



Queensland

*Manufactured Homes (Residential Parks) Act 2003*

# **Manufactured Homes (Residential Parks) Regulation 2017**

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Queensland

# Manufactured Homes (Residential Parks) Regulation 2017

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# Manufactured Homes (Residential Parks) Regulation 2017

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Manufactured Homes (Residential Parks) Regulation 2017*.

### 2 Commencement

- (1) This regulation, other than section 3, commences on 1 September 2017.
- (2) Section 3 commences on 1 October 2017.

## Part 2 Residential parks

### 2A Information required for application for registration of residential park—Act, s 18A

For section 18A(3)(j) of the Act, the following information is prescribed—

- (a) a copy of any development approvals for the planning and construction of the residential park—
  - (i) required under the *Planning Act 2016*; and
  - (ii) obtained by the park owner;
- (b) whether the residential park will contain types of accommodation in addition to owner-occupied manufactured homes;

*Examples of additional types of accommodation—*

caravans, holiday rentals, residential premises (including manufactured homes) under residential tenancy agreements

- (c) details of any other residential parks owned by the park owner;
- (d) a copy of any instrument used, or to be used, by the park owner as a template for—
  - (i) a site agreement; or
  - (ii) an agreement for the sale of a manufactured home in the residential park to a prospective home owner;
- (e) an estimate of the proposed site rent, or the proposed range of site rent, payable by a home owner in the first year of operation of the residential park.

**2B Information to be included in residential park register for residential park—Act, s 18C**

For section 18C(2)(l) of the Act, the following information is prescribed—

- (a) the information prescribed under section 2A that was included in, or accompanied, the application to register the residential park;
- (b) the comparison document, or information included in the comparison document, for the residential park;
- (c) whether the residential park has started operating;
- (d) if the residential park has started operating—the date the park started operating.

**2C Exemption from requirement to maintain website for residential park—Act, s 18G**

For section 18G(3) of the Act, a residential park is exempt from the requirement under section 18G(1) of the Act if the residential park has not more than 15 sites.

## **2D Details for comparison document for residential park—Act, s 18H**

For section 18H(b)(v) of the Act, the details stated in schedule 1 are prescribed.

# **Part 3 Site agreements**

## **2E Requirements for site agreement—Act, s 25**

- (1) For section 25(4)(l) of the Act, this section prescribes other requirements for a site agreement.
- (2) The site agreement must state that, under section 19 of the Act, the park rules for the residential park are taken to be included as terms of the site agreement.
- (3) The site agreement must state—
  - (a) the utilities that are supplied to the site; and
  - (b) the utilities, if any, that are included in the site rent payable for the site.
- (4) The site agreement must state—
  - (a) whether or not a landline telephone service is available to the site; and
  - (b) whether or not an internet service is available to, or accessible from, the site; and
  - (c) if a service mentioned in paragraph (a) or (b) is available to, or accessible from, the site—whether the service is included in the site rent payable for the site.
- (5) If the site agreement provides for the placement of a ‘for sale’ sign, in relation to the manufactured home, on the site, the site agreement must state any requirements that apply in relation to the placement of the sign.

*Note—*

See section 57 of the Act in relation to the placement of a ‘for sale’ sign on the site.

- (6) The site agreement must state whether or not the park owner may require the home owner to reposition the manufactured home to another site in the residential park.

*Note—*

See section 93 of the Act for the circumstances in which the park owner may require the home owner to reposition the manufactured home.

- (7) The site agreement must state—
- (a) any external features of the site that the home owner must maintain; and
  - (b) any external features of the site that the park owner must maintain.

*Examples of external features—*

gardens, lawns, trees, retaining walls

*Note—*

See section 94 of the Act in relation to access by the park owner or the park manager to the site for maintenance of the site.

- (8) The site agreement must state whether or not the home owner is allowed to rent the site on which the home owner's manufactured home is positioned to a person on a temporary basis.

