40B Extension of period for complying with termination order

(1) This section applies if the tribunal has made a termination order in relation to a site agreement.

(2) The home owner may apply to the tribunal, before the termination day, for an order extending—

(a) the period for complying with an order made under section 39B(1)(a) or (b); or

(b) the period for complying with another order made by the tribunal in the termination order.

(3) On the making of an application under subsection (2), the termination order is suspended until the application is decided.

(4) The tribunal may—

(a) extend the period mentioned in subsection (2)(a) or (b) by the period (the ***extension period***) the tribunal considers reasonable; and

(b) make any other order the tribunal considers appropriate.

(5) If the tribunal makes an order under subsection (4)(a), the termination day under the termination order is taken to be changed to the last day of the extension period.

41 Apportioning payments on termination of site agreement

(1) If a site agreement is terminated under this division, the home owner is not liable to pay to the park owner a part of a payment payable under the agreement that relates to a period after the day the termination is effective.

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(2) If a site agreement is terminated under this division, the park owner must, within 14 days after the termination is effective, refund to the home owner a part of any payment received under the agreement from the home owner that relates to a period after the day the termination is effective.

Maximum penalty—100 penalty units.

(3) An amount payable to the home owner under subsection (2) is recoverable as a debt.

Part 7 Assignment of home owner's interest in site agreement

Division 1 Introduction

42 Application of pt 7

This part applies if the home owner for a site in a residential park (the ***seller***) on which a manufactured home is positioned proposes—

(a) to sell the home to a person (the ***buyer***); and

(b) to assign the seller's interest in the site agreement for the site (the ***seller's interest***) to the buyer.

43 Hinder proposed assignment

(1) The park owner under the agreement must not hinder the proposed assignment of the seller's interest.

Maximum penalty—100 penalty units.

(2) The park owner does not contravene subsection (1) if, under this part, the park owner reasonably refuses to consent to a proposed assignment of the seller's interest.

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Division 2 Requirements for assignment of seller's interest

44 Assignment only by assignment agreement

(1) The seller may assign the seller's interest to the buyer only by written agreement (the ***assignment agreement***) with the buyer.

(2) A term in the assignment agreement is void to the extent it purports to exclude, change or restrict the operation of section 46, 47, 48, 48A or 51A.

45 Notice of proposed sale and assignment

The seller must give the park owner notice, in the approved form, of the proposed assignment of the seller's interest.

45A Disclosure documents to be given to buyer

(1) The park owner for a residential park must, within 7 days after receiving the notice mentioned in section 45, give the documents mentioned in schedule 1 for the site to the buyer.

Maximum penalty—20 penalty units.

Note—

See also section 48A under which the park owner is required to give the disclosure documents for the site to the buyer within a stated period before consenting to the assignment of the seller's interest.

(2) To remove any doubt, it is declared subsection (1) applies even if the park owner intends to refuse, or refuses, to consent to the proposed assignment of the seller's interest.

46 Obtaining independent legal advice about assignment of seller's interest

The park owner or seller must not restrict the buyer's right to obtain independent legal advice about the assignment of the

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seller's interest, including independent legal advice mentioned in section 48B(2)(b)(i).

Maximum penalty—100 penalty units.

47 Form of assignment

(1) The assignment of the seller's interest must be in the approved form (the ***form of assignment***).

(2) The seller and buyer must each sign 2 copies of the form of assignment.

48 Park owner's consent required

(1) The assignment of the seller's interest is not effective unless the park owner has consented to the assignment.

(2) The park owner may give the consent only by signing both copies of the form of assignment.

48A Buyer to be given disclosure documents before park owner consents

The park owner must not consent to the assignment of the seller's interest to the buyer unless the park owner has given the buyer the disclosure documents for the site—

(a) at least 21 days before giving the consent (the ***default notice period***); or

(b) if under section 48B the buyer waives the right to be given the disclosure documents in the default notice period—at least 7 days before giving the consent.

Maximum penalty—200 penalty units.

Note—

For another possible consequence of not complying with this section, see section 51A.

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48B Waiver of disclosure of documents in default notice period

(1) The buyer may, by notice to the park owner, waive the right under section 48A to be given the disclosure documents for the site in the default notice period.

(2) The notice must—

(a) if there is an approved form for the notice—be in the approved form; and

(b) state that the buyer—

(i) has obtained independent legal advice from a Queensland lawyer about being assigned the seller's interest in the site agreement for the site; and

(ii) agrees to receive the disclosure documents less than 21 days, but at least 7 days, before the park owner consents to the assignment of the seller's interest to the buyer; and

(c) be signed by the lawyer and include the lawyer's name and contact details and the date the legal advice was given.

49 Consent to assignment of seller's interest

(1) After the buyer and seller sign the form of assignment, the seller must give the park owner a written request for the park owner's consent to the assignment.

(2) The request must be accompanied by 2 signed copies of the form of assignment.

(3) The park owner must not unreasonably refuse to consent to the assignment.

(4) If the park owner consents to the assignment, the park owner must—

(a) return 1 copy of the form of assignment to the seller; and

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(b) keep the other copy of the form of assignment until 1 year after the site agreement is terminated.

Maximum penalty—20 penalty units.

(5) If the park owner refuses to consent to the assignment, the park owner must—

(a) return both copies of the form of assignment to the seller; and

(b) give the seller written notice—

(i) of the decision and the reasons for it; and

(ii) that if the seller is dissatisfied with the refusal—

(A) the seller must use the dispute resolution procedure under section 107 to try to resolve the dispute with the park owner; and

(B) the seller may, subject to section 116, apply to the tribunal for an order that the park owner consent to the assignment.

Maximum penalty—20 penalty units.

(6) If, within 28 days after receiving the request, the park owner does not consent to the assignment under subsection (4), or does not refuse to consent to the assignment under subsection (5), the park owner is taken to have refused to consent to the assignment.

50 Dispute resolution and application to tribunal about refusal to consent to assignment

(1) This section applies if the park owner refuses, or is taken to have refused, to consent to the assignment of the seller's interest.

(2) The seller may, subject to section 116, apply to the tribunal for an order (the ***assignment order***) that the park owner consent to the assignment of the seller's interest on a day (the ***consent day***) stated in the order.

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(3) The tribunal may make the assignment order if it decides that the park owner unreasonably refused to consent to the assignment.

(4) Also, if the park owner has not given the buyer the disclosure documents for the site, the tribunal may make an order directing the park owner to give the documents to the buyer at least 7 days before the consent day.

(5) If the tribunal makes the assignment order, the park owner must on the consent day sign both copies of the form of assignment and return them to the seller.

Maximum penalty—20 penalty units.

(6) If the park owner fails to comply with subsection (5), the park owner is taken to consent to the assignment on the consent day.

51 Seller to give particular documents to buyer

(1) This section applies if the park owner consents to the assignment of the seller's interest.

(2) The seller must, as soon as practicable after receiving a copy of the form of assignment under section 49(4)(a), give the following documents to the buyer—

(a) the copy of the form of assignment;

(b) the seller's copy of the site agreement.

Maximum penalty—5 penalty units.

Division 3 Termination of assignment agreement within cooling-off period

51A Cooling-off period for assignment agreement

(1) This section applies if—

(a) the seller and buyer have entered into an assignment agreement; and

(b) the park owner consents to the assignment of the seller's interest in the site agreement for the site to the buyer.

(2) The buyer may, within the cooling-off period, terminate the assignment agreement by giving a signed notice of the termination to—

(a) the park owner; and

(b) the seller; and

(c) if the buyer has granted a person a security interest in the manufactured home positioned on the site—that person.

(3) The notice must state the day, within 28 days after the notice is given, the termination takes effect (the ***termination day***).

(4) The buyer may terminate the assignment agreement under subsection (2) even though—

(a) the buyer has affirmed the agreement; and

(b) the agreement and the form of assignment of the seller's interest have been fully executed.

(5) If the assignment agreement is terminated under subsection (2)—

(a) the form of assignment of the seller's interest is taken to be revoked; and

(b) the buyer is not liable to pay any amount otherwise payable under the agreement by the buyer to the seller.

(6) If the assignment agreement is terminated under subsection (2), the seller must, within 14 days after the termination day, refund any amount received under the agreement from the buyer.

Maximum penalty—100 penalty units.

(7) An amount payable to the buyer under subsection (6) is recoverable as a debt.

(8) In this section—

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cooling-off period means the following period after the park owner consents to the assignment of the seller's interest to the buyer—

(a) if the park owner has not given the buyer the disclosure documents for the site as required under section 48A—28 days;

(b) otherwise—7 days.

Division 4 Provisions about sale agreement for manufactured home

51B Application of division

This division applies if the seller and buyer have entered into an agreement for the sale of the manufactured home positioned on the site to the buyer (the ***sale agreement***).

51C Restriction on sale agreement

The seller must not complete the sale agreement unless—

(a) the park owner—

(i) has consented to the assignment of the seller's interest in the site agreement to the buyer under section 48(2) or 50(5); or

(ii) is taken to have consented to the assignment under section 50(6); and

(b) the buyer has been given the disclosure documents for the site as required under—

(i) section 48A(a) or (b); or

(ii) an order made under section 50(4).

Maximum penalty—5 penalty units.

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51D Automatic ending of sale agreement

(1) This section applies if the buyer terminates the assignment agreement under section 51A.

(2) The sale agreement is taken to be at an end on the day the termination of the assignment agreement takes effect.

(3) Also, on the ending of the sale agreement under subsection (2), ownership of the home reverts to the seller.

(4) Subsections (2) and (3) apply even though—

(a) the buyer has affirmed the sale agreement; and

(b) the sale agreement has been fully executed.

(4A) Subsection (4B) applies if the buyer has granted a person (a ***financier***) a security interest in the home and the financier has been given notice of the termination of the assignment agreement under section 51A(2) or otherwise knows about the termination.

(4B) The financier must, within 7 days after the ending of the sale agreement under subsection (2), give the seller a notice stating the amount owing under the security interest.

(5) The seller must, within the refund period, pay the refundable amount as follows—

(a) first, if all or part of the refundable amount is owing to a financier under a security interest in the home—in payment of the amount owing under the security interest;

(b) second, in payment of any balance to the buyer.

Maximum penalty—100 penalty units.

(5A) For subsection (5)(a), the amount owing under the security interest is the amount stated in a notice given by the financier to the seller.

(6) In this section—

refundable amount means the amount paid to the seller, or at the seller's direction, under the sale agreement.

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refund period means the period—

(a) if subsection (5)(a) applies, starting—

(i) when the financier gives the seller the notice as required under subsection (4B); or

(ii) 7 days after the ending of the sale agreement under subsection (2); and

(b) ending at the end of the day that is 14 days after the ending of the sale agreement under subsection (2).

51E Contracting out prohibited

A term in the sale agreement is void to the extent it purports to exclude, change or restrict the operation of section 51C or 51D.

Part 8 Abandonment of manufactured homes

52 Abandonment order

(1) Subsection (3) applies if the park owner under a site agreement reasonably believes the home owner has abandoned the manufactured home positioned on the site.

(2) Subsection (3) also applies if the park owner under a terminated site agreement reasonably believes the home owner under the agreement has abandoned the manufactured home positioned on the site.

(3) On application by the park owner, the tribunal may make an order (the ***abandonment order***) declaring that the home owner has abandoned the home and the day the home was abandoned.

(4) The following provisions have effect on the day stated in the abandonment order as the day the home was abandoned—

(a) the home owner is taken to have abandoned the home;

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(b) unless the agreement is a terminated site agreement, the agreement is taken to have been terminated.

(5) In deciding whether to make the abandonment order, the tribunal may have regard to the following—

(a) whether site rent payable under the agreement is unpaid;

(b) whether the home is unoccupied and neglected;

(c) whether the agreement has already been terminated under part 6;

(d) whether the home owner's mail is being collected;

(e) reports from neighbours of the home owner, or from other persons, about the whereabouts or absence of the home owner;

(f) whether utilities supplied to, or used at, the home have been disconnected;

(g) whether the home owner's personal effects have been removed from the home;

(h) anything else the tribunal considers relevant.

(6) In conjunction with the abandonment order, the tribunal may do any of the following—

(a) by order (a ***sale order***), authorise the park owner, in the way and on any conditions stated in the order, to sell the home or the home owner's personal effects in the home or on the site;

(b) order the home owner to pay to the park owner any amount payable under the agreement up to the day the agreement is taken to have been terminated under subsection (4)(b) (the ***termination payment***);

(c) make any other order the tribunal considers appropriate.

(7) An amount payable to the park owner under subsection (6)(b) is recoverable as a debt.

(8) The park owner must not sell the home to which the abandonment order relates, or the home owner's personal effects in the home or on the site, unless the tribunal

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authorises the park owner to sell the home or personal effects under subsection (6)(a).

Maximum penalty—100 penalty units.

(9) In this section—

terminated site agreement means a site agreement terminated under part 6, division 3.

53 Sale of home or personal effects

(1) This section applies if, under a sale order, a park owner is authorised to sell a manufactured home positioned on a site or a home owner's personal effects.

(2) The park owner does not incur any liability for selling the home or personal effects, or removing the personal effects from the home or site, if the park owner acts honestly and without negligence.

(3) A person who buys the home or personal effects acquires a good title to the home or personal effects, and the interest of anyone else in the home or personal effect ends, unless the person buying the home or personal effects did not act honestly in the purchase.

(4) The park owner must not sell the home or personal effects to a prohibited person unless the tribunal authorises the sale under subsection (5).

Maximum penalty—100 penalty units.

(5) On application by the park owner, the tribunal may make an order authorising the park owner to sell the home or personal effects to a prohibited person on the conditions, if any, stated in the order.

(6) In this section—

associate, of the park owner, means an employee or relative of the park owner.

prohibited person means the park owner or an associate of the park owner.

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relative, of the park owner, includes someone connected to the park owner by a spousal relationship or step-relationship.

54 Proceeds of sale

(1) This section applies if, under a sale order, the park owner sells a manufactured home or a home owner's personal effects.

(2) The proceeds of the sale must be applied as follows—

(a) first, if there is an amount owing to a person under a security interest registered for the home or personal effects under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;

(b) second, in payment of the reasonable costs of selling the home, or removing, storing and selling the personal effects;

(c) third, in payment to the park owner of the amount of any termination payment;

(d) fourth, in payment of any balance to the home owner or, if the home owner can not be located, to the public trustee within 10 days after the sale.

(3) The public trustee must pay an amount received under subsection (2)(d) into the unclaimed moneys fund (the ***fund***) kept under the *Public Trustee Act 1978*.

55 Payment of after-termination rent

(1) This section applies if—

(a) a site agreement is taken to have been terminated under section 52(4)(b); and

(b) under a sale order, the park owner sells the manufactured home positioned on the site or the home owner's personal effects; and

(c) under section 54(3), the public trustee pays proceeds from the sale into the fund.

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(2) On application to the tribunal by the park owner, the tribunal may make an order conferring on the park owner an entitlement to receive an amount paid into the fund under section 54(3), decided by the tribunal, on account of after-termination rent.

(3) On making the application, the park owner must demonstrate to the tribunal that the park owner—

(a) acted as soon as is reasonably practicable to sell the home or personal effects; and

(b) otherwise took all reasonable steps to mitigate the park owner's loss of site rent that would have been payable under the agreement if it were still in force.

(4) In deciding whether to make the order, or if it decides to make the order, in deciding the amount the park owner is entitled to receive, the tribunal must take into account the extent to which the park owner has complied with subsection (3).

(5) In this section—

after-termination rent means the total of site rent that would have been payable under the agreement, if it were still in force, from the day the agreement is taken to have been terminated under section 52(4)(b) until the day the home or personal effects are sold.

Part 9 Sale of manufactured home positioned on site

Division 1 Home owner's right to sell manufactured home

56 Right to sell

The home owner under a site agreement has the right to sell the manufactured home positioned on the site.

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57 Placement of 'for sale' sign on site

(1) This section applies if—

(a) the home owner under a site agreement intends to offer the manufactured home positioned on the site for sale; and

(b) the agreement provides for the placement of a 'for sale' sign, in relation to the home, on the site.

(2) The home owner must give the park owner notice of the intention to offer the home for sale before placing the sign on the site.

(3) If the home owner gives a notice to the park owner under subsection (2), the park owner must not restrict the placement of the sign on the site, as allowed under the agreement.

Maximum penalty for subsection (3)—20 penalty units.

58 Park owner not to interfere with sale

(1) The park owner for a residential park must not hinder the sale by a home owner of the home owner's manufactured home positioned on a site.

Maximum penalty—200 penalty units.

(2) Without limiting subsection (1), the park owner is taken to hinder the sale if the park owner stops potential buyers from inspecting the home.

(3) The park owner does not contravene subsection (1) if, under part 7, the park owner reasonably refuses to consent to a proposed assignment of the home owner's interest in the site agreement for the site.

