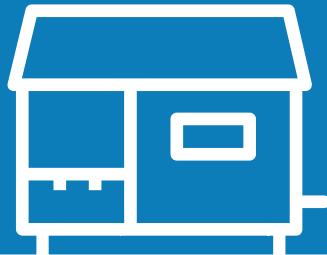


Living in a residential park

Information for residents
who rent both a site
and a dwelling



Government of South Australia

Attorney-General's Department



This guide will help you to understand your rights and responsibilities to enjoy a harmonious lifestyle in a residential park.

In a residential park a person rents a site, or a site and a dwelling, from the park owner to use as their principal place of residence. The dwelling may be a manufactured home or a moveable dwelling such as a caravan.

In South Australia residential parks include both mixed-use caravan parks and dedicated residential parks. A mixed-use park may offer both long and short term accommodation in a mixture of manufactured or transportable homes, caravan sites, tents and holiday cabins. Dedicated residential parks are often purpose built, only offering manufactured or transportable homes used for residential living.

The *Residential Parks Act 2007* (Act) and Residential Parks Regulations 2007 (regulations) regulate residential park living, and should be referred to for more detailed information. The Act does not cover holiday accommodation agreements.

Although residential parks are sometimes called *lifestyle communities* or *'villages'*, they are not retirement villages, which are regulated under the *Retirement Villages Act 2016*.

A register of residential parks in South Australia is available on the Consumer and Business Services (CBS) website: www.cbs.sa.gov.au

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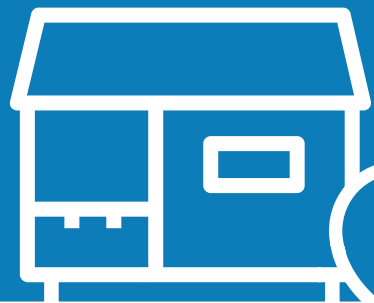
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Information for residents who rent both a site and a dwelling



If you are considering moving into a residential park, carefully read all information given to you by the park owner.

Living in a residential park will require you to enter into an agreement with the park owner. Seek advice on anything that you are unsure of before deciding whether residential park living is for you.



Your rights and responsibilities

Before you decide to move into a residential park you need to be clear about your rights and responsibilities.

As a park resident you must:

- pay the rent on time
- obey the park rules
- keep the rented property reasonably clean
- notify the park owner if there is any damage or repairs that are needed.

You must not:

- give the park owner false information about your identity or where you work
- damage the rented property
- use the property for an illegal purpose
- interfere with the reasonable peace, comfort or privacy of other people in the park

- make changes or additions without the park owner's consent
 - e.g. changing a lock or security device, attaching fixtures, making alterations, adding a structure to the site, or making additions to the exterior of the dwelling.

Even if the park owner gives approval for you to make a change or additions to the site at your own cost, remember your agreement is a rental agreement and so you may not be able to stay at the park when your agreement ends.

You are responsible for the behaviour of your visitors (where you have invited them or they are there with your consent). If a visitor behaves in a way that breaches a term of your agreement, you may be liable.

Documents you must be given

When an agreement is made

When you sign an agreement to live in a residential park, you must be given certain documents:

- ☐ Information notice outlining your rights and responsibilities
- ☐ Park rules
- ☐ Details of the park owner and who to contact if emergency repairs are required
- ☐ Information about fees that may be charged in addition to rent
- ☐ Information about whether you are entitled to any payments (other than bond) when you leave the site, and if so how the amount will be determined.

After an agreement is made

Once you have signed a written agreement, you must be given:

- A copy of the agreement
- Instructions on how to use any appliance or device as part of the rented property or common areas.

There must be a safety evacuation plan for the park and the plan must be reviewed at least once a year. The park owner must make the plan available for you to view or give you a copy.



Agreements

All agreements to live in a residential park must be in writing. You will have a residential park tenancy agreement when you rent a site and a dwelling (e.g. a caravan, transportable home or cabin).

The length of time of the agreement depends on whether you have a:

- **fixed term agreement** – for a set period of time (e.g. 6 or 12 months).
- **periodic agreement** - with a set start date, but no specified end date.

There are rules about how to end a periodic agreement. See the section 'Moving out' on page 14 for more information.



Sub-letting

Before you sub-let your site and dwelling, check if this is allowed at your park or under your agreement.

If the park owner allows sub-letting, you will need a sub-tenancy agreement with the park owner.

The agreement between yourself and the sub-tenant may be an oral or written agreement, however it is always best to put what was discussed in writing, where possible.

Sub-letting without permission will mean that you are breaching your agreement.

