

Home owners information document

Manufactured Homes (Residential Parks) Act 2003

This form is effective from 31 October 2018

ABN: 86 504 771 740

Residential park details

Park name

Park address

Suburb State Postcode

Phone

Fax Mobile phone

Email

Important

Before signing a site agreement or agreeing to an assignment of a home owner's interest under a site agreement, seek independent professional advice from an experienced lawyer or community legal service.

Important information you must know before entering into a site agreement:

- you will not own the land your home will be positioned on
- your site rent may be increased outside the terms of your site agreement in particular circumstances
- your site agreement may be terminated in particular circumstances.

This document includes important information about this residential park and the *Manufactured Homes (Residential Parks) Act 2003 (the Act)*. It is one of the key documents designed to help you decide whether to live in the park.

This document seeks to ensure that you are aware of your rights and responsibilities under the law. It also provides details about the facilities this residential park offers.

While the Act sets out certain requirements for site agreements between park owners and home owners, **you are encouraged to seek legal advice** before entering into a site agreement or any agreement to purchase a manufactured home in a residential park.

The *Home owners information document* (Form 1), the park rules (with any proposed changes) and two copies of the proposed site agreement **must** be provided to you **before** you enter into a site agreement with a park owner. If you propose to accept the assignment (transfer) of a site agreement from an existing home owner (or home owners), the park owner must also provide you with this document, the park rules (with any proposed changes), written advice of the current site rent payable by the current home owner/s (seller/s) and a copy of the existing site agreement with the seller/s.

The information in this document is current for this residential park as at
DD / MM / YYYY

This *Home owners information document* (Form 1) is an approved form under the Act. The format and generic contents were approved by the Department of Housing and Public Works.

The information about the residential park in parts 2, 3 and 4 of the document are in the approved format. The contents of those parts do not carry the Department of Housing and Public Works' specific endorsement or approval.

All manufactured homes forms are available from [**www.business.qld.gov.au**](http://www.business.qld.gov.au)

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Introduction

It is important that you understand your rights and obligations under the Act and under this agreement. **Please take time to read all documents carefully and ask about anything you do not understand.**

Under the Act, the park owner must supply you (as a prospective home owner) with:

- disclosure documents for the park consisting of:
 - this *Home owners information document* (Form 1)
 - the park rules and any outstanding proposals to change those park rules.
- two copies of the proposed site agreement or, in the case of an agreement being assigned, a copy of the existing site agreement with the home owner/s (seller/s).

Before signing the new site agreement or the *Form of assignment* (Form 8) for an existing agreement, you should seek independent advice from a solicitor or community legal service. Your solicitor should discuss the terms of the site agreement and the information contained within this document with you and should advise you about your rights and obligations under the site agreement.

The structure of this document

The document is in four parts:

- Part 1: General information on residential park living and relevant provisions of the Act
- Part 2: Specific information on this residential park, including available facilities
- Part 3: Information on the dispute-resolution process (including details of any internal mechanism for handling complaints) and information on the Queensland Civil and Administrative Tribunal (the tribunal)

Part 4: Additional information specific to this residential park.

This document gives only a broad outline of the Act. Copies of the Act can be downloaded from www.legislation.qld.gov.au.

This document should be read in conjunction with the site agreement, which will contain specific information on rent or other charges that apply in the residential park.

Key definitions**What is a manufactured home?**

A manufactured home is a structure other than a caravan or tent that has the character of a dwelling house, is designed so that it can be moved from one position to another and is not permanently attached to land.

What is a residential park?

A residential park is an area of land that includes sites (land available for rent under site agreements), common areas and facilities for the personal comfort, convenience or enjoyment of home owners.

Who is a home owner?

A home owner is a person who owns a manufactured home that is (or will be) positioned on a site in a residential park under a site agreement, irrespective of whether they occupy the home themselves or let the home to a tenant on a temporary basis (if permitted under the site agreement). A personal representative or a beneficiary of the estate of a deceased home owner or other successor in title is also defined as a home owner.

Who is a park owner?

A park owner is a person who owns a residential park. A personal representative, beneficiary of the estate of a deceased park owner or other successor in title is also defined as a park owner. A mortgagee in possession of a residential park is also considered a park owner.

What is a site agreement?

A site agreement is an agreement between a park owner and a home owner/s that details:

- the rental by the home owner/s of a particular site in a residential park
- the manufactured home's positioning in the residential park
- the non-exclusive use of the park's common areas and communal facilities by the home owner/s
- any special provisions/conditions required or permitted by the Act to be in the agreement.

Introduction continued

Approved forms have been developed to assist businesses and home owners in complying with the requirements of the Act. You can obtain these forms by visiting www.business.qld.gov.au or by calling the Department of Housing and Public Works on **13 QGOV (13 74 68)**.