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Division 2 Appointing park owner to sell manufactured home

59 Definition for div 2

In this division—

fee includes commission or other reward.

60 Appointing park owner under selling authority

The home owner under a site agreement may by signed notice (a ***selling authority***), in the approved form, appoint the park owner as the home owner's agent to sell, or to negotiate the sale of, the manufactured home positioned on the site.

61 Maximum fee under selling authority

The park owner for a residential park must not, under a selling authority, charge a home owner a fee for the agency that is more than the amount, if any, prescribed under a regulation.

Maximum penalty—100 penalty units.

62 Unauthorised selling fee prohibited

The park owner for a residential park must not charge a home owner a fee in relation to the sale of the manufactured home positioned on the home owner's site in the park unless—

(a) the charge is made under a selling authority; and

(b) the park owner is the effective cause of the sale.

Maximum penalty—100 penalty units.

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Part 9A Buyback and rent reduction scheme

Division 1 Preliminary

62A Purpose of part

The purpose of this part is to establish a ***buyback and rent reduction scheme*** under which a park owner must, in particular circumstances—

(a) buy an eligible home from an eligible home owner under a buyback agreement; and

(b) reduce the site rent payable under the site agreement for the site on which an eligible home is positioned.

62B Definitions for part

In this part—

buyback agreement, for an eligible home, see section 62D.

buyback amount, for an eligible home, see section 62I.

buyback and rent reduction scheme see section 62A.

buyback period, in relation to an eligible home, see section 62E.

convicted means found guilty, or having a plea of guilty accepted, by a court whether or not a conviction is recorded.

eligible home see section 62C.

eligible home owner means the home owner of a manufactured home that is an eligible home.

notice of intention to sell see section 62N(2).

opt in notice see section 62P(2).

scheme means the buyback and rent reduction scheme established under this part.

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seller services see section 62O(a).

sold see section 62F.

62C Meaning of *eligible home*

A manufactured home is an ***eligible home*** if—

(a) the manufactured home is positioned on a site in a residential park; and

(b) the manufactured home was not brought onto the site, or another site in the residential park, by the home owner of the manufactured home or a former home owner of the manufactured home.

62D Meaning of *buyback agreement*

A ***buyback agreement***, for an eligible home, is an agreement between the eligible home owner and the park owner that—

(a) provides for the park owner to buy the eligible home from the eligible home owner—

(i) at the buyback amount for the eligible home; and

(ii) within the buyback period for the eligible home; and

(b) is in writing; and

(c) if there is an approved form—is in the approved form; and

(d) complies with any other requirements prescribed by regulation.

62E Meaning of *buyback period*

The ***buyback period***, in relation to an eligible home, is the period—

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(a) starting on the day the eligible home owner gives the park owner an opt-in notice in relation to the eligible home; and

(b) ending on the latest of the following days—

(i) the day that is 12 months after the day the eligible home owner gives the park owner the opt in notice in relation to the eligible home;

(ii) if the eligible home owner has died—the day that is 14 days after the park owner is shown the probate of the eligible home owner's will or letters of administration of the eligible home owner's estate;

(iii) a day stated in an order made by the court under section 62Y;

(iv) a day fixed by the tribunal under section 62ZC or 62ZD as the day by which the park owner must comply with section 62T(1).

62F Meaning of *sold*

An eligible home is ***sold*** only if the sale of the home has been completed.

62G References to eligible home owner, park owner and parties

In a provision of this part about an eligible home—

(a) a reference to the eligible home owner is a reference to the eligible home owner of the eligible home; and

(b) a reference to the park owner is a reference to the park owner of the residential park containing the site on which the eligible home is positioned; and

(c) a reference to the parties is a reference to the eligible home owner and the park owner.

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Division 2 Working out buyback amount for eligible home

62H Application of division

This division applies if the eligible home owner of an eligible home gives the park owner an opt in notice in relation to the eligible home.

62I Meaning of *buyback amount*

The ***buyback amount*** for the eligible home is the amount of the resale value of the eligible home under the latest of the following to happen—

(a) the agreement by the parties of the resale value of the eligible home under section 62J(1), 62K(2) or 62L(2);

(b) the valuation of the resale value of the eligible home by a registered valuer appointed under section 62J(2), 62K(3), 62L(3) or 62M(5).

Note—

See division 8 in relation to how a valuer appointed under this division is to conduct a valuation of the resale value of the eligible home.

62J Requirement to agree resale value or appoint registered valuer—initial requirements

(1) The parties must, within 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.

(2) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (1), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.

(3) Subsection (2) applies subject to section 62M.

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62K Requirement to agree resale value or appoint registered valuer—requirements after 6 months

(1) This section applies if, within 6 months after the start of the buyback period—

(a) the park owner has not entered into a buyback agreement for the eligible home; and

(b) the eligible home has not otherwise been sold to another person.

(2) The parties must, within 6 months and 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.

(3) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (2), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.

(4) Subsection (3) applies subject to section 62M.

62L Requirement to agree resale value or appoint registered valuer—requirements after 9 months

(1) This section applies if, within 9 months after the start of the buyback period—

(a) the park owner has not entered into a buyback agreement for the eligible home; and

(b) the eligible home has not otherwise been sold to another person.

(2) The parties must, within 9 months and 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.

(3) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (2), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.

(4) Subsection (3) applies subject to section 62M.

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62M Appointment of registered valuer if parties can not agree

(1) This section applies if—

(a) the parties are required to appoint a registered valuer under section 62J(2), 62K(3) or 62L(3); and

(b) the parties can not agree on the appointment of a registered valuer within the period mentioned in the section (the ***relevant disagreement***).

(2) The park owner must immediately give the chief executive notice, in the approved form, of the relevant disagreement.

(3) However, if the eligible home owner has reason to believe the park owner has not complied with subsection (2), the eligible home owner may give the chief executive notice, in the approved form, of the relevant disagreement.

(4) The chief executive must, within 14 days after being given notice of the relevant disagreement under subsection (2) or (3), give the parties a notice stating the details of a registered valuer nominated by the chief executive for the purpose of valuing the resale value of the eligible home.

(5) The parties must jointly appoint the registered valuer nominated by the chief executive to value the resale value of the eligible home.

Division 3 Giving notice of intention to sell eligible home and related matters

62N Eligible home owner to give notice of intention to sell eligible home

(1) This section applies if an eligible home owner proposes to join the scheme in relation to an eligible home.

(2) The eligible home owner must give the park owner notice of the home owner's intention to sell the eligible home (a ***notice of intention to sell***).

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(3) If there is an approved form for the notice, the notice must be in the approved form.

62O Park owner to give eligible home owner particular information

If the eligible home owner gives the park owner a notice of intention to sell in relation to the eligible home, the park owner must, within 7 days after being given the notice, give the eligible home owner a notice stating—

(a) whether the park owner offers services for the sale of manufactured homes in the residential park (***seller services***); and

(b) the site rent that will be payable by a new home owner under a site agreement for the site on which the eligible home is positioned.

Note—

Under section 62P, it is a condition of joining the scheme in relation to the eligible home that, if the notice given under this section states that the park owner offers seller services, the eligible home owner has appointed the park owner under a selling authority as mentioned in section 62P(1)(c).

Division 4 Joining scheme

62P Joining scheme

(1) This section applies if the eligible home owner of an eligible home—

(a) has given the park owner a notice of intention to sell in relation to the eligible home; and

(b) has ceased to reside in, access or otherwise use the eligible home; and

(c) if the notice given to the eligible home owner under section 62O states that the park owner offers seller services—has appointed the park owner as the eligible

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home owner's sole agent under a selling authority for the eligible home.

(2) The eligible home owner may, by notice given to the park owner under this section (an ***opt in notice***), join the scheme in relation to the eligible home.

(3) The opt in notice may be given to the park owner not earlier than—

(a) if the notice given to the eligible home owner under section 62O states that the park owner offers seller services—6 months after the eligible home owner appoints the park owner under a selling authority for the eligible home; or

(b) otherwise—6 months after the eligible home owner gives the park owner a notice of intention to sell in relation to the eligible home.

(4) If there is an approved form for the opt in notice, the notice must be in the approved form.

(5) To remove any doubt, it is declared that joining the scheme in relation to the eligible home does not affect the eligible home owner's obligation to pay site rent under the site agreement.

62Q When eligible home owner must appoint park owner under selling authority for eligible home

(1) This section applies if—

(a) an eligible home owner joins the scheme in relation to an eligible home; and

(b) the park owner does not offer seller services.

(2) The park owner may, by notice given to the eligible home owner, ask the eligible home owner to appoint the park owner under a selling authority for the eligible home.

(3) If the park owner makes a request under subsection (2), the home owner must appoint the park owner as the home owner's sole agent under a selling authority for the eligible home

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within 7 days after the park owner gives the home owner the notice.

(4) If the eligible home owner fails to comply with subsection (3), the eligible home owner is taken not to have joined the scheme in relation to the eligible home.

Division 5 Obligations under scheme

62R Application of division

This division applies if an eligible home owner has joined the scheme in relation to an eligible home.

62S When eligible home owner must accept offer for purchase of eligible home

(1) This section applies if the park owner—

(a) is appointed by the eligible home owner under a selling authority for the eligible home; and

(b) receives an offer for the purchase of the eligible home that is at least the buyback amount for the home.

(2) The eligible home owner must accept the offer.

62T Park owner must enter into and complete buyback agreement

(1) The park owner must, unless the park owner has a reasonable excuse, enter into a buyback agreement for the eligible home and complete the purchase of the eligible home under the buyback agreement within the buyback period.

Maximum penalty—540 penalty units.

(2) Subsection (1) does not apply to the park owner if the eligible home is sold to another person within the buyback period.

(3) Without limiting what may be a reasonable excuse for subsection (1), the park owner has a reasonable excuse if—

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(a) the park owner has taken all reasonable steps to enter into a buyback agreement for the eligible home and complete the purchase of the eligible home under the agreement; but

(b) an act done, or an omission made, by the eligible home owner has prevented the park owner from entering into a buyback agreement or, if a buyback agreement has been entered into, completing the purchase of the eligible home under the agreement.

Note—

See section 62Y in relation to the orders the court may make if the park owner is convicted of an offence against subsection (1).

62U Notice about noncompliance with scheme may be given to eligible home owner

(1) This section applies if the park owner is unable, because of an act done, or an omission made, by the eligible home owner—

(a) to enter into a buyback agreement for the eligible home; or

(b) to complete the purchase of the eligible home under a buyback agreement.

(2) The park owner may give the eligible home owner a notice stating—

(a) the steps the eligible home owner must take to enable the park owner to—

(i) enter into a buyback agreement for the eligible home; or

(ii) complete the purchase of the eligible home under a buyback agreement; and

(b) that the home owner must take the stated steps within 28 days after being given the notice; and

(c) that if the eligible home owner does not take the stated steps within 28 days after being given the notice, the

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park owner may apply to the tribunal to have the eligible home removed from the scheme.

Note—

See section 62ZB in relation to the tribunal's power to order that the eligible home be removed from the scheme.

62V Park owner must reduce site rent in particular circumstances

(1) This section applies if, within 6 months after the start of the buyback period for the eligible home, the eligible home has not been sold—

(a) to the park owner under a buyback agreement; or

(b) to another person.

(2) The park owner must, unless the park owner has a reasonable excuse, reduce by 25% the site rent payable under the site agreement for the site on which the eligible home is positioned.

Maximum penalty—540 penalty units.

Note—

See section 62ZA in relation to the orders the tribunal may make if the park owner refuses or fails to comply with this section, whether or not the park owner is convicted of an offence against subsection (2).

62W Reduction in site rent not required to be disclosed or applied to prospective home owner

If the park owner is required under section 62V to reduce the site rent payable under the site agreement for the site on which the eligible home is positioned—

(a) the park owner is not required to include details of the reduction in the site rent in the disclosure documents required to be given to a prospective home owner for the site; and

(b) the reduction in the site rent does not apply in relation to any new site agreement entered into in relation to the

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site between the park owner and a prospective home owner.

62X Application of proceeds from sale or buyback of eligible home

(1) This section applies if the park owner—

(a) acting under a selling authority, sells the eligible home to another person; or

(b) completes the purchase of the eligible home under a buyback agreement.

(2) The park owner must apply the proceeds from the sale, or the amount payable under the buyback agreement, as follows—

(a) first, if an amount is owing to a person under a security interest registered for the eligible home under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;

(b) second, if the park owner has, under section 62ZK(1), paid the valuer's costs of conducting a valuation of the resale value of the eligible home—in reimbursing themself for half of the valuer's costs;

(c) third, in payment of the reasonable costs of selling the eligible home, including any fees payable under part 9, division 2;

(d) fourth, in payment of any balance to the eligible home owner.

Division 6 Court powers in relation to scheme

62Y Court may order park owner to enter into buyback agreement

(1) This section applies if a park owner is convicted of an offence against section 62T(1) in relation to an eligible home.

(2) The court before which the park owner is convicted may make an order requiring the park owner to take stated steps to—

(a) enter into a buyback agreement for the eligible home; and

(b) complete the purchase of the eligible home under the buyback agreement by a stated day.

(3) The court may make an order under subsection (2) even if the buyback period that would otherwise apply in relation to the eligible home has ended.

Division 7 Tribunal powers in relation to scheme

62Z Decision about whether manufactured home is eligible home

(1) The tribunal may, on application by a home owner, make an order declaring whether the home owner's manufactured home is an eligible home.

(2) Subsection (3) applies if—

(a) the tribunal makes an order declaring that the home owner's manufactured home is an eligible home; and

(b) the tribunal's order is made after the end of the buyback period.

(3) The tribunal must make a further order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section 62T(1).

62ZA Failure by park owner to reduce site rent

(1) This section applies if a park owner refuses or fails to comply with section 62V(2) in relation to the site rent payable by an eligible home owner.

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(2) The eligible home owner may apply to the tribunal for an order that the park owner refund to the eligible home owner any overpayment of site rent arising from the park owner's refusal or failure.

(3) The tribunal may make the order if satisfied the park owner has refused or failed to comply with section 62V(2) in relation to the site rent payable by the eligible home owner.

(4) Subsection (3) applies whether or not the park owner has been convicted of an offence against section 62V(2) in relation to the refusal or failure.

62ZB Noncompliance with scheme by eligible home owner

(1) A park owner may apply to the tribunal for an order that an eligible home be removed from the scheme if—

(a) the park owner has given the eligible home owner a notice under section 62U; and

(b) the eligible home owner has not, within 28 days after being given the notice, taken the steps stated in the notice.

(2) On hearing the application, the tribunal may—

(a) order that the eligible home be removed from the scheme; and

(b) make any other orders the tribunal considers necessary.

(3) Without limiting subsection (2)(b), if the park owner has, under section 62ZK(1), paid the costs of a valuer for conducting a valuation in relation to the eligible home, the tribunal may, if it considers it reasonable in the circumstances, order that the eligible home owner pay an amount to the park owner as reimbursement of all or part of the valuer's costs.

(4) If an order is made under subsection (2)(a) removing the eligible home from the scheme, the eligible home owner can not rejoin the scheme in relation to the eligible home.

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62ZC Park owner may apply for extension of period for complying with s 62T—financial hardship

(1) A park owner may apply to the tribunal for an order extending the period for complying with section 62T(1).

(2) The tribunal may make an order fixing a later day by which the park owner must comply with section 62T(1) if the tribunal is satisfied—

(a) the park owner is likely to suffer undue financial hardship if the order is not made; and

(b) the order would not be unfair to the eligible home owner, having regard to any submissions made by the eligible home owner about hardship the eligible home owner is likely to suffer if the order is made.

(3) Subsection (4) applies if—

(a) the tribunal refuses an application made under subsection (1); and

(b) the tribunal's order is made after the end of the buyback period.

(4) The tribunal must make an order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section 62T(1).

62ZD Park owner may apply for extension of period for complying with s 62T—other circumstances

(1) A park owner may apply to the tribunal for an order extending the period for complying with section 62T(1) by a period of not more than 6 months.

(2) The tribunal may make an order fixing a day that is not more than 6 months after the day the park owner would otherwise be required to comply with section 62T(1) as the day the park owner must comply with that section.

(3) An order may be made under subsection (2) only if the tribunal is satisfied—

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(a) the park owner is unlikely to complete the sale of the eligible home within the buyback period if the order is not made; and

(b) the park owner has taken all reasonable steps to sell the eligible home in a timely way; and

(c) the order would not be unfair to the eligible home owner, considering the effect, including the financial effect, on both the home owner and the park owner.

(4) The tribunal may make an order extending the period for complying with section 62T(1) only once under subsection (2).

(5) Subsection (6) applies if—

(a) the tribunal refuses an application made under subsection (1); and

(b) the tribunal's decision is made after the end of the buyback period.

(6) The tribunal must make an order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section 62T(1).

