

Frequently Asked Questions

BEFORE MOVING INTO A MANUFACTURED HOME PARK

I am thinking about moving into a manufactured home park. What documents should I receive before I move in?

When you make inquiries with the owner of a manufactured home park, you should be provided with disclosure documents, which include the *Home Owners Information Document*, a copy of the park rules and any proposed changes to the park rules. You should also be given two (2) copies of the proposed site agreement.

If the park owner does not provide these documents, it is an offence. The park owner should not enter into a site agreement without providing the disclosure documents first.

If you are purchasing an existing manufactured home and are obtaining an assignment of a current site agreement, you must be given a copy of the current site agreement as well as a written notice setting out the amount of site rent paid by the current homeowner.

Do I need to have a written site agreement?

Yes. It is the park owner's responsibility to ensure that a site agreement is in writing, and they must pay for the agreement to be prepared. It must meet the requirements of the *Manufactured Homes (Residential Parks) Act 2003* (Qld) (Manufactured Homes Act) such as being legible, written in clear and plain language, identify the site for the manufactured home in the park, list the parties' names, specify the site rent payable and the way it can be varied.

If no written agreement is in place, the park owner may be liable for a penalty.

Even if there is no written agreement, a site agreement can still be enforced.

If I sign a site agreement, do I have a cooling-off period?

Yes, in some cases. If you sign a site agreement within seven (7) days of receiving the disclosure documents (i.e. *Home Owners Information Document*, site agreement and park rules), you can terminate the site agreement by providing written notice to the park owner within 28 days of the day you signed the site agreement.

You also get a cooling-off period of 28 days from the day you sign your site agreement if the park owner did not give you the required disclosure documents before you signed the agreement.

If you terminate the site agreement within the 28-day cooling-off period, the park owner must refund any money paid by you.

GENERAL INFORMATION ABOUT MANUFACTURED HOME PARKS

When can the terms of my site agreement be changed?

Many of the terms of your agreement are included in your site agreement by the Manufactured Homes Act and cannot be changed or removed.

However, the special terms of your site agreement can be varied at any time while the agreement is in force. If you or the park owner want to change a special term of your agreement it can be done by putting the variation in writing, with both parties signing to indicate their acceptance of the variation.

If one party wants to vary a special term and the other party does not agree, the party seeking the variation can apply to the Queensland Civil and Administrative Tribunal (QCAT) for orders about the variation.

Can I rent out my manufactured home?

Yes, but only if your site agreement specifically allows it.

Will I own the land that I put my manufactured home on?

No. The park owner continues to own the land. As a homeowner, you rent the land that you position your manufactured home on.

Can I live at the residential park for as long as I like?

No. However, you can live in your manufactured home at the residential park for as long as your site agreement continues. Your site agreement will continue until it is terminated.

How can my site agreement be terminated?

Your site agreement may only be terminated in one of the following ways:

- by the home owner during the cooling-off period—as long as you give notice of your intention to terminate within 28 days of signing the agreement (if you signed it within 7 days of receiving the disclosure documents/did not receive the documents), you can terminate your site agreement without penalty
- by the home owner after the cooling-off period finishes—the home owner can provide up to 28 days notice that they intend to terminate their site agreement and must provide vacant possession on the termination date
- by mutual agreement between the home owner and the park owner—the parties to a site agreement can agree to terminate the agreement. This agreement must be recorded by using a Manufactured Homes Form 4
- by QCAT on application by the park owner—a park owner can apply to QCAT for a termination order to terminate a site agreement in a number of circumstances including where:
 - there has been an unremedied breach of the site agreement
 - the home owner has assaulted a person who is lawfully at the park
 - the home owner has destroyed property at the park
 - the site is being used other than as a place of residence
 - the home owner, their tenant or guest repeatedly interfered with the quiet enjoyment of park residents
 - the park owner wishes to use the residential park land for another purpose.

If QCAT makes the termination orders because the park owner wants to use the residential park land for another purpose, a compensation order must also be made. QCAT can delay the termination date for up to one year if appropriate.

The park owner has told residents that they are planning to redevelop the park and they will be terminating my site agreement. What are my rights?