- *Home owners information document* (Form 1)—this form is to be completed by the park owner and given to potential home owners
- *Manufactured homes (residential parks) site agreement* (Form 2)—this form is to be completed by the park owner and home owner/s when entering into a site agreement
- *Termination notice—by home owner within 28 days of entering site agreement* (Form 3)—to be completed by the home owner/s and given to the park owner
- *Termination notice—by mutual agreement* (Form 4)—this form is to be completed by the home owner/s and given to the park owner
- *Termination notice—by home owner* (Form 5)—this form is to be completed by the homeowner/s and given to the park owner
- *Notice to remedy breach* (Form 6)—this form is to be completed by the park owner or home owner/s and given to the other party where they claim there has been a breach of one or a number of terms of the site agreement
- *Notice of proposed sale and assignment* (Form 7)—to be completed by the home owner/s and given to the park owner when the home owner/s wish to sell their manufactured home and assign the site agreement to a buyer or buyers
- *Form of assignment (transfer)* (Form 8)—to be completed by the home owner/s (seller/s), the buyer/s and the park owner when the home owner/s want to assign their interest in a site agreement for a site in a residential park to the buyer/s
- *Notice of variation of site agreement upon assignment to allow periodic site rent variations based on market review* (Form 8a)—this form is to be completed by the park owner when the home owner/s want to assign their interest in a site agreement for a site in a residential park to the buyer/s

Introduction continued

- *Selling authority* (Form 9)—this form is to be completed by the home owner/s (seller/s) to authorise the park owner/manager to sell their manufactured home on a site in a residential park
- *Information for record of residential parks* (Form 10)—this form is to be completed by a park owner within 28 days of opening the park or within 28 days of a change in the information previously supplied.
- *Dispute Negotiation Notice* (Form 11)—this form may be completed by the home owner or the park owner to initiate dispute resolution processes with another party.
- *General site rent increase notice* (Form 12)—this form may be completed by the park owner to notify a home owner at least 35 days before the general rent increase day of a proposed rent increase.
- *Notice of rent increase to cover a special cost* (Form 13)—this form may be completed by the park owner to notify a home owner at least 2 months before the general rent increase day of a proposed rent increase to cover a special cost.
- *Utility Cost Notice* (Form 14)—this form may be completed by the park owner, within 14 days of the change occurring, to notify the home owner of a change in site rent due to a change in circumstances relating to utility costs.

Section 1 General residential park information

Living in a residential park is a lifestyle choice. It is different from living in your own home on your own block of land. Residential parks offer communal living with its own benefits. For example, home owners are often of a similar age with similar interests and residential parks usually offer a range of recreational facilities on site. Generally residential parks provide a measure of personal security and safety for home owners through their collective interests or through services or facilities provided by the park owner.

Home owners own their manufactured homes but do not have any rights over the land upon which their homes are situated, except under the terms of the site agreement and the Act. Park owners are also subject to the terms of the site agreement and the Act but may deal with the land (including its use) how they see fit.

Before making a decision to move into a residential park, you should:

- consider whether the park offers the facilities you require
- ensure that you are able to meet the rent payments and rent increases over time
- talk to other home owners to find out if they like living in the park and are happy with the park management
- ensure that the home and the site are in a good state of repair
- have the site agreement and any purchase agreement checked by an independent legal adviser and/or financial adviser
- check with the local government to find out if there are any proposals to change the purpose of the park land
- consider the location of the park and its proximity to personal support such as relatives and friends
- ensure that the park is in close proximity or has ready access to any medical or other services or facilities you use regularly.

Types of residential parks

There are various types of residential parks. You will need to seek information to determine which type best suits your individual requirements.

The options include:

- purpose-built manufactured home parks exclusively for owner-occupied manufactured homes
- purpose-built manufactured home parks with both owner-occupied and rented manufactured homes
- mixed accommodation (caravans, cabins and manufactured homes) but predominantly caravan parks
- tourist parks with some permanent caravan tenants and both rented and owner-occupied manufactured homes.

If the type of park is not clear or you are not certain of the type of park you are interested in, ask the park owner for details about the homes and residents (home owners/tenants) in the park.

Part 1—General information continued

Section 1 General residential park information continued

Facilities information

Not all parks offer the same facilities. The park owner may provide a number of facilities for residents. These could include:

- gardens
- an on-site shop
- transport facilities
- dining facilities
- emergency call access facilities
- recreational/social facilities.

A list of facilities offered for this residential park is shown in part 2 of this document. Additional facilities may also be provided if certain situations occur, such as the opening of new developments or sections within the park. Details of any proposed facilities, including when they may become available, are also shown in part 2.

Section 2 Basic responsibilities/ obligations of park owners and home owners

The Act sets out the basic responsibilities of home owners (section 16) and park owners (section 17). The Act also contains enforceable behavioural obligations for home owners (section 105) and park owners (section 104). Other parts of the Act deal with more specific rights and responsibilities.

Responsibilities of home owners

Some of the responsibilities of home owners include:

1. Use the site as a place of residence only.
2. Use the residential park's common areas for purposes associated with residential use only. Do not use the site or common areas for an illegal purpose or allow guests or tenants to do so.
3. Comply with the following behaviour standards in section 105 of the Act and ensure, as far as reasonably practicable, that tenants and guests comply with the standards:
 - (a) Respect the rights of other home owners of the park and other persons in the park.
 - (b) Do not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of another home owner or resident.
 - (c) Respect the right of the park owner and their representatives to work in an environment free from harassment and intimidation.
 - (d) Do not act in a way that adversely affects the occupational health and safety of a person working in the residential park.
 - (e) Ensure that tenants and guests, as far as reasonably practicable, comply with the behavioural standards.