62ZE Effect of tribunal proceedings on purchase of home under buyback agreement

A park owner does not commit an offence against section 62T(1) by failing to enter into a buyback agreement for an eligible home, or complete the purchase of an eligible home under a buyback agreement, within the buyback period if—

(a) the home owner has made an application to the tribunal under section 62Z about whether the home owner's manufactured home is an eligible home and the application has not been decided; or

(b) the park owner has made an application to the tribunal under section 62ZB, 62ZC or 62ZD and the application has not been decided.

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Division 8 Valuing resale value of eligible homes

62ZF Application of division

This division applies if a valuer is appointed under section 62J(2), 62K(3), 62L(3) or 62M(5) to value the resale value of an eligible home.

62ZG Submissions to valuer

(1) The valuer must give the parties a notice stating that each party—

(a) may make a written submission to the valuer, within a stated reasonable period (the ***submission period***), about the valuation of the resale value of the eligible home; and

(b) must, within the submission period, give the other party a copy of any submission made to the valuer as mentioned in paragraph (a); and

(c) may make a written submission to the valuer, within a stated reasonable period (the ***response period***), to any submission given to the party as mentioned in paragraph (b).

(2) Each party—

(a) may make a written submission to the valuer, within the submission period, about the valuation of the resale value of the eligible home; and

(b) must, within the submission period, give the other party a copy of any submission made to the valuer under paragraph (a); and

(c) may make a written submission to the valuer, within the response period, about any submission given to the party by the other party under paragraph (b).

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62ZH How valuation is to be conducted

(1) The valuer must comply with this section in conducting the valuation of the resale value of the eligible home.

(2) The valuer must conduct the valuation on the basis that—

(a) the eligible home will continue to be positioned on the site in the residential park on which it is currently positioned; and

(b) the residential park is operating normally and will continue to operate normally.

(3) Also, the valuer must consider—

(a) the following matters in relation to the eligible home—

(i) the condition, quality and presentation of the home;

(ii) the location within the residential park of the site on which the home is positioned;

(iii) the site rent payable for the site on which the home is positioned in the residential park; and

(b) the communal facilities, services and amenities provided in the residential park; and

(c) previous sales of manufactured homes in the residential park and in comparable residential parks; and

(d) any other matters the valuer considers relevant.

(4) Further, the valuer must have regard to any submissions made by the parties to the valuer during the submission period, or the response period, under section 62ZG about the resale value of the eligible home.

62ZI Valuer may require information from park owner

(1) The valuer may, by notice given to the park owner, require the park owner to give the valuer stated information about any of the following matters the valuer reasonably needs to conduct the valuation—

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(a) the residential park;

(b) the eligible home;

(c) the site on which the eligible home is positioned;

(d) the site agreement for the site on which the eligible home is positioned;

(e) previous sales by the park owner of manufactured homes in the residential park;

(f) the price of new manufactured homes positioned on a site in the residential park.

(2) The park owner must give the valuer the information required by the valuer within 7 days after the notice is given to the park owner, unless the park owner has a reasonable excuse.

Example of a reasonable excuse—

The park owner does not have, and can not reasonably obtain, the information required by the valuer.

Maximum penalty—10 penalty units.

62ZJ Valuer's independence

The valuer must state in the report for the valuation of the resale value of the eligible home any connection to, or agreement with, the park owner that may call into question the independence of the valuation.

62ZK Costs of conducting valuation

(1) The valuer's costs of conducting the valuation must be paid by the park owner.

(2) This section applies subject to section 62X.

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Part 10 Site rent

63 Meaning of *approved way*

Each of the following is an ***approved way*** for a home owner to pay site rent under a site agreement to a park owner—

(a) cash;

(b) cheque;

(c) payment to a financial institution account nominated by the park owner, including, for example, payment by direct debit;

(d) credit card;

(e) an EFTPOS system;

(f) deduction from pay, pension or other benefit payable to the home owner;

(g) another way prescribed by regulation.

63A How site rent to be paid

(1) A park owner must—

(a) nominate in a site agreement at least 3 approved ways for the home owner to pay site rent under the agreement (each a ***nominated way***); and

(b) ensure at least 1 of the nominated ways is a way that does not incur an additional cost to the home owner.

Maximum penalty—10 penalty units.

(2) A park owner must permit the home owner to pay the site rent in a nominated way.

Maximum penalty—10 penalty units.

(3) In this section—

additional cost, to a home owner, means a cost other than bank fees, or other account fees, that are usually payable for the home owner's transactions.

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63B Changing way of paying site rent generally

(1) This section applies if a home owner wishes to change the way the home owner pays site rent under a site agreement—

(a) from a nominated way to another nominated way; or

(b) from an agreed way to a nominated way.

(2) The home owner may give the park owner a notice stating the nominated way proposed by the home owner.

(3) The park owner must, within 10 days after being given a notice under subsection (2), give the home owner a notice stating the day, not more than 20 days after the home owner's notice is given, from which the nominated way proposed by the home owner is to be used for paying the site rent.

Maximum penalty—10 penalty units.

(4) In this section—

agreed way, for a home owner to pay site rent under a site agreement, means a way agreed by the home owner and the park owner under section 63C(3).

63C Changing way of paying site rent by agreement

(1) This section applies if a home owner, or the park owner, wishes to have payments of site rent under a site agreement made in a way that—

(a) is an approved way; but

(b) is not 1 of the nominated ways stated in the site agreement.

(2) The home owner or the park owner may give the other party a notice stating a way mentioned in subsection (1) for paying the site rent.

(3) If the other party agrees in writing to payments of site rent being made in the stated way, the home owner must pay the site rent in the stated way while the agreement remains in effect.

(4) Subsection (3) applies subject to section 63B.

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64 Where site rent to be paid

(1) If a site agreement states the place for payment of the site rent payable under the agreement, the home owner must pay the site rent at the place stated.

(2) However, if, after signing the agreement, the park owner gives the home owner a notice stating a place, or a different place, for the payment of the site rent and the place is reasonable, the home owner must pay the site rent at the place stated in the notice while the notice is in force.

(3) If the place for payment of the site rent is not stated in the agreement, the home owner must pay the site rent at an appropriate place.

Example of an appropriate place—

the park owner's office in the residential park

65 Receipts and other records

(1) If site rent is paid in cash, the person receiving the payment must give the person making the payment a receipt for the payment as required under this section.

Maximum penalty—10 penalty units.

(2) If site rent is paid by cheque and the person making the payment asks for a receipt when making the payment, the person receiving the payment must give the person making the payment a receipt for the payment as required under this section.

Maximum penalty—10 penalty units.

(3) The receipt must be signed by the person receiving the payment.

(4) The receipt must be given to the person making the payment—

(a) for a payment made personally and in cash—when the payment is made; or

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(b) for a payment made in cash but not personally—before the next business day after the day the payment is received; or

(c) for a payment made by cheque—within 3 business days after the day the payment is received.

(5) The park owner for a residential park must, for a payment of site rent by a home owner—

(a) make an electronic or written record of the payment (the ***site rent payment record***); and

(b) if asked by the home owner, give a copy of the site rent payment record to the home owner within 7 days after the request is made.

Maximum penalty—10 penalty units.

(6) However, the site rent payment record is not required to be made if—

(a) the site rent payment is made in cash; or

(b) the site rent payment is made by cheque and a receipt is given for the payment.

(7) A receipt given for, or a site rent payment record made of, a payment of site rent must state the following—

(a) the name of the home owner for the site for which the payment is made;

(b) sufficient particulars to identify the site;

(c) the date the payment is received;

(d) the period for which the payment is made;

(e) the amount of the payment;

(f) that the payment is a payment of site rent.

66 Keeping records

(1) The park owner for a residential park must, for each payment of site rent under a site agreement for which a receipt has been given—

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(a) make a copy of the receipt or make another appropriate written record of the payment; and

(b) keep the copy or other record until the earlier of the following—

(i) the day that is 7 years after the receipt is given;

(ii) the first anniversary of the end of the agreement.

Maximum penalty—20 penalty units.

(2) The park owner for a residential park must, for each payment of site rent under a site agreement for which a site rent payment record has been made, keep the record until the earlier of the following—

(a) the day that is 7 years after the record is made;

(b) the first anniversary of the end of the agreement.

Maximum penalty—20 penalty units.

67 False, misleading or incomplete site rent record

(1) A person must not—

(a) make an entry in a site rent record the person knows is false or misleading in a material particular; or

(b) fail to enter a material particular in a site rent record unless the person does not know, and can not reasonably obtain, the necessary information.

Maximum penalty—20 penalty units.

(2) In this section—

site rent record means a receipt given for, or a site rent payment record or another record made of, a payment of site rent under a site agreement.

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Part 11 Varying site rent

Division 1 Introduction

68 Ways of varying site rent

The site rent payable under a site agreement may only be varied in the ways stated in this part.

Division 2 Increase in site rent provided for in site agreement

69 Application of division

(1) This division applies if—

(a) a site agreement between the park owner for a residential park and a home owner provides for an increase in the site rent payable under the agreement; and

(b) the park owner proposes to increase the site rent as provided for under the site agreement.

(2) However, this division does not apply if the site rent is proposed to be increased to cover a special cost.

(3) The site rent can not be increased as provided for under the site agreement unless the park owner complies with sections 69A to 69E.

Note—

See sections 23 and 24(1).

69AA References in site agreements to particular consumer price indexes

(1) This section applies if a site agreement provides a basis for increasing the site rent by reference to an increase in—

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(a) the consumer price index generally; or

(b) a stated consumer price index other than the Eight Capital Cities CPI.

(2) The reference to the consumer price index is taken to be a reference to the Eight Capital Cities CPI.

(3) Subsection (2) applies despite the terms of the site agreement.

(4) In this section—

Eight Capital Cities CPI means the Consumer Price Index: All Groups Index Numbers—Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics.

69A Basis for site rent increase must be stated in site agreement

The park owner must ensure the site agreement states the basis for working out the amount of an increase in the site rent.

Example of a basis for increasing site rent that may be stated in a site agreement—

a percentage of the site rent worked out by reference to the CPI number for a stated period

69B Restrictions on increasing site rent under site agreement

(1) The park owner must not work out an increase in the site rent using more than 1 basis at one time.

(2) Despite any basis stated in the site agreement for increasing the site rent, the park owner must not increase the site rent by more than the greater of the following percentages—

(a) the CPI increase;

(b) 3.5%.

Maximum penalty—100 penalty units.

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(3) A site rent increase that is greater than the increase permitted under subsection (2) is of no effect to the extent it exceeds the permitted increase.

(4) If the site rent has been increased under this division, the park owner must not increase the site rent under this division on any basis provided for in the site agreement within 1 year (the ***site rent year***) after the day the site rent was last increased under this division.

Note—

See also section 182.

(5) For subsection (4), site rent is taken to be increased on the first day the site rent is payable at an increased rate.

(6) To remove any doubt, it is declared that subsection (4) applies in relation to the site agreement for the site rent year even if the home owner became a party to the agreement in that year.

(7) In this section—

CPI increase means the percentage increase in the CPI between—

(a) the last quarter, ending before the relevant day, for which the CPI is published; and

(b) the corresponding quarter of the previous year.

relevant day means the latest day on which a general increase notice may be given under section 69E for the next general increase day.

69C Park owner must nominate general increase day for eligible sites

(1) The park owner must nominate the same day (the ***general increase day***) when the site rent payable under the site agreements for all eligible sites in the residential park will be increased on the same basis (the ***relevant basis***).

(2) A site is an ***eligible site*** for which the general increase day may be nominated if, under the terms of the site agreement for

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the site, the site rent may be increased on the relevant basis on or before the general increase day.

(3) Subsection (4) applies if the general increase day is nominated under subsection (1) for an eligible site and a general increase notice stating the general increase day (the ***stated increase day***) is given to the home owner for the site under section 69E.

(4) The next general increase day that may be nominated under subsection (1) for any eligible site in the residential park must be at least 1 year after the stated increase day.

69E Notice of general increase in site rent

(1) At least 35 days before the general increase day for the eligible sites, the park owner must give the home owner for each eligible site a notice (a ***general increase notice***) stating the following—

(a) the amount of the proposed increased site rent;

(b) the basis for increasing the site rent;

(c) how the amount of the proposed increased site rent has been worked out using the basis;

(d) the general increase day;

(e) the day the notice is given to the home owner.

Note—

For giving documents, see the *Acts Interpretation Act 1954*, section 39 and the *Electronic Transactions (Queensland) Act 2001*, chapter 2, part 2, division 1.

(2) The park owner must ensure the general increase notice also states that if the home owner disputes the amount of the proposed increase—

(a) the home owner must, within 28 days after receiving the notice, give the park owner a dispute negotiation notice for the dispute; and

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(b) the home owner must use the dispute resolution procedures under part 17, division 1 to try to resolve the dispute with the park owner; and

(c) the home owner may, subject to section 116, apply to the tribunal for an order reducing the amount of, or setting aside, the increase if the dispute can not be resolved using the dispute resolution procedures.

Maximum penalty—100 penalty units.

(3) The proposed increased site rent is payable from the general increase day stated in the general increase notice.

69F Market review terms of no effect

A term of a site agreement that states the basis for working out the amount of an increase in the site rent as a market review of site rent is of no effect.

70 Dispute resolution and application to tribunal about general site rent increase

(1) This section applies if—

(a) the park owner for a residential park gives a home owner for an eligible site a general increase notice for a proposed increase in site rent; and

(b) the home owner disputes the amount of the proposed increase on the basis it is excessive.

(2) The home owner must, within 28 days after receiving the general increase notice, give the park owner a dispute negotiation notice for the dispute.

(3) The home owner may, subject to section 116, apply to the tribunal for an order under subsection (4).

Note—

Under section 141, a group of home owners may make a joint application in relation to a residential park dispute arising out of the same or similar facts or circumstances.

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(4) If the home owner applies under subsection (3), the tribunal may make any of the following orders—

(a) an order reducing the amount of the increase by a stated amount;

(b) an order setting aside the increase;

(c) an order confirming the increase on the conditions, if any, the tribunal considers appropriate;

(d) another order the tribunal considers appropriate.

(5) In deciding the application, the tribunal may have regard to the following—

(a) the range of site rents usually charged for comparable sites in comparable residential parks in the locality of the park;

(b) if it is impractical to obtain data for the range of site rents mentioned in paragraph (a), data is not available for that range or it is just and equitable to do so in the particular circumstances—the range of site rents usually charged for comparable sites in comparable residential parks in comparable localities to the locality the park is in;

(c) if it is impractical to obtain data for the range of site rents mentioned in paragraph (a) or (b), data is not available for that range or it is just and equitable to do so in the particular circumstances—general trends in rent for residential accommodation in the locality the park is in;

(d) the increased site rent compared to the previous site rent;

(e) the frequency, and amount, of past increases in the site rent payable under the agreement;

(f) any increase in the CPI number during the previous site rent period;

(g) the amenity or standard of the common areas and communal facilities;

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(h) any withdrawal of a communal facility or service previously provided at the park;

(i) any addition of a communal facility or service not previously provided at the park;

(j) any increase in the park owner's operating costs for the park during the previous site rent period;

(k) whether the increase is fair and equitable in all the circumstances of the case;

(l) anything else the tribunal considers relevant.

(6) If, in deciding the application, the tribunal makes an order mentioned in subsection (4)(a) or (b), the park owner must refund to the home owner any overpayment of the site rent since when the increased site rent has been paid.

Maximum penalty—10 penalty units.

(7) An amount payable to the home owner under subsection (6) is recoverable as a debt.

(8) In this section—

previous site rent means the site rent payable under the agreement before the increase.

previous site rent period means the period commencing on the first day the previous site rent was payable and ending on the day the tribunal decides the application.

Division 3 Increase in site rent to cover special costs

71 Application of division

(1) This division applies if—

(a) the park owner for a residential park proposes to increase the site rent payable under a site agreement for a site; and

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(b) the proposed increase in site rent is necessary to cover any of the following types of costs (each a ***special cost***) that the park owner has incurred, or expects to incur, for a particular purpose—

(i) significant increased operational costs in relation to the park, including, for example, significant increases in rates, taxes or utility costs for the park (an ***operational cost***);

(ii) the cost of significant repairs in relation to the common areas or communal facilities in the park that the park owner could not reasonably have foreseen (a ***repair cost***);

(iii) the cost of significant upgrades to the common areas or communal facilities in the park (an ***upgrade cost***); and

(c) the proposed increase in site rent is not based wholly or partly on a basis provided for in the site agreement on which the site rent may be increased under division 2.

(2) To remove any doubt, it is declared that neither of the following amounts in relation to the buyback and rent reduction scheme established under part 9A is a special cost—

(a) an amount payable by the park owner under the scheme;

(b) an amount by which site rent must be reduced under the scheme.

(3) This division applies whether or not the site agreement provides for an increase in the site rent to cover the special cost.

(4) The site rent can not be increased to cover the special cost unless the park owner complies with section 71A(1).

Note—

See sections 23 and 24(1).