As there is no guarantee that a park owner will continue to operate a residential park indefinitely, homeowners are at risk of park closures and/or redevelopment.

If the park owner seeks to close or redevelop the park, they must follow a process which provides some protection of the homeowners' interests in their manufactured home. However, this process will not necessarily prevent a park owner from being able to terminate a site agreement.

If a park owner plans to close or redevelop a residential park, they may:

- offer to relocate the homeowner's manufactured home to another comparable site at the park (and pay the cost of repositioning the manufactured home)
- seek the homeowner's consent to terminate the site agreement (with no obligation to pay compensation to the homeowner if the homeowner consents to the termination)
- make an application to QCAT for a termination order ending the site agreement if the homeowner does not consent to terminate the site agreement (QCAT must order compensation in these circumstances).

There is no formal requirement that you be given written notice of a park closure. You must, however, be given a copy of any application made to QCAT seeking a termination order. You then have an opportunity to respond to the application and present your side of the story to the tribunal in an effort to prevent the termination order from being made.

It is possible for QCAT to delay a termination order for up to one year. When deciding whether or not to delay termination, QCAT will consider factors such as

the homeowner's health, finances and mobility, the availability of similar accommodation at similar cost, the financial impact on the park owner of a delay and any other financial or social considerations relevant.

Renting and caravans

Am I still protected by the Manufactured Homes Act if I don't live in my manufactured home?

Yes. A 'homeowner' as defined in the Manufactured Homes Act includes a person who owns a manufactured home that is positioned on a site in a residential park under a site agreement, whether they reside in the manufactured home as their principal place of residence or whether a tenant occupies the home.

I am renting a manufactured home at a residential park. What rights do I have at the park?

As a tenant, your rights and responsibilities will be set out in the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld).

See the Residential Tenancies Authority website or the Tenants Queensland website for further details.

I live in a caravan in a residential park. Am I covered by the Manufactured Homes Act?

No. Caravans are excluded from the definition of a manufactured home and, as a result, are not covered by the Act.

Converted caravans are also excluded from the definition of a manufactured home, however, a park owner and the owner of a converted caravan can agree to the application of the Act if they choose to.

FEES AND CHARGES

What kind of ongoing fees will I have to pay?

As a homeowner, you will be obliged to pay site rent and any other charges that are set out in your site agreement.

Site rent is the rent for the land that your manufactured house is placed on. It also covers fees like maintenance of communal facilities and provision of services advertised at the village.

How can my rent be increased?

Site rent can be increased from time to time as set out in the site agreement. Some site agreements include provision for a market review to be carried out.

Site rent can also be increased in certain other circumstances such as if the park incurs significant increased operational costs, unforeseen significant repair costs or necessary significant facility upgrades.

As a resident of a residential park, you will have an opportunity to make an objection to any proposed rent increase. However, if QCAT approves a rent increase, residents are obliged to pay the increased rent.

If I object to an increase in site rent do I have to pay the increase?

Yes. After receiving notice of the increase you can make an application to QCAT for a review, within 28 days of receiving the notice of increase, if you feel the increase is excessive. However, if the QCAT application is not determined prior to the date on which the rental increase is to take effect, you must pay the increased rent.

If QCAT makes orders that the rent is excessive and reduces the rent amount, the park owner will then be required to refund any overpayments.

Can the park owner charge me a fee if I sell my manufactured home?

The park owner must not charge a homeowner a fee in relation to the sale of the manufactured home, unless they have been appointed the selling agent by the homeowner and have been the effective cause of the sale taking place. In that case they can charge an agency fee.

Can the park owner increase my rent because I make an application to QCAT?

No. Site rent can only be increased in the way stated in your site agreement or as permitted by the Manufactured Homes Act. Unless an increase in rent is done for one of these reasons, it is not valid.

Utility charges

How does utility charging work at a residential park?

Utilities include electricity, gas, sewerage and water. Utility costs can either be incorporated into your site rent or can be metered separately.

Your site agreement should tell you whether utility costs are included in your site rent or not. Homeowners are

only required to pay for the cost of utilities separately if their site is individually metered.