Part 1—General information continued

Section 2

Basic responsibilities/ obligations of park owners and home owners continued

4. Pay to the park owner the site rent and other charges payable under the site agreement (e.g. utility costs if separately measured or metered).
5. Do not intentionally or recklessly damage or destroy the park's communal facilities or allow guests or tenants to do so.
6. Maintain the manufactured home in a reasonable state of cleanliness and repair so it is fit to live in.
7. Do not rent the site to a tenant unless this is allowed under the site agreement. If it is allowed, provide the park owner (in writing) with the tenant's name and the period of the tenancy as soon as practicable.
8. Do 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. You can apply to the tribunal if the park owner unreasonably refuses consent, subject to dispute resolution procedures in the Act.
9. Comply with the site agreement and park rules.

Responsibilities of park owners

Some of the responsibilities of park owners include:

1. Take reasonable steps to ensure home owners and their tenant always have access to their site and reasonable access to the common areas.
2. Maintain the common areas and communal facilities in a reasonable state of cleanliness and repair so that they are fit for use by home owners and their tenants.
3. Be reasonably available or have a park manager available to home owners and their tenants at reasonable times for consultation regarding park operations, including the supply of utilities.
4. Ensure continuity of supply of utilities to the park and sites to the extent it is within the park owner's control.
5. Pay the cost of installing a measuring device or meter to measure use of a utility if the park owner wants to separately measure or meter use of the utility at the site.
6. Do not charge the home owner/s, or arrange for the home owner/s to be charged an amount for the use of a utility that is more than the amount charged by the relevant supply authority for the quantity of the service supplied to, or used, at the site. This applies if 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 the use is separately measured or metered.

Part 1—General information continued

Section 2 **Basic responsibilities/** **obligations of park** **owners and home** **owners continued**

7. Comply with the following behavioural standards in section 104 of the Act:
 - (a) Do not unreasonably interfere with, or allow interference with the reasonable peace, comfort or privacy of a home owner or other residents.
 - (b) Take reasonable steps to ensure a home owner or other resident, or guest of a home owner, does not interfere with the reasonable peace, comfort or privacy of another home owner or resident.
 - (c) Use the park owner's best endeavours to ensure each home owner or resident lives in an environment free from harassment and intimidation.
 - (d) Do not unreasonably restrict the right of a home owner or other resident to autonomy over their personal, financial or other matters or possessions.
 - (e) Do not unreasonably restrict a home owner or other resident from exercising self-reliance in matters relating to their personal, domestic or financial affairs.
 - (f) Must give a complete response to correspondence from a home owner, resident, or a home owner's representative within 21 days of receiving the correspondence if the correspondence is considered 'relevant correspondence' under the Act, and the park owner has not given a previous response to it under the Act.
8. Take reasonable steps to ensure emergency services (e.g. ambulance, fire and police) at all times have access to the park in an emergency, unless the park owner has a reasonable excuse.
9. Do not unreasonably interfere with a home owner's right to participate in a home owner's organisation.
10. Maintain a noticeboard in a prominent position within the common areas and allow home owners to read the board and place notices or other material relevant to the park on the board.
11. Display information as required by any regulation on the residential park noticeboard.
12. Ensure trees in common areas are maintained so they do not pose a danger to any person or property. Maintenance of trees on an individual site is subject to negotiation between the home owner/s and the park owner and should be included as a special term of the site agreement.
13. Establish and maintain reasonable and accessible mail facilities at the park for home owners.
14. Give written notice to home owners within 7 days of a change of business hours contact telephone number for the park owner or park manager.

Part 1—General information continued

Section 2 Basic responsibilities/ obligations of park owners and home owners continued

15. If the park owner requires a manufactured home to be repositioned in the park, ensure the new site is broadly comparable to the original site.
16. Only enter a site:
 - (a) if the home owner/s consent to the entry
 - (b) in an emergency
 - (c) to read a meter situated on the site if the park owner arranges for the supply of electricity, gas or water to the site (but not on a Sunday or public holiday or outside the hours of 8 am to 8 pm without written consent from the home owner/s)
 - (d) to carry out an inspection or maintenance of the site after giving the home owner/s at least 2 days notice of the proposed entry (but not on a Sunday or public holiday or outside the hours of 8 am to 8 pm without written consent from the home owner/s)
 - (e) to show the site to prospective home owner/s (if the park owner has been appointed as a selling agent by the home owner) after giving the home owner/s at least 1 days notice of the inspection (but not on a Sunday or public holiday or outside the hours of 8 am to 8 pm without written consent)
 - (f) if the park owner reasonably believes the home has been abandoned under an order of the tribunal permitting entry to the site for a stated purpose.
17. Do not engage in fraudulent or misleading 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.
18. Do 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.
19. Within 28 days of opening the park, complete and provide to the Department of Housing and Public Works *Information for record of residential parks* (Form 10).
Also, by completing the same form, provide the Department of Housing and Public Works with written notice of any change in this information within 28 days of the change.
20. Comply with site agreements and park rules.

Part 1—General information continued

Section 3 Site agreements

Site agreements must be in writing. They include standard terms, any special terms and any tribunal orders in force about the agreement.