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71A Notice of special increase in site rent

(1) The park owner must give the home owner for the site a notice (the ***special increase notice***) stating the following—

(a) the type of the special cost and the purpose (the ***stated purpose***) for which it has been, or is expected to be, incurred;

(b) the total amount of the special cost incurred, or expected to be incurred, and the proportion of the total amount proposed to be included in the site rent;

(c) the amount of the proposed increased site rent including the proportion of the special cost mentioned in paragraph (b);

(d) how the proposed amount relating to the proportion of the special cost has been worked out;

(e) the day, at least 2 months after the notice is given, the increased site rent is first payable (the ***special increase day***);

(f) for a notice relating to a repair cost or upgrade cost—the period for which the proposed increased site rent will be payable to cover the cost;

(g) that the home owner must, within 28 days after receiving the notice, give the park owner a written response agreeing to or disputing the proposed increase;

(h) the day the notice is given to the home owner.

(2) If the home owner agrees in writing to the proposed increase, whether under subsection (1)(g) or otherwise, the proposed increased site rent—

(a) is first payable on the special increase day; and

(b) for a proposed increase to cover a repair cost or upgrade cost—stops being payable when the period mentioned in subsection (1)(f) ends.

(3) If the home owner does not give a response under subsection (1)(g) or otherwise agree in writing to the

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proposed increase, the home owner is taken to dispute the proposed increase.

71B Agreement to proposed increase for upgrade cost

(1) This section applies if—

(a) the park owner gives a special increase notice to the home owners for at least 4 sites in the park (the ***notified sites***) for a proposed increase in site rent to cover an upgrade cost for the same stated purpose; and

(b) the home owners for the number of the sites at least equal to 75% of the number of the notified sites agree in writing to the proposed increase, whether under section 71A(1)(g) or otherwise.

(2) Despite section 71A(1)(g) and (3), the home owners for all of the notified sites are taken to have agreed to the proposed increase in site rent.

(3) If a home owner for a notified site has not agreed in writing to the proposed increase in site rent, section 71A(2) applies as if the home owner had agreed in writing to the proposed increase.

71C Dispute resolution and application to tribunal about special increase in site rent

(1) This section applies if—

(a) the park owner for a residential park gives the home owner for a site in the park a special increase notice for a proposed increase in site rent for a stated purpose; and

(b) the home owner gives a response under section 71A(1)(g) disputing the proposed increase or is taken to dispute the proposed increase under section 71A(3); and

(c) the home owner is not taken to have agreed to the proposed increase under section 71B(2).

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(2) The park owner may, subject to section 116, apply to the tribunal for an order about the proposed increase.

(3) If subsection (1) applies in relation to the home owners for 2 or more sites in the park for a proposed increase in site rent for the same stated purpose (the ***affected home owners***), the park owner must name all the affected home owners as respondents to the application to the tribunal.

(4) If the park owner applies under subsection (2), the tribunal, in deciding the application, may have regard to—

(a) a matter mentioned in section 70(5)(d) to (k); and

(b) anything else the tribunal considers relevant.

(5) Also, the tribunal may make any of the following orders—

(a) an order confirming the proposed increase on the conditions, if any, the tribunal considers appropriate;

(b) an order reducing the amount of the proposed increase by a stated amount;

(c) an order setting aside the proposed increase;

(d) another order the tribunal considers appropriate.

(6) If the tribunal makes an order for increased site rent under subsection (5)(a) or (b), the order must also state—

(a) the day from when the increased site rent is first payable; and

(b) if the increased site rent is to cover a repair cost or an upgrade cost—the period for which the increased site rent will be payable to cover the cost.

71D Criteria for tribunal to confirm or reduce proposed increase

The tribunal may make an order for a proposed increase in site rent under section 71C(5)(a) or (b) if satisfied of the following matters—

(a) the proposed increase has not been included wholly or partly in an increase of site rent under—

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(i) the site agreement; or

(ii) an order under section 70(4); or

(iii) an agreement mentioned in section 71A(2); or

(iv) a previous order under section 71C(5);

(b) for a proposed increase to cover an operational cost—that if the site rent is not increased as proposed, the residential park will not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17;

(c) for a proposed increase to cover a repair cost—

(i) the matter mentioned in paragraph (b); and

(ii) the park owner could not reasonably have obtained insurance to cover the cost.

Division 4 Reducing site rent

72 Site rent reduction for failure of communal facility or service etc.

(1) This section applies if the home owner under a site agreement considers the site rent should be reduced because 1 of the following applies and the park owner does not agree to the reduction—

(a) the amenity or standard of the residential park's common areas and communal facilities has decreased substantially since the agreement was entered into;

(b) a communal facility or service provided at the park when the agreement was entered into has been withdrawn;

(c) a communal facility or service as follows has not been provided at the park—

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(i) a communal facility or service described in advertising, done by or for the park owner, of which the home owner was aware before the site agreement was entered into;

(ii) a communal facility or service described in a document made available to the home owner by the park owner before the site agreement was entered into.

(2) The home owner may, subject to section 116, apply to the tribunal for an order reducing the site rent under subsection (3).

(3) If the home owner applies under subsection (2), the tribunal may make an order reducing the site rent by an amount the tribunal considers appropriate if the tribunal is satisfied of a matter mentioned in subsection (1)(a) to (c).

(4) For making an order under subsection (3), the tribunal may have regard to any of the following documents—

(a) the site agreement;

(b) the home owner's information document for the residential park;

(c) any relevant advertising made available to the home owner by the park owner before the site agreement was entered into;

(d) any other document the tribunal considers is relevant.

73 Utility cost in site rent

(1) This section applies if—

(a) the use by the home owner under a site agreement of a utility at the site is not separately measured or metered; and

(b) either of the following events (a ***change event***) happens—

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(i) the home owner's use of the utility becomes separately measured or metered and the cost of the use becomes payable by the home owner;

(ii) the utility stops being available for use by the home owner for any reason other than the default or neglect of the home owner.

(2) The park owner must within 14 days after the change event happens give the home owner a notice (a ***utility cost notice***) stating the following—

(a) the utility cost factored into the site rent payable under the agreement and how the utility cost has been worked out;

(b) the date the change event happened;

(c) the site rent payable from that date;

(d) if the home owner disputes the utility cost—

(i) the home owner must, within 28 days after receiving the notice, give the park owner a dispute negotiation notice for the dispute; and

(ii) the home owner must use the dispute resolution procedures under part 17, division 1 to try to resolve the dispute with the park owner; and

(iii) the home owner may, subject to section 116, apply to the tribunal for an order reducing the site rent if the dispute can not be resolved using the dispute resolution procedures.

Maximum penalty—10 penalty units.

(3) The site rent payable from the day the change event happens (the ***change event day***) is the site rent payable immediately before the change event day, reduced by the utility cost stated in the utility cost notice.

(4) Any overpayment of site rent, relating to the utility cost, from the change event day must be refunded by the park owner to the home owner within 14 days after the home owner received the utility cost notice.

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Maximum penalty—10 penalty units.

(5) An amount payable to the home owner under subsection (4) is recoverable as a debt.

74 Dispute resolution and tribunal review of utility cost and site rent reduction

(1) This section applies if—

(a) the home owner under a site agreement and the park owner disagree about whether the park owner should have given a utility cost notice under section 73(2); or

(b) the home owner under a site agreement who receives a utility cost notice under section 73(2) disputes the utility cost stated in the notice.

(2) The home owner under the site agreement mentioned in subsection (1)(a) may, subject to section 116, apply to the tribunal for an order under subsection (4).

(3) The home owner mentioned in subsection (1)(b)—

(a) must, within 28 days after receiving the utility cost notice, give the park owner a dispute negotiation notice for the dispute; and

(b) may, subject to section 116, apply to the tribunal for an order under subsection (4).

(4) If the home owner applies to the tribunal under subsection (2) or (3)(b), the tribunal may make any of the following orders—

(a) an order reducing the site rent payable under the agreement, from the change event day, by the amount the tribunal considers appropriate;

(b) another order the tribunal considers appropriate.

Example for subsection (4)(b)—

an order that the park owner refund to the home owner any overpaid site rent from the change event day

(5) In making an order under subsection (4), the tribunal may have regard to the following—

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(a) relevant available information about the costs of supplying utilities in the local government area in which the residential park is situated;

(b) any terms of the agreement about utility costs;

(c) the number of persons occupying the manufactured home positioned on the site;

(d) anything else the tribunal considers relevant.

Division 5 Prohibition on particular conduct

74A Park owner not to threaten, intimidate or coerce home owner

The park owner under a site agreement must not threaten, intimidate or coerce, or attempt to threaten, intimidate or coerce, the home owner to—

(a) agree to an increase in the site rent; or

(b) refrain from seeking a review, under this part, of the site rent.

Maximum penalty—200 penalty units.

Part 12 Park managers

75 Park owner may appoint park manager

(1) The park owner for a residential park may appoint a person as the park manager, with responsibility for the day-to-day management of the park.

(2) The park owner must as soon as practicable after an appointment under subsection (1) give to each home owner notice of the park manager's appointment and the name and business address of the appointee.

(3) An appointment of a person as the park manager may be revoked at any time by the park owner.

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(4) If the park owner revokes an appointment under subsection (3), the park owner must as soon as practicable after revoking the appointment give notice of the revocation to each home owner.

76 Service of documents

(1) If this Act requires a document to be given to a park owner for a residential park, the document may be given instead to the park manager.

(2) A document given to the park manager under subsection (1) is taken to have been given to the park owner.

Part 13 Park rules

Division 1 Making of park rules

77 Park owner may make park rules

(1) The park owner for a residential park for which site agreements are in force may make rules about the use, enjoyment, control and management of the park.

(2) However, rules may be made only about—

(a) the use and operation of the communal facilities; and

(b) the making and abatement of noise; and

(c) the carrying on of sporting and other recreational activities; and

(d) the speed limits for motor vehicles; and

(e) the parking of motor vehicles; and

(f) the disposal of refuse; and

(g) the keeping of pets; and

(h) other things prescribed under a regulation.

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Division 2 Park rule changes

78 Notice of proposed change of park rule

(1) If the park owner for a residential park for which site agreements are in force proposes to change a park rule, the park owner must—

(a) fix a day (the ***objection closing day***) by which a home owner may object to the proposed change (the ***proposal***); and

(b) give notice of the proposal to—

(i) each home owner at least 28 days before the objection closing day; and

(ii) each person who becomes a home owner before the objection closing day, as soon as practicable after the person becomes a home owner.

(2) The notice must also inform the home owner—

(a) that the home owner may object to the proposal before the objection closing day; and

(b) how the objection may be made.

79 Objection to proposal

(1) A home owner for the residential park who considers the proposal, or any part of it, is unreasonable may object to the proposal by notice given to the park owner before the objection closing day.

(2) The objection must give particulars of why the proposal is considered to be unreasonable.

80 Park liaison committee

(1) This section applies only if objections to the proposal are made before the objection closing day by—

(a) at least 5 home owners; or

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(b) if the residential park has less than 10 sites—a majority of the home owners.

(2) As soon as practicable after the objection closing day, the home owners who have objected (the ***objectors***) and the park owner must set up a committee (the ***park liaison committee***) to consider the objections.

(3) The park liaison committee is to consist of the following members—

(a) a person chosen by the objectors;

(b) the park owner or the park owner's nominee;

(c) someone else agreed on by the members mentioned in paragraphs (a) and (b).

(4) The member mentioned in subsection (3)(a) may be an objector.

(5) A quorum for the park liaison committee is formed by the 3 members mentioned in subsection (3).

(6) If the members mentioned in subsection (3)(a) and (b) fail within 7 days after the objection closing day to agree on who is to be the member mentioned in subsection (3)(c), the park owner must give notice of the failure to each objector (a ***non-resolution notice***).

81 Consideration of objections by park liaison committee

(1) The park liaison committee must consider all objections made under section 79 about the proposal and decide whether the proposal is reasonable or unreasonable.

(2) If the park liaison committee decides the proposal is unreasonable, it must also change the proposal in a way the park liaison committee considers appropriate to make it reasonable.

(3) If the park liaison committee proposes to make a decision under subsection (1) or (2) that would be contrary to an objection made under section 79, the committee must—

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(a) invite the objectors to attend a meeting of the committee; and

(b) at the meeting—

(i) tell the objectors of the proposed decision; and

(ii) allow the objectors to make representations about the proposed decision; and

(c) consider any representations made at the meeting before making the decision.

(4) The park liaison committee must give notice of its decisions under subsections (1) and (2) (each a ***proposal decision***) to—

(a) each home owner for the residential park; and

(b) if the park owner is not a member of the park liaison committee—the park owner.

82 Dispute resolution and application to tribunal about proposal

(1) This section applies if—

(a) there is a dispute about a proposal to change a park rule for a residential park for which the park owner has given each objector a non-resolution notice; or

(b) the park owner or a home owner for a residential park is dissatisfied with a proposal decision of a park liaison committee.

(2) If an objector intends to continue to dispute the proposal, the objector must, within 7 days after receiving the non-resolution notice, apply to the registrar under section 108(1) to refer the dispute for mediation.

(3) If the park owner or home owner intends to dispute the proposal decision, the park owner or home owner must, within 7 days after receiving notice of the decision under section 81(4), apply to the registrar under section 108(1) to refer the dispute for mediation.

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(4) An objector, the park owner or home owner may, subject to section 116, apply to the tribunal for an order declaring the proposal to be reasonable or unreasonable.

(5) An application made to the tribunal under subsection (4) must include particulars of why the proposal is considered to be reasonable or unreasonable.

(6) A single application to the tribunal may be made by more than 1 home owner if it is made by—

(a) at least 5 home owners; or

(b) if the park has less than 10 sites—a majority of the home owners.

(7) In subsection (4), a reference to the proposal includes the proposal as decided to be changed by the park liaison committee under section 81(2).

83 Decision of tribunal about proposal

(1) In deciding an application made to the tribunal under section 82, the tribunal may—

(a) declare the proposal to be reasonable; or

(b) declare the proposal to be unreasonable; or

(c) change the proposal in a way the tribunal considers appropriate to make it reasonable; or

(d) make any other order the tribunal considers appropriate.

(2) For deciding the application, the tribunal may have regard to the following—

(a) the residential park's location;

(b) the park's internal layout;

(c) the amenities, improvements, facilities and other physical features of the park;

(d) the number of home owners for the park and their needs;

(e) the levels of site rent and other charges payable, under site agreements, by the home owners.

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(3) Subsection (2) does not limit the matters to which the tribunal may have regard.

84 When proposal takes effect

(1) This section sets out the way of working out when a proposal takes effect.

(2) If no objections are made to the proposal or the number of objections made to the proposal is not enough to require the setting up of a park liaison committee, the proposal takes effect—

(a) at the end of the objection closing day for the proposal; or

(b) if a later day is stated in the proposal—on the later day.

(3) If non-resolution notices about the proposal are given to each of the objectors and no application is made under section 82(2) to refer a dispute about the proposal to mediation, the proposal takes effect—

(a) 7 days after the day the last of the objectors receives a non-resolution notice; or

(b) if a later day is stated in the proposal—on the later day.

(4) If—

(a) a decision is made by a park liaison committee—

(i) declaring the proposal to be reasonable; or

(ii) changing the proposal in a way the park liaison committee considers appropriate to make it reasonable; and

(b) no application is made under section 82(3) to refer a dispute about the proposal decision to mediation;

the proposal, or the proposal as changed, takes effect on the day decided by the park liaison committee.

(5) If a dispute about a proposal or a proposal decision for a proposal is referred to mediation under section 82(2) or (3), the proposal takes effect—

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(a) if mediation of the dispute results in a mediation agreement that the proposal or the proposal as changed is reasonable—on the day stated in the agreement; or

(b) if the dispute is not resolved by the mediation and no party to the dispute has applied to the tribunal under section 82(4) within 7 days after the mediation is finished—at the end of that period.

(6) If the tribunal decides the proposal is reasonable or changes the proposal in a way the tribunal considers appropriate to make it reasonable, the proposal takes effect on the day decided by the tribunal.

85 When change of park rule has no effect

(1) A change of a park rule for a residential park has no effect if—

(a) it is made otherwise than under this division; or

(b) a park liaison committee or the tribunal, in considering a proposal about the change, declares it to be unreasonable.

(2) However, subsection (1)(b) does not apply to a decision of the park liaison committee if the tribunal later—

(a) declares the proposal to be reasonable; or

(b) changes the proposal in a way the tribunal considers appropriate to make it reasonable.

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Part 14 Residential park operations

Division 1 Park owners' obligations

86 Quiet enjoyment

(1) The park owner for a residential park must take reasonable steps to ensure a home owner has quiet enjoyment of the home owner's site in the park and the common areas.

(2) The park owner, or park manager, for a residential park must not interfere with the reasonable peace, comfort or privacy of a home owner in using the home owner's site in the park or the common areas.