### **3 Particular types of special terms prohibited in site agreements—Act, s 25B**

For section 25B(1)(a) of the Act, the types of special terms that are prohibited are special terms that—

- (a) calculate site rent increases in a misleading way; or

*Example—*

a special term that states that a rental increase is calculated in accordance with the consumer price index, but the rental increase includes an additional charge

- (b) require a home owner to pay other charges but does not fully explain the charges; or



- 
- (c) require a home owner to gain the consent of the park owner before the home owner complies with a requirement under law; or
  - (d) state that if the seller assigns the seller's interest in a site agreement to a buyer, the site agreement between the seller and the park owner does not end until the buyer enters into a site agreement with the park owner; or
  - (e) require the home owner to give a current building inspection certificate to the park owner; or
  - (f) restrict or prohibit an alteration to the home that is not visible from the outside of the home; or
  - (g) allow the park owner to consent to the alteration to the exterior of a home or addition to the home in a way that is contrary to section 98 of the Act; or
  - (h) require the home owner to indemnify the park owner and the park owner's employees, contractors or agents for loss that was not caused by the home owner, a guest of a home owner, or a home owner's contractors or agents; or
  - (i) give the park owner either of the following rights, however described—
    - (i) a right to buy a home before another person may be offered the home;
    - (ii) a right to make a final offer to buy a home after all other offers have been made to buy the home; or
  - (j) state site rent will not be reduced if there is a decrease or reduction in the standards, amenity or community facilities or services, including if—
    - (i) there is a decrease in amenity or standard of the residential park's common areas and communal facilities mentioned in section 72(1)(a) of the Act; or
    - (ii) a communal facility or services mentioned in section 72(1)(b) of the Act has been withdrawn; or

- (iii) a communal facility or services mentioned in section 72(1)(c) of the Act has not been provided; or
- (k) state that the park owner does not warrant that the site is suitable for use as the site of a manufactured home; or
- (l) state that the park owner may exclude a person from the residential park without having reasonable grounds for the exclusion; or
- (m) appoint, or require the home owner to appoint, the park owner as an attorney for the home owner; or
- (n) state that the seller is liable for the actions of a buyer after the seller assigns the seller's interest to the buyer; or
- (o) state that referring to the site agreement is a sufficient way to explain how an increase in site rent is calculated for the Act; or
- (p) purport to exclude legislation from affecting the site agreement, unless the legislation provides that it may be excluded; or
- (q) impose a monetary penalty on a home owner if the home owner breaches the site agreement; or
- (r) remove a park owner's liability for negligence or a breach of a contractual duty of care if the negligence or breach is caused by an act or omission of the park owner or the park owner's employees, contractors or agents; or
- (s) prohibit or prevent the park owner from reducing the site rent for any reason.

### **3A Information required for disclosure documents—Act, sch 1**

For schedule 1, item 13 of the Act, the other information stated in schedule 2 is prescribed.

## Part 4 **Sale of manufactured home positioned on site**

### **3B Information required for sale agreement—Act, s 56B**

For section 56B(1)(b) of the Act, the information stated in schedule 3 is prescribed.

### **4 Maximum fee under selling authority—Act, s 61**

For section 61 of the Act, the prescribed amount is—

- (a) if the sale price of the manufactured home is not more than \$18,000—5% of the sale price; or
- (b) if the sale price of the manufactured home is more than \$18,000—\$900 plus 2.5% of the part of the sale price over \$18,000.

## Part 5 **Varying site rent**

### **4A Bases for site rent increase—Act, s 69A**

- (1) For section 69A(1)(b) of the Act, each of the following is prescribed as a basis for working out the amount of an increase in the site rent—
  - (a) an amount worked out by multiplying the site rent by the CPI increase;
  - (b) an amount worked out by multiplying the site rent by a stated percentage;
  - (c) a stated amount expressed in dollars;
  - (d) an amount worked out by apportioning, in a stated way, the relevant rates increase for the residential park among the home owners for the residential park;
  - (e) an amount that is the greater of the amounts under any 2 of the bases prescribed under paragraphs (a) to (d);

*Example—*

the amount that is the greater of the following amounts—

- (a) the amount worked out by multiplying the site rent by the CPI increase;
  - (b) the amount worked out by multiplying the site rent by 3.5%
- (f) an amount that is the lesser of the amounts under any 2 of the bases prescribed under paragraphs (a) to (d);

*Example—*

the amount that is the lesser of the following amounts—

- (a) the amount worked out by multiplying the site rent by the CPI increase;
  - (b) the amount worked out by multiplying the site rent by 2.5%
- (g) an amount that is the sum of the amounts worked out using any 2 of the bases prescribed under paragraphs (a) to (d).

*Example—*

the amount that is the sum of—

- (a) the amount worked out by multiplying the site rent by the CPI increase; and
- (b) the amount worked out by multiplying the site rent by 1%

*Note for subsection (1)—*

See, however, section 69B of the Act in relation to restrictions on increasing the site rent.