The site agreement must:

- be easily legible
- be in at least 12-point font if it is produced by any mechanical or electronic means (e.g. by a computer)
- be written precisely
- be clearly expressed in plain language
- identify the site
- state each party's name and address
- state a contact phone number, if any, for the home owner/s
- state a business hours contact phone number for the park owner or, if a park manager has been appointed, the park manager
- state the site rent and other charges payable, when they are payable and how they must be paid
- state how and when the site rent may be varied
- state the maximum number of persons who may reside on the site
- be signed by the parties
- comply with any other requirement prescribed under a Regulation.

Duration of site agreements

A home owner's right to position a manufactured home on the site continues until the agreement is terminated according to the termination provisions set out in the Act.

Where the residential park is sold or where the park owner dies or there is a mortgagee in possession, the successor in title to the park owner receives the benefits and is bound by the obligations under the site agreement, which continues to exist.

Section 4
Termination of
site agreements
and assignment
agreements

The Act limits the way in which a site agreement may be terminated.

Termination in cooling-off period

The home owner/s may terminate the site agreement within 28 days of the *Site agreement* being entered into if:

- the park owner and the prospective home owner/s entered into a site agreement within 7 days of the home owner/s receiving the *Home owners information document* (Form 1), the park rules and any outstanding proposals to change the park rules, or
- the park owner did not provide the prospective home owner/s with these documents.

The home owner/s must give the park owner a signed *Termination notice—by home owner within 28 days of entering site agreement* (Form 3). The notice must state a termination day that is within 28 days of the notice being given.

If the site agreement is terminated this way, the home owner/s are not liable to pay any amounts under the agreement and the park owner must refund within 14 days of the termination day, any amount received under the agreement.

If the home was purchased from the park owner, the sale agreement is automatically terminated and the park owner must refund any amounts paid.

If the home owner/s brought the home into the residential park and removed it after terminating the agreement under this section, the home owner/s may make an application to the tribunal within 6 months of the termination day for a compensation order to cover removal expenses.

Termination by mutual agreement

The parties to a site agreement may terminate the site agreement by completing a *Termination notice—by mutual agreement* (Form 4). A penalty applies if the park owner coerces or attempts to coerce the home owner/s into terminating the site agreement.

A mutual termination agreement cannot be entered into before or on the same day as the site agreement.

Home owner termination

The home owner/s may terminate the site agreement at any other time by issuing a *Termination notice—by home owner* (Form 5). The notice must state a termination date (when the home owner/s will give vacant possession of the land to the park owner) that is not later than 28 days after the notice is given.

Part 1—General information continued

Section 4 Termination of site agreements and assignment agreements continued

Park owner termination

The park owner may make an application to the tribunal to terminate the site agreement on any of the following grounds:

- The home owner/s contravened a term of the site agreement and failed to remedy the contravention within 28 days of being given a *Notice to remedy breach* (Form 6).
- The home owner/s assaulted, threatened to assault, attempted to assault or arranged for someone else to assault a person who was lawfully in the park.
- The home owner/s wilfully destroyed the property of others in the park or site.
- The home owner/s used the site other than as a place of residence.
- The home owner/s, tenant/s or guest/s repeatedly interfered with the quiet enjoyment of the park by other home owners or residents and did not comply with a *Notice to remedy breach* (Form 6) issued by the park owner to stop that behaviour.
- The park owner wishes to use the park land or part of the park land for another purpose. In this case, the park owner must provide the tribunal with a document certified by the local government authority that the park land may be used for the stated purpose.

When the termination of a site agreement is sought by the park owner to change the use of the park land, the tribunal may make a compensation order for the reasonable costs of removing the home from the site, transporting the home and personal effects of the home owner/s to a new location and positioning the home at the new location.

If the home cannot be moved or if the home owner/s will be disposing of the home, the tribunal may order compensation for the estimated costs of removing the home from the site and transporting the personal effects of the home owner/s to their proposed place of residence.

The tribunal may also order the park owner to make another site within the park available to the home owner/s (unless the tribunal is satisfied there is no suitable site available). The tribunal may order that the termination will not take effect until a later time specified by the tribunal (up to 1 year from the time of the order).

Section 5 Prohibited agreements

The park owner must not, before or at the same time as entering into the site agreement with the home owner/s:

- include in the site agreement a term to terminate the site agreement
- enter into another agreement or include a term in another agreement to terminate the site agreement
- include in the site agreement a term that requires the home owner/s to enter into an agreement with the park owner at some later time to terminate the site agreement.

Any such agreement is void.

Part 1—General information continued

Section 6

Selling a manufactured home and assignment of site agreement

Home owners may sell their manufactured home that is positioned on a site in a residential park and assign their site agreements to buyers. Another option is for the park owner and buyer to enter into a new site agreement. When selling a manufactured home, home owners may do so personally, appoint the park owner (or manager) to act as an agent or engage a real estate agent for this purpose.

The park owner must not unreasonably hinder the sale of a manufactured home by the home owner/s.

Appointing a park owner

The home owner/s may appoint a park owner to act as their agent by signing a *Selling authority* (Form 9). The park owner must not charge a fee for the agency unless there is a selling authority in place and the park owner is the effective cause of the sale. The fee for the agency must not be more than the amount prescribed by regulation. Home owners may negotiate fees lower than the maximum.