Transferring your agreement to someone else

To transfer (assign) your agreement to another person, you will need written approval from the park owner. The park owner cannot refuse to transfer your agreement unless there is a good reason - e.g. the person was evicted from the park for not paying rent.

The park owner may request a small charge to cover their costs for transferring your agreement.

If you breach the agreement

The park owner may give you a termination notice if you breach your agreement, meaning that your agreement will end if you do not fix the problem. The breach notice will state how much time you have to rectify the problem (note that there are minimum periods of time which need to be given).

If the issue is not resolved, you will need to move out of the park by the date specified on the notice. If you do not move out, the park owner can apply to the South Australian Civil and Administrative Tribunal (SACAT) for an 'order of possession'. SACAT will consider the facts presented and make a determination.

For information about SACAT
visit their website at
www.sacat.sa.gov.au

See the section 'Moving out' on page 14 for more information about how much notice must be given.

At the end of your agreement

Fixed term agreements

- If you wish to move out, you must give the owner at least 28 days' notice.
- If the owner wants you to move out, you must be given at least 28 days' notice.

If neither you nor the owner gives notice, then your agreement will automatically continue with the same terms and conditions.

Periodic agreements

- If you wish to move out, you must give at least 28 days' written notice to the owner, unless the rent period is longer – e.g. if you pay rent monthly, you must give at least a month's notice
- If the owner wants you to move out, you must be given at least 60 days' written notice, unless the rent period is longer – e.g. the owner must give you at least 90 days' notice if your rent period is 90 days.



Bond, rent and charges

You can be asked to pay a bond and two weeks' rent in advance. The park owner cannot ask for any other money at the start of the agreement.

Bond

The maximum amount you can be asked to pay for the bond is the equivalent of four weeks' rent.

The park owner must give you a receipt within 48 hours of receiving your bond. The receipt must show the date, your name, the amount and address of the rented property.

The owner must lodge the bond with Consumer and Business Services (CBS) within seven days of receiving it.

Note: Housing SA may be able to assist you with paying a bond
– Phone 131 299.

Rent

You can be asked to pay the first two weeks' rent in advance. If you pay this, then no more rent will be due until those two weeks have passed.

The owner must give you a receipt for each rent payment, unless you pay rent into the owner's bank account.

Rent increases

Your rent can be increased if your agreement states that there can be a rent increase during the agreement.

Rent cannot increase:

- during the first 12 months of an agreement
- until at least 12 months has passed since the last rent increase.

You must be given at least 60 days' written notice of a rent increase, unless your agreement sets out the increases and dates.

Services and utilities

If your site does not have an individual meter for utilities (e.g. gas and water) then you do not need to pay separately for these charges. They will be included in your rent.

If your site has an individual meter for utilities, you will usually need to pay these as separate charges in addition to rent. This should be written into your agreement.

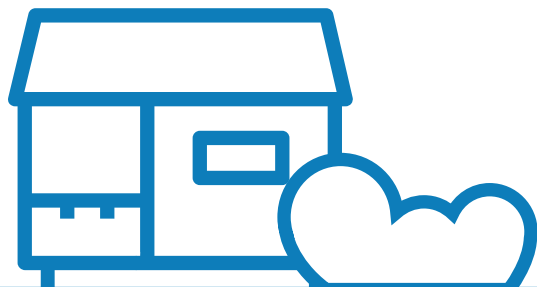
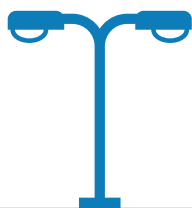
You can ask the owner to give you details of:

- the amount you have used
- the dollar amount of the charges (and how that amount was calculated)
- the period of time that the charges relate to
- and if being charged for any other related matters, itemising those matters and specifying the amount of the charge in relation to each item.

If the owner provides you with bottled gas, you will be responsible for refilling the gas bottle and paying for the gas that you use.

Overnight visitor fees

You can be charged visitor fees when a friend or relative visits and stays overnight, if clearly stated in your agreement or in the park rules.



Park rules

It is a condition of your residential park agreement that you obey all of the park rules.

Park rules can cover things such as:

- the use of common areas - e.g. laundry
- parking
- rubbish disposal
- pets
- sub-letting
- sporting and other recreational activities.