- (2) In this section—

***CPI increase*** see section 69B(7) of the Act.

***rate notice*** means—

- (a) a notice issued under a regulation made under the *City of Brisbane Act 2010* to levy rates and charges under that Act; or
- (b) a notice issued under a regulation made under the *Local Government Act 2009* to levy rates and charges under that Act.

***relevant rates increase***, for a residential park, means the amount of the increase, if any, expressed in dollars between

the total amount payable under the rate notices issued to the park owner in respect of the residential park—

- (a) for the 12-month period ending on a stated day of the year in which the increase in site rent is being worked out; and
- (b) for the 12-month period ending on the same day of the year immediately preceding the year mentioned in paragraph (a).

## Part 6 Park owners' obligations

### 5 Prescribed matter for emergency plans—Act, s 86A

For section 86A(1)(d) of the Act, the matter prescribed is the place to which home owners and other residents of the park must evacuate if there is an emergency.

### 6 Written records of emergency procedure tests

- (1) The park owner for a residential park must ensure a written record of each emergency procedure test for the park is kept at the park.

Maximum penalty—20 penalty units.

- (2) In this section—

*emergency procedure test*, for a residential park, means a test of an emergency procedure provided for in the emergency plan for the park.

### 7 Emergency plan to be displayed on notice board—Act, s 89

For section 89(3) of the Act—

- (a) the prescribed type of information is the emergency plan for the residential park; and

- (b) the prescribed period is any period for which a home owner for the park, or a tenant of a home owner for the park, resides in the park.

## **Part 7                      Transitional provision**

### **9              Manufactured Homes (Residential Parks) Regulation 2003 references**

A reference in any document to the *Manufactured Homes (Residential Parks) Regulation 2003* may, if the context permits, be taken to be a reference to this regulation.

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# **Schedule 1      Details for comparison document for residential park**

## **section 2D**

### **Identifying information**

- 1      the address of the residential park
- 2      the real property description of the land on which the residential park is situated
- 3      the name of the park owner
- 4      contact details for the park owner

### **Residential park information**

- 5      whether the residential park is completed or under development
- 6      the total number of sites in the residential park or, if the park is under development, the total number of sites that will be in the park on completion of the development
- 7      if the residential park contains types of accommodation in addition to owner-occupied manufactured homes—the types of accommodation

*Examples of additional types of accommodation—*

caravans, holiday rentals, residential premises (including manufactured homes) under residential tenancy agreements

- 8      a copy of any park rules in force for the residential park
- 9      details of any restrictions in the park rules in relation to the keeping of pets
- 10     the general increase day for the residential park for each basis on which site rent may be increased under a site agreement

### **Fees and costs**

- 11 mandatory fees or costs for a home owner that are not included in the site rent
- 12 optional services available in the residential park for an additional fee or cost
- 13 communal facilities that may be accessed for an additional fee or cost

### **Utilities**

- 14 utilities not included in the site rent that are available to sites
- 15 how utilities are supplied to sites, including—
  - (a) details of any embedded networks; and
  - (b) details of any known restrictions on the installation or use of solar panels in the residential park

### **Residential park land and facilities**

- 16 the number and types of parking spaces available in the residential park, other than parking spaces allocated to particular sites, that are—
  - (a) available for the use of home owners and visitors; or
  - (b) suitable for caravans, campervans, motorhomes, boats or other recreational vehicles
- 17 whether the residential park has the following security and safety features—
  - (a) security cameras;
  - (b) security gates;
  - (c) emergency phones;
  - (d) a defibrillator
- 18 whether the communal facilities in the residential park have the following accessibility features—



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- (a) ramps;
  - (b) lifts;
  - (c) wheelchair-accessible toilets;
  - (d) extra-wide doors
- 19 details about the day-to-day management of the residential park, including—
- (a) whether there is an on-site park manager; and
  - (b) the contact hours for the park manager; and
  - (c) whether home owners and other residents have after-hours access to the park manager's services

### **Miscellaneous**

- 20 whether communal facilities or common areas in the residential park are insured
- 21 whether the residential park has a home owners committee
- 22 whether the park owner is a signatory to an industry-based code of conduct or is voluntarily accredited through an industry-based accreditation scheme

## **Schedule 2      Information required for disclosure documents**

section 3A

### **1      Meaning of particular terms**

The meaning of each of the following terms under the Act—

- (a) CPI;
- (b) home owner;
- (c) manufactured home;
- (d) park owner;
- (e) park rules;
- (f) residential park;
- (g) sale agreement;
- (h) site agreement.