Placement of ‘for sale’ signs

A home owner must not place a ‘for sale’ sign on a site unless it is provided for under the site agreement. Where the site agreement does permit placement of a sign, the home owner must first notify the park owner of the proposed placement.

Process to sell a manufactured home and assign the site agreement

1. The current home owner/s (seller/s) must give the park owner a *Notice of proposed sale and assignment* (Form 7) to indicate they wish to sell their home and assign (transfer) their site agreement to the prospective home owner/s (buyer/s).
2. Within 7 days of receiving the notice, the park owner must give the buyer/s a copy of the existing site agreement, the *Home owners information document* (Form 1), the park rules (with any proposed changes) and written advice of the current site rent payable by the seller/s.
3. The seller/s and buyer/s must each sign two copies of a completed *Form of assignment* (Form 8).
4. The seller/s must give the park owner a written request for the park owner’s consent to the assignment. This request must be accompanied by the two signed copies of the *Form of assignment* (Form 8).
5. If the park owner consents to the assignment, they must sign both copies of the *Form of assignment* (Form 8).
6. The park owner must return a copy of the *Form of assignment* (Form 8) to the seller/s and keep the other copy until 1 year after the site agreement is terminated.
7. The seller/s must as soon as possible after receiving a copy of the *Form of assignment* (Form 8) give the copy of the form and their copy of the site agreement to the buyer/s.

Part 1—General information continued

Section 6 Selling a manufactured home and assignment of site agreement continued

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

If refusing to consent, the park owner must give the seller/s written notice of the decision and the reasons for the decision and return to the seller/s both copies of the *Form of assignment (transfer)* (Form 8). The park owner must also provide written notice that if the seller/s is dissatisfied with the refusal, the seller must initiate a dispute using a *Dispute negotiation notice* (Form 11) and may, if dispute resolution is unsuccessful, apply to the tribunal for an order that the park owner consent to the assignment.

If the park owner does not consent or give notice that it refuses consent within 28 days of receiving the form, the park owner is taken to have refused to consent to the assignment.

If the seller/s apply to the tribunal for a review of the park owner's decision to refuse consent, the tribunal may confirm the decision or make an assignment order. If the tribunal makes an assignment order, overriding the park owner's refusal of consent, the park owner must sign both copies of the *Form of assignment* (Form 8) on the day stated in the order.

If a site agreement was entered into prior to 19 November 2010 and the site agreement does not contain a clause permitting the site rent to be increased on the basis of a market review, the park owner is able to include an additional term in the site agreement, as prescribed in the Act, during its assignment. The Act specifies that the following term may be inserted into a 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*
- (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*
- (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.*

Part 1—General information continued

Section 6

Selling a manufactured home and assignment of site agreement continued

To include the market review term in a site agreement during its assignment, the park owner must provide the buyer/s with a *Notice of variation of site agreement upon assignment to allow periodic site rent variations based on market review* (Form 8a) at the same time as the park owner gives a copy of the site agreement and the disclosure documents to the buyer. The park owner must also give the seller/s a copy of the notice (Form 8a) as soon as possible (but within 3 days) after providing the information to the buyer/s.

Section 7

Site rent and how it may be varied

The Act does not prescribe the rent levels at residential parks. Most residential parks are commercial enterprises and their fees are determined by taking into account factors such as market forces, location, facilities offered, establishment costs, park size, mortgage payments, local government rates and charges, wages and other operating costs. However, the Act does provide protection for home owners by prescribing procedures for rent increases and in certain cases rent decreases.

How site rent can be paid

Rent must be paid in one of the methods allowed by the Act at a place stipulated in a site agreement. The method (provided that it is an approved method) and place of payment may be varied by written notice and the agreement of the parties, depending on the circumstances. The payment place and method should be set out in the site agreement.

Approved methods of payment include any of the following:

- cash
- cheque
- deposit to a financial institution account nominated by the park owner
- credit card
- EFTPOS
- deduction from pay, pension or other benefit payable to the home owner/s
- another way agreed upon between the parties.

Rent receipts

Receipts must be provided where payments are made by cash. If requested, receipts must be provided where payments are made by cheque.

The park owner must make an electronic or written record of payment of site rent and provide a copy if requested to a home owner within 7 days of request.

Part 1—General information continued

Section 7 Site rent and how it may be varied continued

Increasing site rent under the terms of the site agreement (general increase)

The amount of site rent payable and the basis for working out the amount of any increase in site rent must be stated in the site agreement.

General increases in site rent cannot occur more than once a year and should occur on a nominated day (the general increase day).

If the park owner wants to increase the site rent in accordance with the site agreement, written notification of the proposed increase must be given to the home owner/s at least 35 days before the general increase day. The notice should state:

- the amount of the proposed increased site rent
- the basis for the increasing the site rent
- how the amount of the proposed increased site rent has been worked out using the basis. For market reviews a copy of a market valuation prepared by a registered valuer (the Act imposes certain consultation obligations in connection with preparing the market valuation)
- the general increase day when the new site rent is payable
- the day the notice is given to the home owner
- that if the home owner disputes the amount of the proposed increase
 - the home owner must, within 28 days after receiving the notice, give the park owner a dispute negotiation notice for the dispute
 - the home owner must use the dispute resolution procedures under part 17, division 1 of the Act to try and resolve the dispute with the park owner
 - the home owner may, subject to the requirements of the dispute resolution procedures in the Act, apply to the tribunal for an order reducing the amount of, or setting aside, the increase if the dispute cannot be resolved using the dispute resolution procedures.