If my utility expenses are metered separately, am I entitled to an itemised account for utility charges?

You can ask the park owner for an itemised account, and they may provide one to you.

The Manufactured Homes Act does not specifically include a requirement that the park owner must provide an itemised account to homeowners, however, recently QCAT has indicated that park owners should make copies of utility bills available to homeowners so that they are able to make informed decisions about living in the park.

If you are seeking itemised accounts for utilities from your park owner and they refuse to provide them, further legal advice should be sought.

I think that the park owner is overcharging for utility expenses. What can I do?

Section 99A of the Manufactured Homes Act sets out the obligation of a park owner not to charge more for the use of a utility than the park owner is actually charged.

If you are concerned about a park owner who is charging more than the cost of electricity, contact the Residential Services Unit at the Department of Housing and Public Works as they can make further inquiries into the matter. If the park owner is charging more than the actual cost, they may be subject to penalties.

I thought that electricity was included in my site rent, but the park owner has recently started giving me a separate invoice for electricity charges. Do I have to pay?

If your site rent includes charges for the use of utilities, including electricity, then you should not have to pay an additional fee for utility expenses.

If your use of utilities becomes separately metered, you would be required to pay these costs. However, you must be provided with a 'utility cost notice' within 14 days of the utility becoming separately metered or measured, which provides details of the utility cost that was factored into your site rent and how that amount was worked out, the date the utility became separately metered and the reduced amount of your site rent.

If you make an overpayment of site rent after the utility becomes separately metered, you should receive a refund of this amount within 14 days of receiving your utility cost notice.

PARK MANAGEMENT

I am concerned about the conduct of the park owner/manager at my manufactured home park. What can I do?

Park owners have a responsibility not to engage in fraudulent or misleading conduct, harassment or unconscionable conduct in the operation of the park or when acting as the homeowner's agent to sell a manufactured home.

Park owners also have an obligation to ensure that a homeowner has quiet enjoyment of their site and the common areas of the park. Further, the owner or manager of a park must not interfere with the reasonable peace, comfort or privacy of a homeowner in the use of their site or common areas.

A park owner who fails to comply with this responsibility may be in breach of the Manufactured Homes Act and is at risk of being penalised for their conduct.

If you or the homeowners committee at your park can raise these issues with the park owner or manager, you should do so. However if not, you may be able to make a complaint to the Residential Services Unit at the Department of Housing and Public Works who can make further inquiries into whether there has been a breach of the legislation.

Park rules

Who makes the park rules?

The park owner is able to make rules about the use, enjoyment, control and management of the park. These are called 'Park Rules'.

What rules can be included in the park rules?

The rules are only allowed to cover certain topics as set out in the Manufactured Homes Act.

These topics are:

- use of communal facilities
- noise
- sports and recreational activities
- speed limits for motor vehicles
- parking of motor vehicles
- disposal of refuse
- keeping pets
- anything else prescribed under a regulation.

Is the park owner allowed to change the park rules?

The park owner cannot change the park rules without following a strict process. This process is set out in the Manufactured Homes Act.

The park owner must give notice of proposed changes and allow time for homeowners to lodge objections if they believe the change is unreasonable. Homeowners must receive at least 28 days notice to lodge an objection to the change.

If at least five homeowners object, a committee must be set up to try and find a reasonable solution. If no reasonable amendment to the proposed change to the park rule can be found, then either the homeowners or the park owner can apply to QCAT for orders about the proposed change.

HOMEOWNERS COMMITTEE

Can the homeowners of a park form a committee?

Yes. The homeowners of a residential park are able to establish a homeowners committee for their park. There can only be one committee per park.

The committee's role is to liaise with the park owner on behalf of the homeowners of the park about the day-to-day running of the park and to raise any complaints of the homeowners with the park operator.

The homeowners are not happy with the way the residential park is being managed. What can we do to lodge our complaint and make the owner listen to us?

If the homeowners want to lodge a complaint with the park owner, the best way to do this is via the homeowners committee.

If a homeowners committee gives a park owner a complaint notice, the park owner must respond within 21 days by providing a written response addressing the complaint.