Maximum penalty for subsection (2)—20 penalty units.

86A Preparing, maintaining and implementing emergency plan

(1) The park owner for a residential park must ensure an emergency plan is prepared for the park, providing for the following—

(a) emergency procedures, including—

(i) an effective response to an emergency; and

(ii) procedures for evacuating home owners and other residents from the park; and

(iii) notifying emergency service organisations at the earliest opportunity; and

(iv) arranging for medical treatment and assistance; and

(v) effective communication between the person authorised by the park owner to coordinate the emergency response and the home owners and other residents of the park;

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(b) testing of the emergency procedures, including the frequency of testing;

(c) information, training and instruction to the home owners and other residents of the park about implementing the emergency procedures;

(d) another relevant matter prescribed by regulation.

Maximum penalty—20 penalty units.

(2) The park owner must—

(a) maintain the emergency plan for the residential park so that the plan remains effective; and

(b) implement the emergency plan in the event of an emergency.

Maximum penalty—20 penalty units.

(3) In this section—

emergency service organisation means—

(a) the Queensland Ambulance Service; and

(b) Queensland Fire and Rescue; and

(c) the Queensland Police Service.

87 Emergency access to residential park

(1) The park owner for a residential park for which site agreements are in force must ensure that at all times an emergency vehicle has ready access to the park in an emergency, unless the park owner has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) In this section—

emergency vehicle means a motor vehicle driven by a person who is—

(a) an emergency worker; and

(b) driving the vehicle while performing duties as an emergency worker.

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emergency worker means—

(a) an ambulance officer of the Queensland Ambulance Service or a corresponding service of another State; or

(b) a fire officer of Queensland Fire and Rescue or a corresponding service of another State; or

(c) a Queensland police officer or a member of a police force or service of the Commonwealth or another State.

87A Park owner not to restrict a visitor of a home owner or other resident

(1) The park owner for a residential park must not restrict a visitor in visiting a home owner or other resident at the site or in a common area in the park, if the visitor—

(a) is providing, or intending to provide, a health or community service to the home owner or other resident; and

(b) is suitably qualified to provide the service.

Maximum penalty—20 penalty units.

(2) The park owner for a residential park must not restrict a visitor, other than a visitor mentioned in subsection (1), in visiting a home owner or other resident at the site or in a common area in the park, unless the park owner has a reasonable excuse.

Example of a reasonable excuse—

A park owner may have a reasonable excuse to restrict a visitor in visiting a home owner or other resident if the visitor was interfering with the reasonable peace, comfort or privacy of another home owner or resident of the park.

Maximum penalty—20 penalty units.

(3) In this section—

health or community service means a service that is, or purports to be, a service for maintaining, improving, restoring or managing a person's health or general wellbeing.

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Examples of health or community services—

- medical services
- ambulance services
- community care services, including, for example, providing meals, personal care or domestic assistance
- welfare services, including, for example, counselling
- delivering medicine or other goods or providing transport to a person incidental to another health or community service

site, in relation to a home owner or other resident of a residential park, means the site in the residential park where the home owner or other resident lives.

suitably qualified person, to provide a health or community service, means having, or appearing to have, the qualifications, experience or standing suitable for providing the service.

Examples of persons who may be suitably qualified to provide a health or community service—

- a medical practitioner
- an ambulance officer
- a community nurse
- a social worker

visitor, for a home owner or other resident of a residential park, means a person who—

(a) has the consent of the home owner or other resident to enter the site or the common areas in the residential park; or

(b) intends to provide a health or community service in situations where consent can not be reasonably obtained from the home owner or other resident.

88 Right of home owner to participate in home owners' organisation

The park owner for a residential park must not unreasonably interfere with the exercise of the right of a home owner to

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participate in an organisation established to represent the interests of the home owner or home owners generally.

Maximum penalty—20 penalty units.

89 Notice board

(1) The park owner for a residential park for which site agreements are in force must maintain a notice board in a prominent position within the common areas.

Maximum penalty—10 penalty units.

(2) The park owner for a residential park must not unreasonably interfere with the rights of a home owner—

(a) to read the park's notice board; and

(b) to place a notice, or other material, relevant to the park on the park's notice board.

Maximum penalty—5 penalty units.

(3) A regulation may prescribe a type of information that the park owner must make all reasonable attempts to display on the notice board during a prescribed period.

(4) The park owner must make all reasonable attempts to display on the notice board—

(a) either—

(i) the park rules as currently in force; or

(ii) information about how and where a home owner may obtain a copy of the park rules as currently in force, free of charge; and

(b) information of the type prescribed under subsection (3) during the prescribed period for displaying information of that type.

Maximum penalty—5 penalty units.

(5) In this section—

notice board means a notice board for the display of notices and other material of interest to the home owners.

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90 Maintenance of trees

(1) The park owner for a residential park for which site agreements are in force must ensure trees in the common areas are maintained so as not to pose a danger to any person or property.

(2) However, the park owner is not required to take any action under subsection (1) that is unlawful.

(3) If a home owner considers the park owner has not maintained a tree as required under subsection (1) and the park owner does not agree, the home owner may, subject to section 116, apply to the tribunal for an order under subsection (4).

(4) The tribunal may, on the application of a home owner, make an order requiring the park owner to comply with subsection (1) in a stated way.

91 Mail facilities

The park owner for a residential park must establish and maintain at the park reasonable, accessible mail facilities for the home owners.

91A Notice of change of business hours contact telephone number

If a business hours contact telephone number for the park owner, or the park manager, stated in the site agreement under section 25(4)(h) changes, the park owner must give the home owner written notice of the change within 7 days after the change.

Maximum penalty—10 penalty units.

92 Separate measurement or metering of supply of utility

(1) This section applies if—

(a) the use by the home owner under a site agreement of a utility at the site is not separately measured or metered; and

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(b) the park owner wishes to separately measure or meter the use of the utility at the site.

(2) The park owner must pay the cost of installing a measuring device or meter to measure the use of the utility at the site.

Maximum penalty—100 penalty units.

93 Repositioning of manufactured home

(1) This section applies if—

(a) there is a site agreement in force for a site (the ***original site***); and

(b) a manufactured home is positioned on the original site; and

(c) under the agreement, the park owner may require the home owner to reposition the home to another site in the residential park.

(2) The park owner may require the home owner to reposition the home to another site in the park only if—

(a) the other site is broadly comparable to the original site; and

(b) the park owner gives the home owner a written undertaking to pay all the expenses involved in repositioning the home.

(3) The undertaking may be enforced by the home owner in a court of competent jurisdiction as if it were a deed.

94 Access by park owner to site

(1) This section applies if—

(a) there is a site agreement in force for a site; and

(b) a manufactured home is positioned on the site.

(2) Subject to subsection (3), the park owner or the park manager for the residential park must not enter the site other than in the following circumstances—

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(a) if the home owner consents to the entry;

(b) in an emergency;

(c) if the park owner arranges for the supply of electricity, gas or water to the site—to read a meter situated on the site recording the quantity of electricity, gas or water supplied during a period;

(d) to carry out an inspection, or maintenance, of the site, after giving the home owner at least 2 days notice of the proposed entry;

(e) to show the site to a prospective home owner for the site, after giving the home owner at least 1 day's notice of the inspection;

(f) if the park owner or park manager reasonably believes the home has been abandoned;

(g) under an order of the tribunal permitting entry to the site for a stated purpose.

Maximum penalty—10 penalty units.

(3) Entry to the site in the circumstances mentioned in subsection (2)(c), (d) or (e) must not happen on a Sunday or public holiday, or outside the hours from 8a.m. to 8p.m., without the written consent of the home owner.

(4) The tribunal may, on application made by the park owner or park manager, make an order permitting the park owner or park manager to enter the site for a stated purpose.

95 Fraudulent or misleading conduct

The park owner for a residential park for which site agreements are in force must not engage in conduct that is fraudulent or misleading in the operation of the park or in acting as a home owner's agent to sell, or to negotiate the sale of, a manufactured home.

Example—

A park owner must not in advertising or in precontractual negotiations—

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(a) indicate that the site rent will only ever increase in accordance with increases in the CPI; or

(b) indicate that the site agreement can only be terminated by the home owner.

Maximum penalty—200 penalty units.

96 Harassment or unconscionable conduct

The park owner for a residential park for which site agreements are in force must not engage in harassment or unconscionable conduct in the operation of the park or in acting as a home owner's agent to sell, or to negotiate the sale of, a manufactured home.

Examples of harassment—

- using, or getting a third party to use, threatening or intimidating language or behaviour towards a home owner or prospective home owner for a site
- engaging in conduct that would make a person feel unwillingly compelled to comply with the park owner's request or demand

Examples of unconscionable conduct—

- taking unfair advantage of the park owner's superior bargaining position relative to a home owner or prospective home owner for a site
- requiring a home owner or prospective home owner for a site to comply with conditions that are not reasonably necessary for the protection of the park owner's legitimate interests
- if it is reasonably apparent that a home owner or prospective home owner for a site can not understand relevant documents, taking unfair advantage of the home owner's, or prospective home owner's, lack of understanding in relation to the documents
- exerting undue influence or pressure on, or using unfair tactics against, a home owner, prospective home owner for a site, or a person acting for a home owner or prospective home owner for a site

Maximum penalty—200 penalty units.

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Division 2 Home owners' obligations

97 Letting of site by home owner

(1) This section applies if a manufactured home is positioned on a site the subject of a site agreement.

(2) The home owner must not rent the site to a person on a temporary basis unless this is allowed under the agreement.

(3) If the home owner rents the site to a person on a temporary basis under subsection (2), the home owner must as soon as practicable after the letting give the park owner notice of the letting.

(4) The notice must state—

(a) the name of the tenant; and

(b) the period of the tenancy.

98 Alteration or addition to manufactured home

(1) This section applies if a manufactured home is positioned on a site the subject of a site agreement.

(2) The home owner must not make any alteration to the home that is visible from the outside of the home, or make any addition to the home, unless the park owner gives written consent to the proposed alteration or addition.

(3) The park owner must not unreasonably refuse to give the consent.

(4) If the home owner considers the park owner has unreasonably refused to give consent under subsection (2) to a proposed alteration or addition to the home, the home owner may, subject to section 116, apply to the tribunal for an order under subsection (5).

(5) The tribunal may, on application made by the home owner, make an order requiring the park owner to consent to the proposed alteration or addition if the tribunal considers the consent has been unreasonably refused.

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(6) However, the tribunal may not make an order under subsection (5) if effecting the proposed alteration or addition would contravene a law of the State.

99 Separate payment by home owner for use of utility at site

(1) This section applies if, under a site agreement, the home owner is required to pay the park owner for the use by the home owner of a utility at the site.

(2) The home owner may be required to pay for the use only if the use is separately measured or metered.

99A Separate charge by park owner not to be more than cost of supply for use of utility

(1) This section applies if—

(a) under a site agreement or another agreement or arrangement, a home owner for a site in a residential park is required to pay the park owner or a third party for the use by the home owner of a utility at the site; and

(b) the use is separately measured or metered.

(2) The park owner must not charge the home owner, or arrange for the home owner to be charged, an amount (a ***prohibited amount***) for the use of a utility that is more than the amount charged by the relevant supply entity for the quantity of the service supplied to, or used at, the site.

Maximum penalty—20 penalty units.

(3) For subsection (2), the park owner charging the home owner, or arranging for the home owner to be charged, an amount for the use of the utility includes—

(a) the park owner directing the home owner to pay the amount to a third party; and

(b) the park owner agreeing or arranging with a third party for the home owner to be charged the amount and the park owner or third party charging the home owner the

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amount for the purpose of that agreement or arrangement.

(4) Without limiting subsection (2), a prohibited amount includes the following amounts charged, or purported to be charged—

(a) an amount for reading a meter for the use of the utility;

(b) another amount for administration relating to the supply, or on-supply, of the utility to the site, including, for example, an amount relating to obtaining for the home owner a State government concession or rebate for the supply or on-supply of the utility.

(5) In this section—

relevant supply entity means the entity that has charged, or may charge, the park owner for supplying the utility to—

(a) the site; or

(b) the residential park for on-supply to the site.

supplied, to a site, includes supplied to the residential park for on-supply to the site.

third party means an entity other than the relevant supply entity.

Part 15 Home owners committee

100 Establishment of committee

(1) The home owners for a residential park may establish, by election conducted among themselves, a home owners committee.

(2) Only 1 home owners committee may be established for a residential park.

(3) The park owner for a residential park must not restrict the home owners for the park from establishing a home owners committee.

Maximum penalty—20 penalty units.

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(4) A member of the committee—

(a) holds office for not more than 1 year, but may be re-elected; and

(b) may be removed, at any time, by special resolution at a meeting of the home owners.

(5) The committee may, subject to any constitution adopted under section 101 for the committee—

(a) decide its own procedures; and

(b) form subcommittees and decide each subcommittee's procedures.

(6) The park owner may, if invited by the committee, attend a meeting of the committee.

101 Home owners constitution

(1) If a home owners committee is established under section 100 for a residential park, a majority of the home owners may adopt a constitution governing the performance by the committee of its function under section 102.

(2) The constitution—

(a) must not be inconsistent with this Act; and

(b) must provide for any matter prescribed under a regulation.

(3) The committee must comply with the constitution.

(4) The constitution may be amended by special resolution at a meeting of the home owners.

102 Committee's function

(1) The function of a home owners committee for a residential park is to deal with the park owner on behalf of the home owners about—

(a) the day-to-day running of the park; and

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(b) any complaint or proposal about the operation of the park raised by the home owners.

(2) The park owner must not restrict—

(a) a home owners committee from performing the committee's function under subsection (1); or

(b) a home owner who is a member of a home owners committee from performing the member's functions as a member of the committee.

Maximum penalty for subsection (2)—20 penalty units.

103 Park owner to respond to complaint or proposal

If a home owners committee for a residential park gives the park owner a notice detailing a complaint or proposal mentioned in section 102(1)(b), the park owner must within 21 days after receiving the notice give the committee a written response addressing the complaint or proposal.

Maximum penalty—20 penalty units.

Part 16 Obligations about behaviour of park owners and home owners

104 Park owner to respect rights of home owners and other residents

(1) The park owner for a residential park must respect the rights of home owners and other residents of the park.

(2) Without limiting subsection (1), the park owner—

(a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of a home owner or other resident; and

(b) must take reasonable steps to ensure a home owner or other resident, or the guest of a home owner or other resident, does not interfere with the reasonable peace,

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comfort or privacy of another home owner or resident; and

(c) must use the park owner's best endeavours to ensure each home owner or other resident lives in an environment free from harassment and intimidation; and

(d) must not unreasonably restrict the right of a home owner or other resident to autonomy over their personal, financial or other matters or possessions; and

(e) must not unreasonably restrict a home owner or other resident from exercising self-reliance in matters relating to their personal, domestic or financial affairs; and

(f) must, within 21 days after receiving relevant correspondence from the home owner or other resident, or a representative of a home owner or other resident (each a ***correspondent***), give the correspondent a complete response to the relevant correspondence.

(3) However, if under subsection (2)(f), the park owner gives a correspondent a complete response to relevant correspondence (the ***previous response***), the park owner is not required to give the correspondent another complete response addressing the same, or substantially the same, complaint, proposal or question addressed in the previous response.

(4) In this section—

complete response, to relevant correspondence, means a written response addressing each complaint, proposal and question in the relevant correspondence.

relevant correspondence means a written complaint, proposal or question about the operation of the park.

representative, of a home owner or other resident, means an entity—

(a) established to represent the interests of the home owner, resident or home owners and residents generally; and

(b) that is authorised by the home owner or resident to give relevant correspondence to the park owner.

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105 Home owners to respect rights of others

(1) A home owner for a residential park must respect the rights of other residents of the park and other persons in the park.

(2) Without limiting subsection (1), a home owner—

(a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of another resident; and

(b) must respect the right of the park owner, park manager or a representative of the park owner or park manager to work in an environment free from harassment and intimidation; and

(c) must not act in a way that adversely affects the occupational health and safety of a person working in the residential park.

(3) A home owner for a residential park must also ensure, as far as reasonably practicable, the home owner's tenant or guest complies with subsection (2)(a) to (c).

(4) In this section—

representative, of a park owner or park manager, means—

(a) if the park owner or park manager is a corporation—an executive officer, employee or agent of the corporation; or

(b) if the park owner or park manager is an individual—an employee or agent of the individual.

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Part 17 Resolution of residential park disputes

Division 1 Alternative dispute resolution

Subdivision 1 Preliminary

106 Application and purpose of division

This division applies to the parties to a residential park dispute and provides for the procedures the parties may use to try to resolve the dispute.

Subdivision 2 Negotiation

107 Notice to negotiate resolution of dispute

(1) A party to a residential park dispute (the ***first party***) may give the other party to the dispute a notice (a ***dispute negotiation notice***)—

(a) stating the matters in dispute; and

(b) nominating a time on a stated day (the ***nominated time***) at least 14 days but no more than 28 days after the notice is given for the parties to meet at a stated place (the ***nominated place***) to negotiate a resolution of the dispute.