The increased site rent is payable from the general increase day specified in the general rent increase notice. However, if the home owner disputes the increase and the tribunal makes an order reducing or setting aside the proposed increase, then the park owner must refund any overpayment of the site rent.

Section 7
Site rent and how
it may be varied
continued

Increasing site rent to cover special costs

A park owner may propose a site rent increase for a special cost where it is not provided for in the site agreement. However, a park owner may only do so if the increase is necessary to cover:

- **an operational cost:** a significant increase in the cost of running the park such as a significant increase in rates, taxes or utility costs for the park.
- **a repair cost:** 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.
- **an upgrade cost:** the cost of significant upgrades to the common areas or communal facilities in the park

If the park owner wants to increase the rent for a special cost, the park owner must give written notification to the home owner/s at least 2 months before the proposed date of the increase. The special increase notice must state:

- the type of special cost and the purpose (the stated purpose) for which it has,
or is expected to be, incurred
- 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 site rent
- the amount of the proposed increased site rent including the proportion of the special cost
- how the proposed amount relating to the proportion of the special cost has been worked out
- the day when the increased site rent is first payable (the special increase day)
- 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
- that the home owner/s must, within 28 days after receiving the notice, give the park owner a written response agreeing to or disputing the proposed increase
- the day the notice is given to the home owner.

Part 1—General information continued

Section 7 **Site rent and how** **it may be varied** **continued**

If the home owner/s agree to the proposed increase, the increase is payable from the special increase day and for a repair or upgrade cost, stops being payable at the end of the period specified in the park owner's notice.

Where an increase relates to an upgrade cost and the home owners for at least 4 sites in the park have received a notice about it, then if the home owners for at least 75% of the notified sites agree to the increase, then the home owners for all notified sites will be taken to have agreed to the proposed increase.

Home owners who disagree with the increase, or do not respond within 28 days are taken to be disputing the site rent increase for a special cost.

If an increase for a special cost is disputed, the park owner, subject to the dispute resolution requirements in the Act, may apply to the tribunal to have the site rent increase confirmed.

The tribunal may reduce, set aside or confirm the proposed increase, or make any other appropriate orders. In determining the application, the tribunal may consider a wide range of factors.

The tribunal may confirm an increase for an operational cost or a repair cost if it is satisfied that the residential park will not be commercially viable without significantly reducing the park owner's capacity to carry out their responsibilities in running the park. For a repair cost, the tribunal will also consider whether the park owner could have reasonably obtained insurance to cover the cost.

A park owner must not threaten, intimidate or coerce a home owner to agree to a proposed increase in site rent or to refrain from making an application to the tribunal seeking a review of site rent.

Part 1—General information continued

Section 7

Site rent and how it may be varied continued

Decreasing site rent

A home owner may, subject to the dispute resolution procedures in the Act, apply to the tribunal seeking a reduction in the site rent if:

- the amenity or standards of the residential park's common areas and communal facilities have decreased substantially since the site agreement was entered into
- a communal facility or service provided at the park when the site agreement commenced has been withdrawn
- a communal facility or service described in advertising or another document prepared by or for the park owner of which the home owner/s were aware of before the site agreement was entered into has not been provided in the park.

The tribunal may consider this *Home owners information document* (Form 1), the site agreement, any relevant advertising material made available to the home owner/s by the park owner before the site agreement was entered into and any other document the tribunal considers relevant. The tribunal may make an order reducing the site rent by an amount it considers appropriate.

Where a utility used by a home owner is not separately measured or metered, the home owner/s may be entitled to a site rent reduction if a utility charge included in the site rent becomes separately measured and metered and the costs of the use becomes payable by the home owner/s or if a utility stops being available for use by the home owner/s through no fault of the home owner/s. The Act imposes notification obligations on the park owner if these changes occur.

If the parties cannot agree on the amount of the reduction or the park owner has not reduced the site rent by the amount of the utility cost factored into the site rent, the home owner/s may, subject to the dispute resolution procedures in the Act, apply to the tribunal for a reduction in site rent.

Part 1—General information continued

Section 8 Abandonment

If a park owner reasonably believes that a home is abandoned in a residential park, the park owner may apply to the tribunal for the following orders:

- (a) that the home is abandoned (**Abandonment order**)
- (b) that the park owner may sell the home and any personal effects (**Sale order**)
- (c) that the home owner pay the park owner an amount outstanding under the site agreement up to the date that the home is found to be abandoned (**Termination payment**).

The Act provides for the distribution of the proceeds of the sale. The distribution of proceeds must be applied in the following order to pay:

- the park owner's costs associated with the sale, removal, or storage of the home and personal effects
- any amount owing under a registered security interest
- any rent owing to the park owner
- any balance to the home owner/s, or if the home owner/s cannot be located, to the public trustee.

By further application to the tribunal, the park owner may claim any other outstanding rent accruing between the date of the sale order and the actual sale of the manufactured home.