### **2      Information about buying manufactured home**

The following information about buying a manufactured home positioned on a site in a residential park—

- (a) that the buyer and the seller enter into a sale agreement in relation to the manufactured home;
- (b) that the seller must not complete the sale of the manufactured home to the buyer unless—
  - (i) the park owner and the buyer have entered into a site agreement for the site on which the manufactured home is positioned; and
  - (ii) the buyer has been given the disclosure documents for the site as required under section 29 of the Act;
- (c) that, if the site agreement is terminated under section 33 of the Act, the sale agreement is taken, under section 34

of the Act, to be at an end on the day termination of the site agreement is effective.

### **3 Information about selling manufactured home**

The following information about selling a manufactured home positioned on a site in a residential park—

- (a) that a home owner who proposes to sell their manufactured home must give the park owner a notice of the home owner's intention to sell the home under section 56A(1) and (2) of the Act;
- (b) that the park owner, if given a notice of the home owner's intention to sell the manufactured home, must give the home owner a notice under section 56A(3) of the Act stating—
  - (i) whether the park owner offers services for the sale of manufactured homes in the residential park; and
  - (ii) the site rent that will be payable by a new home owner under a site agreement for the site;
- (c) details of the requirements under section 56C of the Act if the seller of the manufactured home is not the park owner.

### **4 Buyback and rent reduction scheme**

The following information about the buyback and rent reduction scheme under part 9A of the Act—

- (a) the meaning of an eligible home under section 62C of the Act;
- (b) the process for joining the scheme under part 9A, division 4 of the Act;
- (c) details of the process for valuing the resale value of an eligible home under part 9A, division 8 of the Act;
- (d) that, if an eligible home has not been sold within 6 months after the start of the buyback period for the eligible home, the park owner must, under section 62V

of the Act, reduce by 25% the site rent payable under the site agreement for the site on which the eligible home is positioned;

- (e) that the park owner may apply to the tribunal under section 62ZC or 62ZD of the Act for an extension of the period for completing the purchase of an eligible home under a buyback agreement.

## **5 Park rules**

A description of the process under part 13, division 2 of the Act for changing a park rule for a residential park.

## **6 Home owners committee**

The following information—

- (a) a description of how a home owners committee for a residential park is established under section 100 of the Act;
- (b) a description of how a home owners committee may adopt a constitution under section 101 of the Act;
- (c) the function of a home owners committee under section 102 of the Act.

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## **Schedule 3      Information required for sale agreement**

### **section 3B**

#### **1      Contact details**

The name, address, phone number and email address of the following persons—

- (a) the seller;
- (b) if the seller has a solicitor in relation to the sale of the manufactured home—the seller's solicitor;
- (c) if the seller has an agent, other than a solicitor, for the sale of the manufactured home—the seller's agent;
- (d) the buyer;
- (e) if the buyer has a solicitor in relation to the purchase of the manufactured home—the buyer's solicitor;
- (f) if the buyer has an agent, other than a solicitor, for the purchase of the manufactured home—the buyer's agent.

#### **2      Residential park**

The following information about the residential park—

- (a) the name and address of the residential park containing the site on which the manufactured home is positioned;
- (b) the location within the residential park of the site on which the manufactured home is positioned;
- (c) the park owner's name, address, phone number and email address.

#### **3      Manufactured home**

The following information about the manufactured home—

- (a) the number of bedrooms in the manufactured home;

Schedule 3

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- (b) the number of bathrooms in the manufactured home;
- (c) any unique identifying number or feature of the manufactured home, if known by the seller;

*Example—*

a serial number

- (d) any items attached or affixed to the manufactured home that are not included as part of the sale of the home;
- (e) details of any alterations or additions made to the manufactured home, if made by the seller or otherwise known by the seller;
- (f) details of any application lodged, or approval or consent given, in relation to an alteration or addition to the manufactured home, or a proposed alteration or addition to the manufactured home, if the application was made by the seller or the details are otherwise known by the seller.

#### **4 Sale of manufactured home**

The following information about the sale of the manufactured home—

- (a) the sale price of the manufactured home;
- (b) how and when payment for the manufactured home is to be made;
- (c) the day ownership of the manufactured home is transferred to the buyer;
- (d) if there is more than 1 buyer—whether the home is held by the buyers as joint tenants or tenants in common;
- (e) the rights of the buyer under section 33 of the Act to terminate the site agreement within the cooling-off period, and the circumstances in which the termination of the site agreement will automatically end the sale agreement under section 34 of the Act.