(2) If the first party gives a dispute negotiation notice, the other party must, within 7 days after receiving the notice, give the first party a written response agreeing to meet the first party—

(a) at the nominated time or on another day at another time within 7 days of the nominated time; and

(b) at the nominated place or another place as agreed.

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(3) The parties must meet and try to resolve the dispute by negotiation—

(a) at the nominated time, or on another day at another time agreed by the parties that is within 7 days after the nominated day and time; and

(b) at the nominated place or another place agreed by the parties.

(4) If the parties meet under subsection (3), the parties may agree to meet at other times to try to resolve the dispute by negotiation.

Subdivision 3 Mediation

108 Referral of residential park dispute for mediation

(1) A party to a residential park dispute may apply to the registrar to refer the dispute for mediation under this subdivision.

(2) However, a party to a residential park dispute (other than a dispute mentioned in section 14A(1)(a)) may apply under subsection (1) to have the dispute referred for mediation only if—

(a) the party has attempted to resolve the dispute by negotiation under section 107; and

(b) the dispute has not been resolved.

(3) Within 14 days after receiving an application under subsection (1), the registrar must—

(a) appoint a mediator to mediate the residential park dispute; and

(b) give written notice to the parties to the dispute of—

(i) the mediator who is to mediate the dispute; and

(ii) the time, date and place of the conference (***mediation conference***) to be conducted by the mediator.

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(4) The notice must be given at least 7 days before the mediation conference.

109 Right of representation

At a mediation conference, a party to the residential park dispute may be represented by a lawyer or an agent unless the mediator is satisfied the party should not be represented.

110 Conference to be held in private

A mediation conference is not open to the public.

111 Parties to mediation conference

(1) A mediator may allow a person who is not a party to the residential park dispute to take part in a mediation conference if the mediator is satisfied the person has a sufficient interest in the resolution of the dispute.

(2) However, the person does not become a party to the dispute.

112 Mediation agreements

(1) This section applies if the parties to a residential park dispute reach a mediated agreement on the dispute.

(2) The mediator must record the agreement (the ***mediation agreement***) in writing and have it signed by or for the parties.

113 No official record of mediation conference

(1) A person must not make a record of anything said at a mediation conference.

Maximum penalty—40 penalty units.

(2) However, the mediator does not contravene subsection (1) if the mediator—

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(a) makes notes during the mediation conference the mediator considers appropriate and destroys them at the end of the mediation; or

(b) records an agreement under section 112(2).

114 Notifying outcome of mediation

(1) As soon as practicable after the mediation ends, the mediator must give the registrar and the parties to the residential park dispute—

(a) if the parties have reached a mediated agreement on the dispute—a copy of the signed mediation agreement; or

(b) otherwise—a written certificate about the outcome of the mediation.

(2) A certificate mentioned in subsection (1)(b)—

(a) must not state anything about the extent to which a party participated or refused to participate in the mediation; but

(b) may state that a party did not attend the mediation conference.

Division 2 Applications to tribunal

115 Application for order to resolve residential park dispute

A party to a residential park dispute may, subject to section 116, apply to the tribunal for an order to resolve the dispute.

116 Requirements for application

(1) This section applies if a party to a residential park dispute may apply to the tribunal under this Act for an order in relation to the dispute.

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(2) However, this section does not apply in relation to an application to the tribunal authorised under an exempt provision.

(3) A party to a residential park dispute (other than a dispute mentioned in section 14A(1)(b)) may apply to the tribunal only if—

(a) the dispute has been referred for mediation under section 108; and

(b) 1 of the following applies—

(i) the parties to the dispute can not reach a mediation agreement;

(ii) a party to the dispute does not attend, or withdraws from, the mediation conference for the dispute;

(iii) the dispute is not settled within 4 months after the dispute is referred for mediation;

(iv) the parties reach a mediation agreement and the party making the application claims the other party has not complied with the agreement—

(A) within the time stated in the agreement; or

(B) if no time is stated, within 2 months after the agreement is signed.

(4) A party to a residential park dispute mentioned in section 14A(1)(b) may apply to the tribunal only if—

(a) the party has attempted to resolve the dispute by negotiation under section 107; and

(b) the dispute has not been resolved.

(5) In this section—

exempt provision means section 38(1), 39(1), 40B(2), 52(3), 53(5), 55(2), 62Z, 62ZB, 62ZC, 62ZD or 94(4).

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117 Orders of tribunal

If a party to a residential park dispute applies to the tribunal for an order in relation to the dispute, the tribunal may make the following orders—

(a) an order the tribunal is authorised to make in relation to the application under another provision of this Act;

(b) any other order the tribunal considers appropriate to resolve the dispute.

Part 17A Review of decisions

Division 1 Preliminary

118 Definitions for part

In this part—

affected person, in relation to a decision, means—

(a) if the decision is an original decision—a person who must be given, or is entitled to be given, an information notice for the decision; or

(b) if the decision is an internal review decision—the person who applied for the internal review.

information notice, for an original decision, means a notice stating the following information—

(a) the decision;

(b) the reasons for the decision;

Note—

See the *Acts Interpretation Act 1954*, section 27B for matters that must be included with the reasons.

(c) that the person to whom the notice is given may ask for a review of the decision under this Act;

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(d) how, and the period within which, the review may be started.

internal review, of an original decision, see section 120(1).

internal review decision means a decision made, or taken to have been made, under section 122 on an application for internal review of an original decision.

original decision means a decision for which an information notice must be given, or a decision for which a person is entitled to be given an information notice, under this Act.

QCAT information notice, for an internal review decision, means a notice complying with the QCAT Act, section 157(2).

Division 2 Internal review

119 Review process must start with internal review

An affected person for an original decision may apply to the tribunal for a review of the decision only if a decision on an application for internal review of the decision has been made, or taken to have been made, under this division.

120 Who may apply for internal review

(1) An affected person for an original decision may apply to the chief executive for a review of the decision under this division (an ***internal review***).

(2) If the affected person has not been given an information notice for the original decision, the affected person may ask the chief executive for an information notice for the decision.

(3) A failure by the chief executive to give the affected person an information notice for the original decision does not limit or otherwise affect the person's right to apply for an internal review of the decision.

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121 Requirements for application

(1) An application for internal review of an original decision must—

(a) be written; and

(b) for a person who has been given an information notice for the decision—include enough information to enable the chief executive to decide the application; and

(c) be made to the chief executive within—

(i) for a person who has been given an information notice for the decision—28 days after the day the person is given the notice; or

(ii) for a person who has not been given an information notice for the decision—28 days after the day the person becomes aware of the decision.

(2) The chief executive may, at any time, extend the period within which the application may be made.

(3) The application does not affect the operation of the original decision or prevent the decision being implemented.

122 Internal review

(1) The chief executive must, within 20 days after receiving an application for internal review of an original decision—

(a) review the original decision; and

(b) decide to—

(i) confirm the original decision; or

(ii) amend the original decision; or

(iii) substitute another decision for the original decision; and

(c) give the affected person for the original decision a QCAT information notice for the chief executive's decision under paragraph (b).

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(2) The chief executive and the affected person may, before the period stated in subsection (1) ends, agree to a longer period for the chief executive to comply with the subsection.

(3) The application may be dealt with only by a person who—

(a) did not make the original decision; and

(b) holds a more senior office than the person who made the original decision.

(4) Subsection (3) does not apply to an original decision made by the chief executive personally.

(5) If the chief executive does not give the affected person a QCAT information notice within the period required under subsection (1) or a longer period agreed under subsection (2), the chief executive is taken to confirm the original decision.

Division 3 External review

123 Applying for external review

(1) This section applies to a person who must be given a QCAT information notice for an internal review decision.

(2) The person may apply to the tribunal, as provided under the QCAT Act, for a review of the internal review decision.

Note—

The QCAT Act, section 22(3) enables the tribunal to stay the operation of the internal review decision, either on application by a person or on its own initiative.

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Part 18 Undertakings

129 Chief executive may seek undertaking after contravention

(1) If the chief executive reasonably believes a person has contravened or been involved in a contravention of this Act, the chief executive may, by notice given to the person—

(a) state the act or omission the chief executive believes is the contravention; and

(b) ask the person to give the chief executive a written undertaking that the person will not continue or repeat the act or omission.

(2) If—

(a) the person gives the undertaking and, if the contravention is conduct consisting of a series of acts or omissions, the person stops the conduct; and

(b) the chief executive accepts the undertaking;

the chief executive can not start an offence proceeding against the person for the contravention, unless the chief executive withdraws the undertaking under section 130.

130 Variation and withdrawal of undertakings

(1) If the chief executive accepts the undertaking, it may be varied or withdrawn at any time by—

(a) the person who gave it, but only if the chief executive agrees to the variation or withdrawal; or

(b) the chief executive, if the chief executive reasonably believes—

(i) that, before it was accepted, the person who gave it contravened this Act in a way unknown to the chief executive; and

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(ii) had the chief executive known about the contravention, the chief executive would not have accepted the undertaking or would not have accepted it unless its terms were changed.

(2) The chief executive may also withdraw the undertaking if the chief executive reasonably believes it is no longer necessary.

(3) If the chief executive varies or withdraws, or agrees to the variation or withdrawal of, the undertaking, the chief executive must give the person who gave the undertaking notice of its variation or withdrawal.

(4) The variation or withdrawal takes effect when the notice is received by the person.

131 Enforcement of undertakings

(1) If the chief executive reasonably believes a person has contravened a term of an undertaking, the chief executive may apply to the District Court for an order under this section.

(2) If the court is satisfied the person has contravened the term, the court may make 1 or more of the following orders—

(a) an order directing the person to comply with the term;

(b) an order directing the person to pay to the State an amount that is not more than the direct or indirect financial benefit obtained by the person from, and reasonably attributable to, the contravention;

(c) an order directing the person to pay compensation to someone else who has suffered loss or damage because of the contravention;

(d) an order directing the person to give a security bond to the State for a stated period;

(e) another order the court considers appropriate.

(3) The District Court may order the forfeiture to the State of all or part of a security bond given by a person under subsection (2)(d) if—

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(a) the chief executive applies to the court for the order; and

(b) the court is satisfied the person contravened the undertaking during the period for which the bond was given.

132 Register of undertakings

(1) The chief executive must keep a register of each undertaking given to the chief executive by a person under this part.

(2) The register must contain a copy of the undertaking.

(3) A person may, on payment of any fee that may be prescribed under a regulation, inspect, or get a copy of details in, the register—

(a) at a place or places decided by the chief executive; or

(b) by using a computer.

(4) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

(5) The register may be kept in any way the chief executive considers appropriate.

Part 19 Legal proceedings

Division 1 Evidence

133 Application of div 1

This division applies to a proceeding under this Act.

134 Appointments and authority

(1) It is not necessary to prove—

(a) the chief executive's appointment; or

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(b) the authority of the chief executive to do anything under this Act.

(2) Subsection (1) does not apply if reasonable notice is given to the party relying on the appointment or authority that the appointment or authority is to be challenged.

135 Evidentiary aids

(1) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—

(a) on a stated day, a stated person was given a stated notice under this Act;

(b) a stated fee or other amount is payable by a stated person to someone else and has not been paid;

(c) a matter within the control or knowledge of the chief executive and relevant to the proceeding.

(2) A certificate signed by the chief executive and stating that a stated document is a copy of a financial or other record, contract or document is evidence of the matter.

Division 2 Proceedings

136 Summary proceedings for offences

(1) A proceeding for an offence against this Act is to be taken in a summary way under the *Justices Act 1886*.

(2) The proceeding must start—

(a) within 1 year after the offence is committed; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

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137 Allegations of false or misleading information or documents

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

138 Responsibility for acts or omissions of representatives

(1) Subsections (2) and (3) apply in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) of a corporation—an executive officer, employee or agent of the corporation; or

(b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

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(b) the person's reasons for the intention, opinion, belief or purpose.

Part 20 General

141 Home owners may act jointly in relation to residential park dispute

(1) This section applies if a home owner who is a party to a residential park dispute (the ***individual dispute***) may do any of the following things in relation to the dispute—

(a) carry out negotiations under section 107;

(b) take part in mediation;

(c) apply to the tribunal for an order.

(2) The members of a group of home owners for the residential park may do the thing jointly in relation to a residential park dispute arising out of facts or circumstances that are the same as, or similar to, the facts or circumstances of the individual dispute.

142 Delegation

(1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person.

(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to the exercise of the power.

Example of standing—

a person's classification level in the department

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143 Protection from liability

(1) The chief executive does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents civil liability attaching to the chief executive, the liability attaches instead to the State.

144 Approval of forms

The chief executive may approve forms for use under this Act.

145 Review of operation of particular provisions of Act

(1) The Minister must, within 3 years after the commencement of this section, start a review of the effect of the amendments made by the *Manufactured Homes (Residential Parks) Amendment Act 2024*.

(2) The object of the review is to consider—

(a) whether the amendments made by the *Manufactured Homes (Residential Parks) Amendment Act 2024* have achieved an appropriate balance between industry viability and consumer protection; and

(b) whether any amendments of this Act are required to achieve an appropriate balance between industry viability and consumer protection.

146 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

(a) fees for this Act;

(b) imposing a penalty of not more than 20 penalty units for a contravention of a regulation.

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Part 21 Repeal and transitional provisions

Division 1 Repeal

147 Repeal of Mobile Homes Act 1989

The Mobile Homes Act 1989 No. 50 is repealed.

Division 2 Transitional provisions for Act No. 74 of 2003

148 Definitions for div 2

In this division—

commencement means commencement of this section.

relevant agreement means a relevant agreement, under the repealed Act, in force immediately before the commencement.

repealed Act means the *Mobile Homes Act 1989*.

small claims tribunal means a small claims tribunal under the *Small Claims Tribunals Act 1973*.

149 Relevant agreement taken to be site agreement

A relevant agreement is taken to be a site agreement.

150 Park owner to keep records

(1) Each owner under the repealed Act must keep copies of any relevant records in the owner's possession or control immediately before the commencement until 1 year after a relevant agreement forming part of the relevant records is terminated.

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Maximum penalty—20 penalty units.

(2) In this section—

relevant records means the following—

(a) a relevant agreement;

(b) a document relating to a variation in site rent payable under the agreement;

(c) a document relating to an assignment of an occupier's interest under the agreement;

(d) copies of orders made by a small claims tribunal relating to the agreement.

151 Relevant agreement that is not written

(1) This section applies to a relevant agreement that is not written.

(2) Subject to subsection (3), the parties to the agreement must as soon as practicable after the commencement—

(a) put the agreement into writing, as required under section 25; and

(b) sign the agreement.

(3) If the parties fail to agree on the terms of the relevant agreement, either party may apply to the tribunal for an order about the matter within 3 months after the commencement.

(4) In deciding the application, the tribunal may make any of the following orders—

(a) an order that the parties enter into a site agreement on the terms decided by the tribunal;

(b) another order the tribunal considers appropriate.

(5) If the parties do not comply with subsection (2), section 25 does not apply to the relevant agreement until the later of the following—

(a) the day that is 3 months after the commencement;

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(b) if an application is made to the tribunal, under subsection (3), about the agreement—the day that is 14 days after the tribunal decides the application.

152 References to repealed Act

In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

153 Applications to small claims tribunal

(1) If—

(a) a person has made an application to a small claims tribunal under the repealed Act before the commencement; and

(b) the application has not been decided before the commencement;

the small claims tribunal may decide the application under the repealed Act as if this Act had not commenced.

(2) If—

(a) immediately before the commencement a person could have made an application to a small claims tribunal under the repealed Act; and

(b) the person has not made the application before the commencement;

the person may make the application to a small claims tribunal, and the small claims tribunal may decide the application, under the repealed Act as if this Act had not commenced.

(3) For giving effect to a decision under subsection (1) or (2), the small claims tribunal may make the orders the small claims tribunal considers necessary having regard to the provisions of this Act.

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154 Claim for compensation

(1) If a claim for compensation made under section 12J of the repealed Act before the commencement has not been decided on the commencement, the court considering the claim may decide the claim, under section 12J of the repealed Act, as if this Act had not commenced.

(2) A person who could have made a claim for compensation under section 12J of the repealed Act as in force immediately before the commencement may make the claim after the commencement and a court to which the claim is made may decide the claim, under section 12J of the repealed Act, as if this Act had not commenced.

155 Unfinalised application for review of refusal to consent to assignment of seller's interest in site agreement

(1) This section applies if an application under section 50 as in force immediately before the commencement of this section (the ***former application***) has not been finalised before the commencement of this section.

(2) The application is taken to be an application for an order under section 50 (the ***new application***).

(3) The former application and any pending proceeding under it is to be continued as if everything done under the former application had been done, with necessary changes, under the new application.

Example—

Evidence given in the pending proceeding is evidence in the new proceeding.