Section 9 Home owners committee

The Act states that home owners in a residential park may establish, by election, a home owners committee. Only one home owners committee may be established for a residential park. Home owners do not have to be involved in the committee if they do not wish to be.

The majority of home owners in the park may adopt a constitution and the committee must comply with that constitution.

Members of the committee may hold office for no more than 1 year and may be re-elected. Members of the committee may be removed at any time by a special resolution at a meeting of home owners.

The committee may deal with the park owner on the day-to-day running of the park and on any complaints or proposals about the operation of the park raised by home owners.

The park owner must respond in writing to the committee within 21 days of receiving written notice detailing a complaint or proposal from the committee, addressing the complaint or proposal.

The park owner must not restrict home owners from establishing a home owners committee, or the committee and its members from performing their functions.

Part 1—General information continued

Section 10 Park rules

The park owner may make rules about the following within the park:

- use and operation of communal facilities
- noise levels
- sport and other recreational activities
- speed limits for motor vehicles
- parking of motor vehicles
- disposal of refuse
- keeping of pets (subject to any local government law)
- any other things prescribed by a Regulation.

The procedure to change the park rules is:

1. The park owner must fix a day (the ‘objection closing day’) by which home owners may object to the proposed change.
2. At least 28 days before the objection closing day, the park owner must give to each home owner notice of the proposal, including details of the objection closing day and how an objection may be made.
3. Home owners may object to the proposal in writing before the objection closing day and should supply particulars of why the proposal is considered to be unreasonable.
4. If five or more home owners object, or the park has less than 10 residential sites and the majority of these home owners object before the objection closing day, the park owner and the objectors must set up a park liaison committee to consider the objections.

The park liaison committee must consist of:

- a person chosen by the objectors
- the park owner or their nominee
- someone else agreed on by the above representatives.

After considering all objections, if the park liaison committee decide the proposal is unreasonable, they must change the proposal in a way they consider it appropriate to make it reasonable.

Part 1—General information continued

Section 10 Park rules continued

If the park liaison committee proposes to make a decision that would be contrary to an objection, the committee must invite the objectors to attend a meeting of the committee, tell the objectors of the proposed decision and allow them to make representations about the proposed decisions which the committee must then consider.

The committee must then give notice of their decision to each home owner and the park owner.

If the park liaison committee cannot agree or if the objectors or park owner are dissatisfied with the outcome, they may apply to the tribunal registrar to have the matter referred to mediation within 7 days of receiving the notice. Where the matter cannot be resolved in mediation, an objector, the park owner or a home owner may apply to the tribunal for an order declaring the proposal to be reasonable or unreasonable.

If no objections are made, or the number of objections is not enough to require the establishment of a park liaison committee, the proposal will take effect:

- at the end of the objection closing day
- on a later day if this later day is stated in the proposal.

Prohibited park rules

A Regulation may prohibit certain park rules.

A park owner must not make or attempt to enforce a prohibited park rule. Significant penalties apply if a park owner makes or attempts to enforce a prohibited park rule.

Any park rules that are prohibited are void in all site agreements.

Section 11 Special terms

Special terms are not prescribed by the Act. Special terms are negotiated between the parties to the site agreement and can include a range of issues.

Special terms for the park are set out in part 3 of the site agreement.

Special terms of a site agreement may be varied at any time while the agreement is in force. If both parties agree to the change, the variation can easily be made by putting it in writing and having both parties sign the agreement. Variations are void unless they are written and are signed by both parties.

If the parties cannot agree to vary a special term of the site agreement, either party may apply to the tribunal for an order for the change to be made, subject to the dispute resolution procedures. The tribunal may make any order it considers appropriate about the proposed variation.

Part 1—General information continued

Section 11 Special terms continued

If a special term of the site agreement is inconsistent with a provision of the Act or a Regulation, the provision of the Act or Regulation applies and the term is void to the extent of the inconsistency.

Prohibited special terms

The *Manufactured Homes (Residential Parks) Regulation 2017* (*‘the Regulation’*) prohibits certain types of special terms. These include terms which:

- calculate site rent increases in a misleading way or require a home owner to pay other charges which are not explained
- require the home owner to give a current building inspection certificate to the park owner
- restrict or prohibit an alteration to the home that is not visible from the outside of the home
- require the home owner to indemnify the park owner for loss that was not caused by the home owner, a home owners guests or contractors
- state that a park owner may exclude a person from a residential park without having reasonable grounds
- impose a monetary penalty on a home owner if the home owner breaches the site agreement
- prohibit or prevent the park owner from reducing the site rent for any reason.

For a full list of prohibited special terms, see section 3 of the Regulation.

A park owner must not include a special term in a site agreement that is a prohibited term or attempt to enforce a prohibited term. Significant penalties apply if a park owner makes or attempts to enforce a special term that is prohibited from being in a site agreement.

Any special terms that are prohibited are void in all site agreements. If a dispute arises about whether a special term is a prohibited special term, the home owner/s may apply to the tribunal for an order declaring the term void, subject to the dispute resolution procedures in the Act. The tribunal may declare that the term is void, not void or void to a stated extent, or may vary the term.