Park owners who do not comply with this requirement may be subject to a penalty.

COMMUNAL FACILITIES

For information about communal facilities please refer to the Park and Village Information Link's *Park Facilities and Common Area* factsheet.

DISPUTE RESOLUTION

For information on dispute resolution, please refer to the Park and Village Information Link's *Dispute Resolution* factsheet.

GENERAL OBLIGATIONS

What are my obligations once I move into the residential park?

As a homeowner, you have obligations that are imposed both by the Manufactured Homes Act and your site agreement.

As a resident under a site agreement you must:

- use the site and manufactured home as a place of residence only
- use the park's common areas for purposes that are associated with residential use
- pay the park owner the site rent and other charges payable under the site agreement (e.g. utility costs if metered separately)
- maintain the manufactured home in a state of cleanliness and repair so that it is fit to live in
- comply with the site agreement and park rules.

As a resident under a site agreement you must not:

- rent the site to a tenant unless this is allowed under your site agreement. If allowed, you must give written notice to the park owner of the tenant's name and the period of the tenancy as soon as possible
- use the site or manufactured home for an illegal purpose (or allow a tenant or guest to do so)

- interfere with the peace, comfort or privacy of other park residents (or allow a tenant or guest to do so)
- intentionally or recklessly damage or destroy the park's communal facilities (or allow a tenant or guest to do so)
- make any alteration to the home that is visible from the outside without the park owner's written consent. You can apply to QCAT if the park owner unreasonably refuses consent.

What are the park owner's obligations once I move into the residential park?

A park owner has obligations imposed by the Manufactured Homes Act as well as by your site agreement.

A park owner must:

- take reasonable steps to ensure that all homeowners have quiet enjoyment of their sites and common areas
- take reasonable steps to ensure homeowners and emergency services (e.g. ambulance, fire and police) have access to all sites and reasonable access to the common areas
- maintain the common areas and communal facilities in a reasonable state of cleanliness and repair so that they are fit for use by homeowners
- ensure trees in common areas are maintained so they do not pose a danger to any person or property
- establish and maintain mail facilities at the park for homeowners
- maintain a noticeboard in a prominent position within the common areas and allow homeowners to read the board and place notices or other material relevant to the park on the board
- display information as required on the residential park noticeboard
- be available to homeowners at reasonable times for consultation regarding park operations, including the supply of utilities
- ensure, as far as it is within the park owner's control, that supply of utilities to the sites at the residential park is uninterrupted
- pay for any cost of installing measuring devices or meters to separately measure individual site use of utilities if there is to be a change in the metering system
- comply with site agreements and park rules
- respect the rights of other residents and people in the park
- ensure, if a manufactured home has to be repositioned in the park, that the new site is broadly comparable to the original site

- only enter a site for the following reasons:
 - if the homeowner consents
 - in an emergency
 - to read a meter on the site if the park owner arranges for the supply of a utility (not on a Sunday, public holiday or between 8 pm and 8 am without the homeowner's written consent)
 - to inspect or maintain the site after giving two days notice
 - to show the site to a prospective homeowner when the park owner is appointed to sell the manufactured home, after giving one day notice
 - if the park owner reasonably believes the site has been abandoned
 - under an order of QCAT permitting entry to the site for a stated purpose
- inform the homeowners of a change in the business hours contact phone number for the park within seven (7) days of the change.

A park owner must not:

- interfere with the reasonable peace, comfort or privacy of homeowners in their homes or in the common areas
- unreasonably interfere with a homeowner's right to participate in a homeowners organisation
- charge the homeowners 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 utility is separately measured or metered and charged or if a utility becomes separately measured or metered and charged
- engage in fraudulent or misleading conduct in the operation of the park or in acting as a homeowner's agent to sell or to negotiate the sale of a manufactured home
- engage in harassment or unconscionable conduct in the operation of the park or in acting as a homeowner's agent to sell or to negotiate the sale of a manufactured home
- threaten, intimidate or coerce a homeowner to agree to an increase in site rent or refrain from seeking a review of the site rent.

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