

Residential Parks Act 1998 – Draft Residential (Land Lease) Communities Act Comparison

Residential Parks Act 1998 Sections	Draft Residential (Land Lease) Communities Act Section
S.3 No 'common area' definition	S.1.4 - common area in a community means any amenities, building, road or other area in the community provided for common use by residents of the community.
S.3 -Separate definitions for manufactured homes and moveable dwellings.	S.1.4 - Now contains a clarified single definition of 'home' that combines both definitions in one.
S.3 - Defines Park Rules	S.1.4 - Defines Community Rules
S.3 - Residential Park definition	S.1.4 - Now called a Community, whether or not you currently are a caravan park or a manufactured home estate.
S.3, S.5 - Act only applies to agreements where the occupant occupies the dwelling as their PPOR	No Principal Place of Residence requirements.
S.3 - Park Owner	S.1.4 - Community Operator / Community Owner
S.3 - Rent	S.1.4 - Site fees. Centrelink recognise 'site fees' as rent. Being called a home owner will not affect your rent assistance.
S.3 - No sewerage availability chargeable	7.3 - Sewerage availability chargeable.
S.5 - Applies to Park Owner-owned dwellings	2.3 Does not apply to homes owned by the community operator or community owner.
S.3 - Crown Reserve sites excluded from Site Agreement definition	2.5 Crown Reserve sites are now included.
No disclosure obligations on park owners to prospective purchasers	Part 4 - Community Operators now obliged to provide prospective purchasers with full disclosure of all fees, charges, rights and obligations.
* No Advice period provided	4.3 14 days to seek advice before signing up.
S.12 – fees and charges payable for proposed agreement	4.9 no fees or charges payable.
* Regs, Schedule 1 - Standard form agreement provides duration clause and start and end dates	4.10 - No fixed period unless agreed. If agreed, term must exceed 3 years.
No harassment or intimidation provisions	5.2(i) – home owner obligation. 5.18 – community operator obligation, and penalties apply
S.27 – all visible alterations require prior approval	5.8 minor alterations e.g. painting do not require consent
* No provision, with or without approval, for any additional occupant	5.10 – additional occupants allowed with consent, and no unreasonable refusal allowed. No consent required for partner and partner's children
S.75 – park owner can pass on the installation charges of mail facilities	5.5.13 Home owners do not pay for mail facilities.
S.71 – maintenance of trees is the obligation of the land owner, who may not be the park owner	5.14 – maintenance obligation is with the community operator, even though they may not own the land.
No obligation on park owners to provide improvements in the facilities or services of the park	5.15 - Home owners may agree to pay a special levy to pay for an improvement.
No code of conduct for park owners	5.18 - Contains Rules of Conduct for community operators, with penalties for breaches.
No education required for community operators	5.19 - Mandatory education for community operators.
No provision against park owners regarding retaliatory conduct	5.20 - Retaliatory conduct defined as including punitive actions taken against an individual home owner by a community operator. Penalties apply against a community operator found to be engaging in retaliatory conduct.
S.53 - All rent increases must have 60 days' written notice	14 days written notice for agreements with additional terms regarding rent increases. 60 days' written notice without.
No obligation on park owner to justify the amount of the increase	6.12, 6.13 - Community Operator to provide explanation of increase amount in the notice.
No obligation to mediate about increases, outside the Tribunal process.	6.15 - Mediation compulsory, provided at least 25% agree.
S.57(a) – Increase comparisons between sites in the park, other parks in the locality or a similar locality.	6.18 - Home owner may apply if their increase is excessive when compared to similar sites in their community only.
S.57 – includes matters to be considered in rent increase cases	6.21 - Matters to consider in site fee increases have been changed.