A home owner under a site agreement may, subject to the dispute resolution requirements in the Act (see part 3 for further information) apply to the tribunal to consider whether a special term of the site agreement is clearly expressed in plain language. If the tribunal considers the term is not clearly expressed in plain language, it may make an order varying the terms of the site agreement. The tribunal may also make an order prohibiting the park owner from using the same or a similar term in any other subsequent site agreement.

Part 2—Specific information

Residential park details

Park name (in full)

.....

Park address

Suburb State Postcode

Real property description

Site number (if applicable) Row number (if applicable)

Street name within park (if applicable)

Park owner

Name and business
address

Title Mr Mrs Ms Miss Other (specify)

Last name

First name

Business address

Suburb State Postcode

Phone Fax

Email

Full company/corporation name

.....

.....

Registered Business Number (BN)

(not Australian Business Number) **or**

Australian Company Number (ACN)

Sign here ➔

Signature Date

DD / MM / YYYY

Park manager

Management of the park operations is the responsibility of

(name) who is located at

(business address)

.....

.....

Park office hours

Week day hours Weekend hours

Work Mobile phone

After hours contact

Email address

Part 2—Specific information continued	
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99	100

Authority

The residential park has the authority, approval, consent, licence or permit to operate as a residential park issued by:

(name of approving authority, details of authority and any reference number if applicable)

Facility details

The park owner will provide the following communal facilities or services to home owners and residents

(tick those applicable):

Gardens

Security gates

On-site shop

Recreational / social facilities

Park bus for excursions

Recreation room

Park bus for shopping trips

Tennis court

Dining facilities

Bowling green

After hours security patrol

Swimming pool

Emergency call access facilities

Other communal facilities or services (please specify)

Part 2—Specific information continued	
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Additional facilities may be provided if certain conditions occur. For example, if additional funds become available, home owners may wish to contribute towards the construction of a new facility, or new sections of the park may be developed.

The park owner proposes to offer the following facilities in the time frames and circumstances specified (include any contingencies necessary for the facilities to be provided):

The parties to a site agreement are required to follow dispute resolution processes for resolving a dispute.

The Act provides for procedures the parties may use to resolve the dispute, including negotiation, mediation and applications to the tribunal. These processes only apply to disputes between the park owner / manager and home owners or involving home owners and other home owners. They do not apply to disputes between residents (people living in residential parks who are not home owners).

Dispute negotiation

For many kinds of dispute, the first step is for the party initiating the dispute to give the other party a *Dispute negotiation notice* (Form 11) which states the matters in dispute and nominates a time which is at least 14 days (but no more than 28 days) after the notice is given, for the parties to meet to negotiate a resolution of the dispute.

The party receiving the notice must respond in writing within 7 days and may either agree to meet at the nominated time and place or propose another time that is within 7 days of the time initially proposed.

The parties must meet and try to resolve the dispute by negotiation at the nominated time, or at another time as agreed by the parties within 7 days of the nominated time.

Mediation

Where parties have attempted to negotiate a dispute through the dispute negotiation notice, and have been unable reach an agreement, a party to the dispute may apply to the registrar to have the matter referred to mediation.

Within 14 days of receiving an application, the registrar will appoint a mediator who will organise a mediation conference with the parties to the dispute.

Mediation conferences are private but may involve other parties where the mediator is satisfied the person has a sufficient interest in the resolution of the dispute.

Tribunal applications and hearings

Generally, parties are required to attempt dispute negotiation and mediation before making an application to the tribunal, unless the application directly to the tribunal is authorised under the Act. Further information on which disputes are exempt from the dispute negotiation and/or mediation process can be found in section 116 of the Act.

If the parties were required to attempt to resolve the matter through the dispute resolution provisions of the Act (i.e. dispute negotiation and mediation) but have been unable to reach agreement regarding the dispute, either party can apply to the tribunal to resolve the dispute.

There are a number of issues that may be resolved by application to the tribunal by the parties to a site agreement. These include, but are not limited to, disputes in relation to rent increases, variation of special terms, termination of site agreements and changing of park rules and any other dispute considered to be a ‘residential park dispute’ under the Act.

The tribunal may make an order it considers appropriate to resolve the dispute.

The Act allows a group of home owners to make a joint application to the tribunal if disputes arise out of the same or similar facts or circumstances.

Tribunal hearings are open to the public unless the tribunal orders otherwise.

Parties to a dispute will usually have to pay their own costs for a tribunal hearing unless the tribunal decides otherwise in the interests of justice.

Individuals usually conduct their own case unless the tribunal allows another person, to appear on their behalf.

A fee may be payable for an application to the tribunal. The amount of any possible fee is set by regulation under the *Queensland Civil and Administrative Tribunal Act 2009*. Information about any fees can be obtained by contacting the tribunal.

If the issue relates to a possible breach of the Act and cannot be resolved through the negotiation process, the parties can contact the Department of Housing and Public Works on 13 QGOV (13 74 68).

Part 4—Additional information

Examples of additional information the park owner may wish to provide are:

- a map of the local area indicating the position of the residential park
- a map of the park showing the location of the manufactured home
- details of public and private transport available in the locality
- the proximity of services such as shopping and medical services
- other special conditions.

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

Queensland Retirement Village and Park Advice Service (QRVAPAS)

Specialist service providing free information and legal assistance to 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 Service

These centres provide 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

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

Further information continued

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