

Termination notice for site agreement – by home owner in cooling-off period

ABN: 86 504 771 740

Manufactured Homes (Residential Parks) Act 2003

This form is effective from 1 September 2019

Important

If you have concerns about this notice, you should seek legal advice from an independent and experienced Queensland lawyer.

This form can be used by a new home owner to terminate a site agreement during the cooling-off period.

Information for Buyer (home owner)

A home owner can use this form to terminate a site agreement during the cooling-off period. The completed and signed form must be given to the park owner and any financier who has been granted a security interest in the manufactured home on the site:

- within 7 days of entering into a site agreement if the home owner has been provided with the precontractual disclosure documents in accordance with section 29 of the *Manufactured Homes (Residential Parks) Act 2003 (Act)*; or
- within 28 days of entering into a site agreement if the home owner has not been provided with the precontractual disclosure documents in accordance with section 29 of the Act.

The home owner must give this completed form within the above timeframes or the cooling-off period will expire and the home owner will lose the right to terminate under the cooling-off period.

The Department of Housing and Public Works also recommends that you:

- use a receipted delivery service if sending by mail; or
- keep a transmission record if sending by fax or email.

If the home owner has entered into an agreement with the park owner for the sale of a manufactured home positioned on the site, then that sale agreement will automatically be at an end on the date the site agreement is terminated.

Park owner information

After receiving this form, the park owner/manager must:

- refund any amount received from the home owner under the site agreement within 14 days after the termination date; and
- pay the refundable amount in respect of any termination of a sale agreement for a manufactured home (as defined in the Act) to any financier under a security interest in the home to the extent an amount is owing under the security interest and the balance to the home owner in accordance with section 34 of the Act.

Financier information

After receiving this form, the financier must give the park owner a notice stating the amount owing under a security interest within 7 days after the ending of the sale agreement.

If you need help completing this form, please contact the Department of Housing and Public Works on **13 QGOV (13 74 68)**

Part 1 – Details

Section 1

Home owner

Name of home owner who is seeking to terminate site agreement

Person 1

Preferred title Mr Mrs Ms Miss Other (specify)

Full name

Phone

Email

Person 2

Preferred title Mr Mrs Ms Miss Other (specify)

Full name

Phone

Email

Section 2

Residential park and site

Park name and address

.....

.....

Site location (e.g. site number or other description)

.....

.....

Section 3

Key information

The site agreement was entered into on

DD / MM / YYYY

The following circumstances apply:

the park owner **did** provide the precontractual disclosure documents in accordance with the Act and the home owner is terminating the site agreement within the 7-day cooling-off period.

the park owner **did not** provide the precontractual disclosure documents in accordance with the Act and the home owner is terminating the site agreement within the 28-day cooling-off period.

The **termination date** is

DD / MM / YYYY

The **termination date** must be within 28 days after the date this notice is issued to the park owner and financier (if any).

Section 4

Sale agreement for manufactured home

Please indicate below if there is a sale agreement between the home owner and the park owner in respect of the manufactured home on the site

Yes, there is a sale agreement between the park owner and the home owner

No, there is no sale agreement between the park owner and the home owner

Date of sale agreement (if applicable):

DD / MM / YYYY

<p>Section 5 Financier details (if applicable)</p>	<p>Financier name</p> <p>ABN (if applicable)</p> <p>Address</p> <p>.....</p> <p>Phone</p> <p>Email</p>
<p>Section 6 Home owner signatures</p>	<p>Person 1</p> <p>Signatory (print name)</p> <p>Signature Date DD / MM / YY</p> <p>Person 2</p> <p>Signatory (print name)</p> <p>Signature Date DD / MM / YY</p>

Part 2 – Other effects of cooling-off

Section 1

Terminating the sale agreement

If the prospective home owner entered into a sale agreement with the park owner to purchase the manufactured home in conjunction with the site agreement for the site, then:

- termination of the site agreement under the cooling-off period means that the sale agreement is taken to be at an end on the termination date; and
- ownership of the manufactured home reverts to the park owner on the termination date.

The park owner is required to refund:

- any amounts paid to it under the sale agreement; and
- if the park owner did not give the precontractual disclosure documents as required under section 29 of the Act – the amount of any expenses reasonably incurred by the home owner arising out of or incidental to the sale agreement (refundable amount).

If the home owner granted a financier a registered security interest in the manufactured home, then the park owner is required to refund any amount owing under the security interest first before paying the balance to the home owner.

Section 2

When compensation may be payable

The home owner may, subject to the dispute resolution procedures in the Act, apply to the Queensland Civil and Administrative Tribunal (the tribunal) for a compensation order requiring the park owner to pay compensation to cover the reasonable costs of removing the manufactured home from the site and relocating it to another place.

However, a compensation order may only be sought by the home owner if:

- the home owner terminates the site agreement under the cooling-off period
- the park owner did not give the precontractual disclosure documents as required under section 29 of the Act
- the home owner removes the manufactured home positioned by the home owner on the site and relocates it to another place; and
- the home owner and park owner do not agree about compensation payable to the home owner.

The home owner must make an application to the tribunal within six months after the termination of the site agreement is effective.

In making a compensation order, the tribunal may have regard to the following:

- the cost of removing the home from the site
- the cost of transporting the home and the home owner's personal effects to the other location
- the cost of positioning the home at the other location
- the cost of repairing any damage to the home arising from its removal and relocation
- whether the home owner has taken all reasonable steps to mitigate the costs of removal and relocation.

Further information

If you would like more information, contact the Department of Housing and Public Works on 13 QGOV (13 74 68) or visit our website at www.hpw.qld.gov.au

Regulatory Services (Department of Housing and Public Works)

Regulatory Services administers the *Manufactured Homes (Residential Parks) Act 2003*. This includes investigating complaints and alleged breaches of the Act.

Department of Housing and Public Works

GPO Box 690, Brisbane, QLD 4001

Phone: 07 3008 3450

Email: regulatoryservices@hpw.qld.gov.au

Website: www.hpw.qld.gov.au/housing

Queensland Retirement Villages and Parks Advisory Service (QRVPAS)

Specialist service providing free information and legal assistance for home owners and prospective home owners in residential parks in Queensland.

Caxton Legal Centre Inc.

1 Manning Street, South Brisbane, QLD 4101

Phone: 07 3214 6333

Email: caxton@caxton.org.au

Website: www.caxton.org.au

Seniors Legal and Support Services Centres

Provides free legal and support services for seniors concerned about elder abuse, mistreatment or financial exploitation.

Caxton Legal Centre Inc.

1 Manning Street, South Brisbane, QLD 4101

Phone: 07 3214 6333

Email: caxton@caxton.org.au

Website: www.caxton.org.au/sails_slash

Queensland Civil and Administrative Tribunal (QCAT)

This independent decision-making body helps resolve disputes and reviews administrative decisions by government.

GPO Box 1639, Brisbane, QLD 4001

Phone: 1300 753 228

Email: enquiries@qcat.qld.gov.au

Website: www.qcat.qld.gov.au

Queensland Law Society

Find a solicitor.

Law Society House

179 Ann Street, Brisbane, QLD 4000

Phone: 1300 367 757

Email: info@qls.com.au

Website: www.qls.com.au

Department of Justice and Attorney-General

Dispute Resolution Centres provide a free, confidential and impartial mediation service to the community.

Phone: 07 3006 2518

Toll free: 1800 017 288

Website: www.justice.qld.gov.au