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Division 3 Transitional provisions for Manufactured Homes (Residential Parks) Amendment Act 2010

Subdivision 1 Preliminary

156 Definitions for div 3

In this division—

amending Act means the *Manufactured Homes (Residential Parks) Amendment Act 2010*.

assent means the start of the date of assent of the amending Act.

commencement means the commencement of the provision in which the word appears.

Subdivision 2 General provisions

157 Existing agreements involving converted caravans

(1) This section applies to an agreement, that would be a site agreement if it related to a manufactured home, between a park owner and a home owner providing for the positioning of a converted caravan on a site and—

(a) entered into under, or purportedly under, this Act; and

(b) in force immediately before assent.

(2) Despite the amended Act, other than this section, and subject to section 169, the agreement—

(a) is taken to be a site agreement; and

(b) continues, under this Act, according to its terms.

(3) In this section—

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amended Act means this Act as amended under the amending Act.

158 Form and content of site agreements

(1) Despite section 25, the provisions mentioned in subsection (2) apply only for—

(a) a site agreement entered into after commencement, whether or not the site agreement has been varied; or

(b) a variation of a site agreement entered into before commencement if the variation was made after commencement.

(2) For subsection (1), the provisions are as follows—

(a) section 25(4)(a), (b), (d) and (h);

(b) section 25(4)(i)(iii) to the extent it requires a site agreement to include a statement that, under the Act, the tribunal may—

(i) make an order increasing the site rent on application by the park owner; or

(ii) make an order reducing the site rent on application by the home owner.

(3) Section 25A(1) applies only if the special term of the site agreement mentioned in that section is—

(a) part of a site agreement entered into after commencement, whether or not the site agreement has been varied; or

(b) a variation of a site agreement entered into before commencement if the variation was made after commencement.

159 Prohibited terms of site agreements and prohibited park rules

(1) A term of a site agreement, included in the site agreement before assent, is void to the extent it is or contains a term that

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would be prohibited under section 25B(1) if it were included in the site agreement after assent.

Note—

See also section 170 (Tribunal may consider whether term of site agreement is void under s 159(1)).

(2) A park owner must not attempt to enforce—

(a) a special term, in a site agreement, that is void under subsection (1); or

(b) a park rule of a type that is void under subsection (1).

Maximum penalty—100 penalty units.

160 Particular existing agreements to terminate site agreement

(1) This section applies if—

(a) before commencement, a park owner and a home owner—

(i) entered into a prohibited agreement relating to a site agreement; or

(ii) varied a site agreement to include a term under which the parties to the site agreement agree to terminate the site agreement; and

(b) the site agreement is in force.

(2) A site agreement or other agreement is void to the extent it is or contains the prohibited agreement.

(3) The variation of the site agreement is void.

161 Park owner's notice on receiving notice of proposed assignment of seller's interest

Section 45(2)(c) applies only for a notice of the proposed assignment of the seller's interest in the site agreement received by the park owner after commencement.

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162 Park owner's notice on refusal of consent to assignment

(1) Section 49(5)(b) applies only for a written request, made after commencement, by a seller for the park owner's consent to an assignment of the seller's interest in the site agreement.

(2) Section 49(5)(b) as in force immediately before commencement continues to apply for a written request, made before commencement, by a seller for the park owner's consent to an assignment of the seller's interest in the site agreement.

163 Notice of increase in site rent

Section 69(3) applies to a park owner only if the notice of increase in site rent required to be given under section 69(2) is given by the park owner to the home owner after commencement.

164 Notice of proposed increase in site rent

Section 71(1)(c) and (2) applies whether or not the site agreement mentioned in section 71(1)(a) was entered into before or after commencement.

165 Utility cost notice

Section 73(2) applies only for a utility cost notice given after commencement.

166 Variation of site agreement on assignment to allow site rent to be increased in accordance with market review

(1) This section applies if—

(a) a site agreement was entered into before commencement; and

(b) the site agreement does not contain a clause permitting the site rent to be increased based on a market review of site rent.

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(2) The park owner under the site agreement may, by complying with subsection (4), vary the site agreement by adding the following term to the site agreement—

'The site rent may be increased in accordance with a market review of site rent no more often than once every 3 years after the site agreement was entered into, that has regard to—

(a) the range of rents usually charged for comparable sites in comparable residential parks in the locality of the park; or

(b) if it is impractical to obtain data for the range of site rents mentioned in paragraph (a) or data is not available for that range—the range of site rents usually charged for comparable sites in comparable residential parks in comparable localities to the locality the park is in; or

(c) if it is impractical to obtain data for the range of site rents mentioned in paragraph (a) or (b) or data is not available for that range—general trends in rent for residential accommodation in the locality the park is in.'.

(3) The term—

(a) may be added to the site agreement only in conjunction with an assignment of the site agreement; and

(b) may be added to the site agreement without the agreement of the seller, buyer or any other future home owner; and

(c) takes effect when the assignment takes effect; and

(d) when added, is taken to be a term of the site agreement for all purposes under this Act.

(4) However, subsection (3)(d) only applies if—

(a) at the same time as the park owner gives the disclosure documents for the site to the buyer under section 45A(1), the park owner also gives the buyer notice, in the approved form—

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(i) of the addition of the term to the site agreement; and

(ii) of the date on which the next market review of site rent will happen; and

(b) the park owner, as soon as possible after giving a notice under paragraph (a), but within 3 days after doing so, gives the seller a copy of the notice.

167 More than 1 home owners committee

(1) This section applies if, immediately before commencement, there was more than 1 home owners committee for a residential park.

(2) The home owners for the park may, by election conducted among themselves within 3 months after commencement, establish a single home owners committee.

(3) Sections 100(3) to (5) apply in relation to a home owners committee elected under subsection (2).

168 Existing park owner to give chief executive information for record of residential parks

If a person was a park owner for a residential park immediately before commencement, for section 139C, the person is taken to have opened the park 2 months after commencement.

Subdivision 3 Transitional provisions for proceedings

169 Converted caravans

(1) This section applies if—

(a) before assent, an application was made to a court or tribunal relating to a relevant matter; and

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(b) the application has not been decided.

(2) This section also applies if—

(a) an application is made to a court or tribunal, on or after but within 3 years after assent about a dispute mentioned in subsection (5), definition *relevant matter*, paragraph (b) or (c) about a converted caravan; and

(b) the converted caravan was positioned on a site in the park before assent; and

(c) the applicant owns the converted caravan and owned it immediately before assent.

(3) The court or tribunal must decide the application as if the amending Act had not commenced.

(4) For an application mentioned in subsection (2)(a), the court or tribunal must decide the application on the basis of the structural characteristics of the converted caravan on assent.

(5) In this section—

relevant matter means—

(a) an agreement between a park owner and a home owner providing for the positioning of a converted caravan on a site; or

(b) a dispute about whether a person is entitled to have a park owner enter into a site agreement with the person relating to a converted caravan; or

(c) a dispute about whether a park owner is entitled to have a person enter into a site agreement with the park owner relating to a converted caravan.

170 Tribunal may consider whether term of site agreement is void under s 159(1)

(1) A home owner may apply to the tribunal to consider whether part or all of a stated term of a site agreement is void under section 159(1).

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(2) On application under subsection (1), the tribunal may do 1 of the following—

(a) declare that a stated term of the site agreement is void;

(b) declare that a stated term of the site agreement is not void;

(c) declare that a stated term of the site agreement is void to a stated extent;

(d) make an order varying a stated term of the site agreement.

171 Undecided applications to tribunal for particular orders

(1) This section applies if—

(a) before assent—

(i) an application for a termination order was made to the tribunal under section 38(1)(d); or

(ii) an application was made to the tribunal under section 70(2); and

(b) the application has not been decided.

(2) The tribunal must decide the application as if the amending Act had not commenced.

172 Undecided application to tribunal for order about proposed increase in site rent

(1) This section applies if—

(a) before commencement, an application was made to the tribunal under section 71(7) as then in force; and

(b) the application has not been decided.

(2) The tribunal must decide the application as if the amending Act had not commenced.

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173 Documents tribunal may consider on application for site rent reduction

Section 72(2) applies only in relation to an application to the tribunal for an order under section 72(1) made after assent.

174 Tribunal's review of utility cost

Section 74(2) and (3) applies only for a utility cost notice given after commencement.

175 Tribunal's power to make particular orders

Sections 39(2) and (3) and 40A apply only for an application to the tribunal for a termination order made after assent.

Division 4 Transitional provisions for Housing Legislation (Building Better Futures) Amendment Act 2017

176 Definitions for division

In this division—

amended Act means this Act as in force from the commencement.

amending Act means the *Housing Legislation (Building Better Futures) Amendment Act 2017*.

corresponding provision, for a pre-amended provision, means a provision in the amended Act that corresponds to the pre-amended provision.

pre-amended, for a provision of this Act, means the provision as in force immediately before the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

previous disclosure documents means the documents mentioned in pre-amended section 29(1)(a) and (b).

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177 Requirement to give disclosure documents to prospective home owner

(1) This section applies if—

(a) before the commencement, the park owner for a residential park gave a prospective home owner for a site the previous disclosure documents for the site under pre-amended section 29; and

(b) immediately before the commencement, the park owner and prospective home owner had not entered into, but had intended to enter into, a site agreement for the site.

(2) On the commencement—

(a) section 29(2)(a) and (3), to the extent it relates to waiving the right to be given the initial disclosure documents, does not apply to the park owner; and

(b) section 29(2)(b) and (3) applies to the park owner as if each reference in the provisions to the supplementary disclosure documents for the site were a reference to the previous disclosure documents for the site.

(3) For subsection (2)(b), a reference in a previous disclosure document to a pre-amended provision may, if the context permits, be taken to be a reference to the corresponding provision for the pre-amended provision.

178 No automatic cooling-off period for compliant existing site agreement

(1) This section applies if—

(a) within the 7 days before the commencement, the park owner for a residential park and a prospective home owner for a site entered into a site agreement for the site; and

(b) the park owner gave the prospective home owner the previous disclosure documents for the site at least 7 days before entering into the site agreement.

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(2) The home owner may not terminate the site agreement under section 33.

179 Cooling-off period for non-compliant existing site agreement

(1) This section applies if—

(a) within the 28 days before the commencement, the park owner for a residential park and a prospective home owner for a site entered into a site agreement for the site; and

(b) the park owner did not give the prospective home owner the previous disclosure documents for the site at least 7 days before entering into the site agreement.

(2) On the commencement, pre-amended section 33 continues to apply in relation to the site agreement as if the amending Act had not been enacted.

180 Requirement to give disclosure documents to buyer

(1) This section applies if, before the commencement—

(a) a seller proposed to assign the seller's interest in a site agreement for a site to a buyer; and

(b) the park owner under the site agreement gave the buyer the documents mentioned in pre-amended section 45(2)(a) to (c); and

(c) the park owner had not consented to the assignment.

(2) The park owner is taken to have given the buyer the disclosure documents for the site.

(3) For subsection (2), a reference in a document mentioned in pre-amended section 45(2)(b) or (c) to a pre-amended provision may, if the context permits, be taken to be a reference to the corresponding provision for the pre-amended provision.

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181 Notice of increase in site rent under pre-amended section 69

(1) This section applies if, within the 28 days before the commencement—

(a) the park owner for a residential park gave a home owner a notice about an increase in site rent under pre-amended section 69(2); and

(b) the home owner considered the amount of the increase excessive; and

(c) the home owner did not apply to the tribunal under pre-amended section 70(2) for an order about the increase.

(2) On the commencement, pre-amended sections 69 and 70 continue to apply in relation to the increase in the site rent as if the amending Act had not been enacted.

182 Restriction on first general site rent increase

(1) This section applies if—

(a) in the year before the commencement, site rent under a site agreement was increased under pre-amended section 69; and

(b) the increase has not been set aside by an order of the tribunal; and

(c) the site rent has not been increased under part 11, division 2.

(2) The park owner under the site agreement must not increase the site rent under part 11, division 2 on any basis provided for in the site agreement within 1 year after the day the site rent was last increased under pre-amended section 69.

(3) Section 69(3) applies as if the reference in that provision to sections 69A to 69E included a reference to this section.

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183 Notice of increase in site rent under pre-amended section 71

(1) This section applies if, within the 2 months before the commencement—

(a) the park owner for a residential park gave a home owner a notice proposing an increase in site rent under pre-amended section 71(3); and

(b) either—

(i) the home owner gave the park owner a response under pre-amended section 71(5) indicating the home owner did not agree to the proposed increase; or

(ii) the home owner did not give the park owner a response under pre-amended section 71(5); and

(c) the park owner did not apply to the tribunal under pre-amended section 71(8) for an order about the increase.

(2) On the commencement, pre-amended sections 70(3)(d) to (l) and 71 continue to apply in relation to the proposed increase in the site rent as if the amending Act had not been enacted.

184 Utility cost notice under pre-amended section 73

(1) This section applies if, within the 28 days before the commencement—

(a) the park owner for a residential park gave a home owner a utility cost notice about a utility cost under pre-amended section 73(2); and

(b) the home owner disputed the utility cost stated in the notice; and

(c) the home owner did not apply to the tribunal under pre-amended section 74(3) for an order about reducing the site rent.

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(2) On the commencement, pre-amended sections 73 and 74 continue to apply in relation to the utility cost and reducing the site rent as if the amending Act had not been enacted.

185 Application to tribunal about proposal under pre-amended section 82

(1) This section applies if, within the 7 days before the commencement—

(a) either—

(i) an objector had been given a non-resolution notice under pre-amended section 80(6) in relation to a proposal; or

(ii) a home owner or park owner had under pre-amended section 81(3) been given notice of a decision of a park liaison committee under section 81(1) or (2) in relation to a proposal and was dissatisfied with the decision; and

(b) the objector, home owner or park owner did not apply to the tribunal under pre-amended section 82(2) and (3) for an order declaring the proposal to be reasonable or unreasonable.

(2) On the commencement, pre-amended sections 82 and 84 continue to apply in relation to the proposal as if the amending Act had not been enacted.

Division 5 Transitional provisions for Manufactured Homes (Residential Parks) Amendment Act 2024

Subdivision 1 Preliminary

186 Definitions for division

In this division—

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former, for a provision of this Act, means the provision as in force from time to time before the commencement of the provision in which the term is used.

new, for a provision of this Act, means the provision as in force from the commencement of the provision in which the term is used.

variation order see section 194(3).

Subdivision 2 Provisions for amendments commencing on assent

187 Existing applications for termination orders

(1) This section applies if—

(a) before the commencement, an application was made under former section 38 for a termination order; and

(b) immediately before the commencement, the application had not been decided by the tribunal.

(2) New part 6, division 3 applies in relation to the application as if—

(a) for an application made on a ground mentioned in former section 38(1)(a) to (e)—the application had been made under new section 38; or

(b) for an application made on the ground mentioned in former section 38(1)(f)—the application had been made under new section 39.

(3) Without limiting subsection (2), the subsection applies—

(a) for the purpose of deciding the application; and

(b) for the purpose of making a compensation order under new section 39C if a termination order is made on the application.

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188 Application of buyback and rent reduction scheme to manufactured home for sale before commencement

(1) This section applies if—

(a) before the commencement, the home owner of a manufactured home appointed the park owner under a selling authority for the manufactured home; and

(b) immediately before the commencement, the selling authority was still in effect; and

(c) on the commencement, the manufactured home is an eligible home and the home owner is an eligible home owner under part 9A.

(2) Section 62P applies in relation to the eligible home as if—

(a) section 62P(1) did not include section 62P(1)(a); and

(b) section 62P(1)(c) provided that the eligible home owner, if requested by the park owner, has appointed the park owner as the sole agent under a selling authority for the eligible home; and

(c) section 62P(3) provided that the opt in notice may be given to the park owner not earlier than 6 months after the commencement.

189 Application of s 69AA to site agreements entered into before commencement

Section 69AA applies in relation to a site agreement whether entered into before or after the commencement.

190 Application of s 69F to site agreements entered into before commencement

Except as provided under section 191, section 69F applies in relation to a site agreement whether entered into before or after the commencement.

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191 Market review of site rent started before commencement

(1) This section applies if—

(a) before the commencement, a general increase notice was given to a home owner; and

(b) the general increase notice was accompanied by a market valuation for the market review of site rent; and

(c) the general increase day stated in the general increase notice is a day after the commencement.

(2) This Act, as in force immediately before the commencement, continues to apply for the purpose of working out the increase in site rent payable from the next general increase day.

(3) However—

(a) the amount by which the site rent is increased under this section must not exceed the percentage increase in site rent permitted under section 69B(2); and

(b) section 69B(3) applies to an increase in site rent under this section.

192 Increasing site rent—using alternative basis to market review

(1) This section applies if a site agreement that was in force immediately before the commencement provided for—

(a) a market review of site rent as a basis for increasing the site rent; and

(b) 1 or more other bases for increasing the site rent (each an ***alternative basis***).