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No late fee payable on unpaid utilities charges	7.5 - Community Operator may charge a late fee for unpaid utilities charges
S.40 - Rent payments can be used to pay utility charges, as long as Resident agrees and it is written into the agreement	7.6 - Site fees cannot be used to pay unpaid utility charges.
S.16 (for breach) - Resident must apply to Tribunal to recover any overpaid utilities charge.	7.12 - Home owner can recover overpaid charges by deducting the amount owed from the site fees payable.
No current provisions for this type of compensation.	6.10 – new residents may apply to the Tribunal for a reduction in site fees payable on the grounds that a communal facility or service advertised as available prior to the agreement being entered into, was not in fact available at the time.
S.62 - Act contains Park Rules	8.1 - Contains Community Rules
S.63 - Park Rules form part of the Agreement	8.1(6) - Community Rules do not form part of the Agreement.
S.63 - Terms of the Agreement take precedence over the Park Rules	8.1 - Community Rule prevails if it is substantially the same as an Agreement term. If an Agreement term and a Rule are inconsistent with each other, then the Agreement prevails.
No model rules provided.	8.3 - Model rules may be published for use by a community.
S.64 - 60 days' notice for amendment to park rules	8.5 - 30 days' notice for amendment to community rules.
S.63 - Only residents are obliged to comply with the park rules	8.7 - Home owners, community owner and community operator must comply with the community rules.
S.66, S.66A - Has both liaison and residents committees	Part 9 - Has only Residents Committees
No prohibition on the incorporation of Residents Committees	9.1 - Community Operators prohibited from requiring Resident Committees to be incorporated and/or insured.
Park Owner can restrict access to park by external resident organisations	9.7 - Community Operator must not restrict an external organisation, eg, ARPRA, from having reasonable access to the home owners of a community.
S.41 - Allows for assignment of agreements on sale of a dwelling	10.7 - Does not allow for assignment on purchase of a dwelling. New Agreements will be restricted to same terms as the previous agreement.
* No capital gains share or site premium on sale of dwelling	10.8 - Allows voluntary agreement between the parties for the operator to be paid a percentage of capital gains or a site premium on the sale of premises. Does not apply to any agreement already in existence at the time the new Act commences.
S.100 - Breach termination notice allows minimum 14 days' notice for vacant possession	11.6 - Minimum notice period for breach termination notice is 90 days.
S.98 - Rent to be no less than 14 days in arrears before serving a termination notice for unpaid rent	11.6 - Home owner must be 30 days in arrears before the community operator can serve a termination notice.
No provision for internal dispute resolution	Part 12 – Internal Community dispute resolution, including mediation provisions
No provision for complaints process to commissioner.	13.9 - Any person may make a complaint to the commissioner against another.
S.153 - Notices cannot be served directly into mailboxes	14.1 - Notices may now be served into a resident's mailbox without having to use Australia Post.
No rules of conduct – re knowledge of legislation	Schedule 1 - Contains rules of conduct re knowledge of legislation
No rules of conduct – re honesty, fairness and professionalism	Schedule 1 - Contains rules of conduct re honesty, fairness and professionalism
No rules of conduct – re skill, care and diligence	Schedule 1 - Contains rules of conduct re skill, care and diligence
No rules of conduct – re high pressure tactics, harassment and unconscionable conduct	Schedule 1 - Contains rules of conduct re high pressure tactics, harassment and unconscionable conduct
No rules of conduct – re confidentiality	Schedule 1 - Contains rules of conduct re confidentiality
No rules of conduct – re ensuring employees comply with the legislation	Schedule 1 - Contains rules of conduct re ensuring employees comply with the legislation
No rules of conduct – re conflicts of interest	Schedule 1 - Contains rules of conduct re conflicts of interest
No rules of conduct – re false and misleading advertisements or communications	Schedule 1 - Contains rules of conduct re false and misleading advertisements or communications
No rules of conduct – re tendering blank documents for signing	Schedule 1 - Contains rules of conduct re tendering blank documents for signing

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No rules of conduct – re false representations of the legislation.	Schedule 1 - Contains rules of conduct re false representations of the legislation.
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Points highlighted in **red** are viewed as negatives for residents when compared to the provisions in the current Act.

Points highlighted in **green** are viewed as positives for residents when compared to the provisions in the current Act.

Points in black have no change for residents when compared to the provisions in the current Act.

Points in **yellow** are to be considered in our submission for either amendment or removal.