Example of a site agreement providing for more than 1 basis for increasing site rent—

a site agreement providing for a triennial market review of site rent and a 3% increase for the intervening years

(2) Despite the terms of the site agreement, the park owner may use an alternative basis for increasing the site rent for any

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period for which a market review of site rent would, but for section 69F, have been the basis for increasing the site rent.

193 Increasing site rent—no alternative basis to market review

(1) This section applies if a site agreement that was in force immediately before the commencement provided for a market review of site rent as the only basis for increasing the site rent.

(2) The park owner may, as the basis for working out the amount of the increase in the site rent, multiply the site rent by the CPI increase.

(2A) The park owner may increase the site rent using the basis provided under subsection (2) once each year, but not within 1 year after the day the site rent was last increased under this section or, for the first increase under this section, the site agreement.

(2B) Subsection (2A) applies despite any term of the site agreement providing for the intervals at which the site rent may be increased.

(3) In this section—

CPI increase see section 69B(7).

194 Application to tribunal to vary site agreements providing for market review

(1) This section applies if—

(a) a site agreement that was in force immediately before the commencement provided for a market review of site rent as a basis for increasing site rent payable under the site agreement; and

(b) the park owner considers that, because of section 69F, the operation of the residential park will not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17.

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(2) However, this section does not apply if—

(a) the site agreement provides for 1 or more alternative bases for increasing the site rent; and

(b) the alternative basis, or 1 of the alternative bases, provides for the increase in the site rent by reference to a CPI number.

(3) The park owner may apply to the tribunal, within 2 years after the commencement, for an order to vary the site agreement to provide for another basis for increasing the site rent (a ***variation order***).

(4) The application—

(a) must state the terms of the variation order sought by the park owner, which must be a basis the park owner considers provides for a fair and reasonable increase in the site rent in the residential park; and

(b) may relate to 1 or more site agreements for the residential park.

(5) In this section—

alternative basis see section 192(1)(b).

195 Tribunal may appoint independent expert for application for variation order

(1) The tribunal may appoint an appropriately qualified and independent expert to assist the tribunal in relation to an application for a variation order.

(2) If the tribunal appoints an expert under subsection (1), the park owner must pay the expert's costs of assisting the tribunal, including—

(a) the costs of preparing any advice or reports, if required, for a proceeding; and

(b) the fees and allowances for giving evidence, if required, in a proceeding.

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(3) However, subsection (2) applies only if, before appointing the expert, the tribunal—

(a) informs the park owner of the amount the park owner is likely to be required to pay under subsection (2); and

(b) gives the park owner the opportunity to be heard on the matter of appointing the expert.

196 Making of variation order by tribunal

(1) The tribunal may make a variation order in relation to a site agreement only if satisfied that—

(a) because of section 69F, a term of the site agreement providing for market review of site rent is of no effect; and

(b) if a variation order were not made, the operation of the residential park would not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17.

(2) In deciding the application, the tribunal may have regard to the following matters—

(a) the expenses and financial circumstances of operating the residential park;

(b) the communal facilities, services and amenities included in the site rent for the residential park;

(c) the frequency, and amount, of past increases in the site rent payable under the site agreement;

(d) how the site rent would differ from past increases in the site rent if a variation order were not made;

(e) whether, if a variation order were not made, the park owner would be likely to meet the park owner's obligations under the Act while obtaining a reasonable profit;

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(f) the bases for working out the amount of an increase in site rent for other sites in the residential park, or common bases used in comparable residential parks;

(g) how the site rent payable under site agreements for sites in the residential park and the bases for working out the site rent in the residential park compare to similar residential parks;

(h) any written advice, reports or evidence of an expert appointed under section 195;

(i) any submissions received from interested parties, including the home owners committee for the residential park or home owners residing in manufactured homes positioned on sites in the residential park;

(j) anything else the tribunal considers relevant.

Subdivision 3 Provision for amendments commencing 6 months after assent

197 Changes to way site rent to be paid

(1) This section applies in relation to a site agreement that was in force immediately before the commencement if, on the commencement, the site agreement does not provide—

(a) at least 3 approved ways for the home owner to pay site rent under the site agreement; or

(b) at least 1 way for the home owner to pay site rent under the site agreement that does not incur an additional cost to the home owner.

(2) The park owner must, within 12 months after the commencement, give the home owner a notice that—

(a) nominates at least 3 approved ways (each a ***nominated way***) for the payment of site rent under the site agreement, at least 1 of which is a way that does not incur an additional cost to the home owner; and

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(b) states that the home owner may choose to change the existing way the site rent is paid under the site agreement to a nominated way by giving notice to the park owner.

Maximum penalty—100 penalty units.

(3) The home owner may—

(a) by notice given to the park owner, change the existing way the site rent is paid under the site agreement to 1 of the nominated ways; or

(b) continue to pay the site rent in the existing way.

(4) For sections 63A and 63B—

(a) a nominated way under this section is taken to be a way nominated in the site agreement for the payment of site rent under the site agreement; and

(b) if the home owner continues to pay the site rent in the existing way—the existing way of paying the site rent is also taken to be a nominated way under the site agreement.

(5) In this section—

additional cost, to a home owner, see section 63A(3).

Subdivision 4 Provisions for amendments commencing by proclamation

198 Particular residential parks taken to be registered

(1) This section applies in relation to a residential park if, immediately before the commencement, the chief executive kept a record for the residential park under former section 139A.

(2) From the commencement—

(a) the residential park is taken to have been registered by the chief executive under section 18B; and

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(b) the record kept for the residential park under former section 139A is taken to be information about the residential park included in the residential park register under section 18C.

(3) The chief executive may, by notice given to the park owner for the residential park, require the park owner, within a stated period of at least 30 days after the notice is given, to give the chief executive information mentioned in section 18C(2) for the residential park.

(4) The park owner must comply with the requirement unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

203 Transitional regulation-making power

(1) A regulation (a ***transitional regulation***) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force before its amendment by the amendment Act to the operation of this Act as in force from the commencement; and

(b) this Act does not provide or sufficiently provide.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This section and any transitional regulation expire on the day that is 2 years after the day this section commences.

(5) In this section—

amendment Act means the *Manufactured Homes (Residential Parks) Amendment Act 2024*.

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Schedule 1 Disclosure documents for a site

sections 29(2)(a) and (b)(i) and 45A(1)

Part 1 Initial disclosure documents

1 a document stating—

(a) the amount of site rent that is, or is to be, payable for the site; and

(b) the amount of site rent that has been payable for the site in the last 3 years, including the amount of any increase and the date the increase took effect; and

(c) the next general increase day for site rent for the site; and

(d) other information (if any) prescribed by regulation that is relevant for a prospective home owner entering into a site agreement or a seller assigning the seller's interest in a site agreement to a buyer

2 the park rules for the residential park in which the site is located

3 a proposal (if any) for a change in the park rules not finally dealt with under part 13, division 2

Part 2 Other documents for prospective home owners or buyers

4 a document in the approved form providing for the following information—

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(a) the address and real property description of the residential park in which the site is located;

(b) the park owner's name and business address;

(c) the park manager's name and business address;

(d) details of the communal facilities;

(e) details of any authority, however described, issued under a law of the State necessary for the operation of the park;

(f) the rights of a home owner to terminate a site agreement within the cooling-off period under section 33;

(g) the rights of a buyer to terminate an assignment agreement within the cooling-off period under section 51A;

(h) the basic responsibilities of park owners and home owners mentioned in part 3, including the obligations under part 16;

(i) how site rent may be varied under part 11;

(j) how a residential park dispute may be resolved under part 17;

(k) how a home owner's interest in a site agreement may be assigned under part 7;

(l) the rights of a park owner or home owner to terminate a site agreement under part 6, division 3;

(m) a recommendation that a person seek independent legal advice before—

(i) entering into a site agreement; or

(ii) agreeing to an assignment of a home owner's interest in a site agreement to the person

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Part 3 Other documents for buyers

5 for a proposed assignment of the seller's interest in a site agreement for the site—a copy of the site agreement

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Schedule 2 Dictionary

section 6

affected person, in relation to a decision, for part 17A, see section 118.

amending Act, for part 21, division 3, see section 156.

approved form means a form approved by the chief executive under section 144.

approved way see section 63.

assent, for part 21, division 3, see section 156.

assignment agreement see section 44(1).

basis, for increasing site rent payable under a site agreement, means the basis for working out the amount of the increase in the site rent as stated in the site agreement.

buyback agreement, for an eligible home, for part 9A, see section 62D.

buyback amount, for an eligible home, for part 9A, see section 62I.

buyback and rent reduction scheme, for part 9A, see section 62A.

buyback period, in relation to an eligible home, for part 9A, see section 62E.

buyer see section 42(a).

caravan see the *Residential Tenancies and Rooming Accommodation Act 2008*, section 7.

change, a park rule for a residential park, means—

(a) make a new park rule for the park; or

(b) amend, revoke or replace an existing park rule for the park.

change event day see section 73(3).

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commencement, for part 21, division 2, see section 148.

commencement, for part 21, division 3, see section 156.

common areas means—

(a) generally—the parts of a residential park, other than a home owner's site in the park, that the home owner may use under a site agreement; and

(b) in a provision about a residential park—the park's common areas.

communal facilities, in a provision about a residential park, means the park's communal facilities.

comparison document, for a residential park, see section 18H.

compensation order, for part 6, division 3, see section 39C(2).

converted caravan see section 10A.

convicted, for part 9A, see section 62B.

CPI means Consumer Price Index: All Groups Index Numbers—Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics.

default notice period—

(a) for giving the initial disclosure documents—see section 29(2)(a); or

(b) for giving the supplementary disclosure documents—see section 29(2)(b); or

(c) for giving the disclosure documents under part 7, division 2—see section 48A(a).

destroy includes threaten to destroy, procure someone else to destroy and attempt to destroy.

disclosure documents means—

(a) for a site for which a prospective home owner proposes to enter into, or has entered into, a site agreement—the documents mentioned in schedule 1, parts 1 and 2 and 2 copies of a proposed site agreement for the site; or

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(b) for a site for which a seller proposes to assign, or has assigned, the seller's interest in a site agreement—the documents mentioned in schedule 1 for the site.

dispute negotiation notice see section 107(1).

eligible home, for part 9A, see section 62C.

eligible home owner, for part 9A, see section 62B.

eligible site see section 69C(2).

emergency plan means an emergency plan prepared under section 86A.

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation or the person's position is given the name of executive officer.

facilities includes furniture and equipment.

fee, for part 9, division 2, see section 59.

form of assignment see section 47(1).

FTI Act see section 4A(1).

fund see section 54(3).

general increase day see section 69C(1).

general increase notice see section 69E(1).

guest, of a home owner, means a person who enters the home owner's site in a residential park, or the park's common areas, with the home owner's consent.

hinder includes interfere with.

home owner—

(a) generally—see section 8; and

(b) in a provision about a residential park—means a home owner for the park; and

(c) in a provision about a site agreement—means the home owner under the agreement.

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home owners committee means a home owners committee established under section 100.

information, for part 4, see section 18.

information notice, for an original decision, see section 118.

initial disclosure documents, for a site, see section 29(2)(a).

internal review, of an original decision, for part 17A, see section 118.

internal review decision, for part 17A, see section 118.

manufactured home see section 10.

market review of site rent means a review of site rent the outcome of which is decided by comparing the site rent with 1 or both of the following—

(a) the site rent payable for a site in 1 or more residential parks; or

(b) the rent payable for other residential accommodation.

mediation means mediation under part 17, division 1, subdivision 3.

mediation agreement see section 112(2).

mediation conference see section 108(3)(b)(ii).

mediator means a person who is—

(a) accredited as a mediator under the *Dispute Resolution Centres Act 1990*, section 27AB; or

(b) approved as a mediator under the *Queensland Civil and Administrative Tribunal Act 2009*, section 79(1)(e); or

(c) approved as a mediator under the *Uniform Civil Procedure Rules 1999*; or

(d) approved as a mediator by the Bar Association of Queensland or the Queensland Law Society Incorporated.

nominated way see section 63A(1)(a).

non-resolution notice, for a change in a park rule for a residential park, see section 80(6).

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notice means written notice.

notice of intention to sell, for part 9A, see section 62N(2).

objection closing day, for a change in a park rule for a residential park, see section 78(1)(a).

objectors, for a change in a park rule for a residential park, see section 80(2).

operational cost see section 71(1)(b)(i).

opt in notice, for part 9A, see section 62P(2).

original decision, for part 17A, see section 118.

park liaison committee, for a change in a park rule for a residential park, see section 80(2).

park manager means—

(a) generally—a person appointed as the park manager for a residential park under section 75(1); and

(b) in a provision about a residential park—the park manager for the park.

park owner—

(a) generally—see section 11; and

(b) in a provision about a residential park—means the park owner for the park; and

(c) in a provision about a site agreement—means the park owner under the agreement.

park rules means—

(a) generally—the rules in force for a residential park under part 13; and

(b) in a provision about a residential park—the park rules for the park.

personal effects includes furniture and goods, but does not include a home owner's manufactured home.

prohibited agreement, in relation to a site agreement, means any of the following agreements, or terms of an agreement, between a park owner and a home owner if the agreement is

entered into before or on the same day as the park owner and the home owner enter into the site agreement—

(a) a term of the site agreement to terminate the site agreement;

(b) another agreement, or a term of another agreement, to terminate the site agreement;

(c) a term of the site agreement requiring the home owner to enter into an agreement with the park owner at some later time to terminate the site agreement.

proposal, for a change in a park rule for a residential park, see section 78(1)(a).

proposal decision see section 81(4).

prospective home owner, for a site in a residential park, means a person who indicates to the park owner a willingness to enter into a site agreement for the site.

QCAT information notice, for part 17A, see section 118.

Queensland Ambulance Service means the Queensland Ambulance Service under the *Ambulance Service Act 1991*.

Queensland Fire and Rescue means Queensland Fire and Rescue under the *Fire Services Act 1990.*

reasonably believes means believes on grounds that are reasonable in the circumstances.

registered, in relation to a residential park, for part 4, see section 18.

registered valuer means a valuer registered under the *Valuers Registration Act 1992*.

registrar means the principal registrar under the *Queensland Civil and Administrative Tribunal Act 2009*.

relevant agreement, for part 21, division 2, see section 148.

repair cost see section 71(1)(b)(ii).

repealed Act, for part 21, division 2, see section 148.

residential park—

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(a) generally—see section 12; and

(b) in a provision about a site agreement—means the residential park of which the site the subject of the agreement is a part.

residential park dispute see section 14A.

residential park register, for part 4, see section 18C(1).

restrict includes hinder, prevent, obstruct and attempt to restrict.

sale agreement, for part 7, division 4, see section 51B.

sale order see section 52(6)(a).

scheme, for part 9A, see section 62B.

security interest, in a manufactured home, means a security interest registered for the home under the *Personal Property Securities Act 2009* (Cwlth).

sell, a manufactured home, includes—

(a) attempt to sell the home; and

(b) dispose of the home other than by sale.

Example for paragraph (b)—

a gift of the home

seller see section 42.

seller services, for part 9A, see section 62O(a).

seller's interest see section 42(b).

selling authority see section 60.

site—

(a) generally—see section 13; and

(b) in a provision about a residential park—means a site in the park; and

(c) in a provision about a site agreement—means the site the subject of the agreement.

site agreement—

(a) generally—see section 14; and

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(b) in a provision about a residential park—means a site agreement for a site in the park.

site rent means the rent payable under a site agreement.

site rent payment record see section 65(5)(a).

small claims tribunal, for part 21, division 2, see section 148.

sold, for part 9A, see section 62F.

special cost see section 71(1)(b).

special increase notice see section 71A(1).

special resolution, at a meeting of the home owners for a residential park, means a resolution passed—

(a) at the meeting of which the home owners are given by a home owner at least 21 days notice stating the intention to propose the resolution as a special resolution; and

(b) by a majority of at least three-quarters of the home owners voting personally at the meeting or by postal ballot.

special terms see section 21.

standard terms see section 20.

stated purpose see section 71A(1)(a).

supplementary disclosure documents, for a site, see section 29(2)(b).

tenant, of a home owner, means a person renting the home owner's site in a residential park from the home owner under section 97.

termination day, for part 6, division 3, see section 39A(1).

termination order, for part 6, division 3, see sections 38(1) and 39(3).

termination payment see section 52(6)(b).

tribunal means QCAT.

unregistered residential park, for part 4, see section 18.

upgrade cost see section 71(1)(b)(iii).

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utility means any of the following services—

(a) electricity;

(b) gas;

(c) sewerage;

(d) water;

(e) another service prescribed under a regulation.

utility cost means a cost, for a utility supplied to or used at a site in a residential park, that the park owner incorporates into the site rent payable under a site agreement for the site, whether or not the cost is separately identified in the agreement.

utility cost notice see section 73(2).