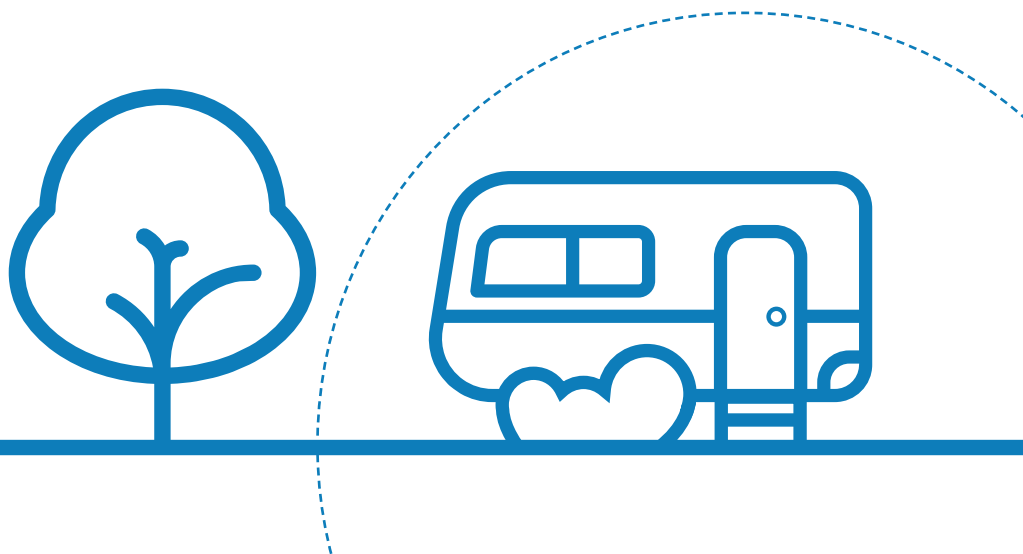
You must be given a copy of the park rules at the start of your agreement.

Changing the rules

Before changing the park rules, the owner must consult with the park's residents committee (if one exists) and consider their views.

Park rules can be changed after the park owner gives 14 days' written notice to all residents.

If you think a rule is unreasonable, you can apply to SACAT to have the rule changed or removed. The majority of residents living in the park must make a joint application.



Owner entering your site or property

The park owner can enter your property:

- in an emergency - e.g. to do urgent repairs or avert danger to life or valuable property
- to collect the rent (at a time agreed with you, but not more than once every week)
- to read the meter if you are required to pay for certain charges - e.g. water
- to inspect the rented property (at a time arranged with you, and not more than once every 3 months)
- to do repairs or maintenance at a reasonable time, giving at least 48 hours' written notice
- to show the rented property to prospective residents (at a reasonable time and on a reasonable number of occasions, but only during the last 14 days of your agreement, and after giving reasonable notice to you)
- for another purpose after the park owner has given you written notice stating the purpose and specifying the date and time of the visit. They must give you 7 to 14 days' notice before entering your property
- at any time with your consent
- if the park owner believes you have abandoned the rented property.

Note: A park owner does not have any other right to enter your rented property.

Residents committee

Residents committees are formed in residential parks to represent the common interests of park residents.

Larger parks are more likely to have a residents committee, however residents committees are recommended for all parks, as the committee can work with the park owner to maintain and improve the lifestyle of residents.

If a residents committee is in place, the park owner must consult the committee and consider their views when changing park rules and reviewing the safety evacuation plan. The park owner must allow the use of a room for committee meetings.

The role of the committee is to advise and consult with the park owner regarding:

- Preparing and amending park rules
- Developing guidelines for the standards of behaviour of park residents
- Improving and maintaining the natural environment and amenities of the park

- Installing and maintaining lighting and fencing within the park.

After a matter has been considered by the residents committee, it can be brought to the park owner's attention. The owner must consider the matter and provide a written response to the committee within one month, or a longer period if agreed by the committee.

Committee members

Committee members must be elected by residents from at least five different sites in the park to form a residents committee.

All residents have a right to be a member of a residents committee, unless they are employed by the park owner to help with the management of the park.

Committee confusion

If more than one group claims to be the residents committee for the park, SACAT can make a determination so it is clear which group is the official residents committee. Either the park owner or a park resident can apply to SACAT for an order.

Procedures

There are no requirements in the Act on how a committee should operate, however to help things run smoothly the committee could consider:

- Having a set of written rules - Consumer and Business Services (CBS) has developed some model rules, which can be adapted to suit the committee's needs.
- Deciding who can attend committee meetings - Generally only committee members should attend a residents committee meeting, unless guest speakers, friends or family members are invited by the committee to attend.
- Appointing residents to act in the roles of chairperson and secretary to make sure that records are kept and that meetings are run well. These roles could be held for a year or two, and then other members given the opportunity if they wish to take up one of these roles.

The committee does not need to be an incorporated association, as it does not:

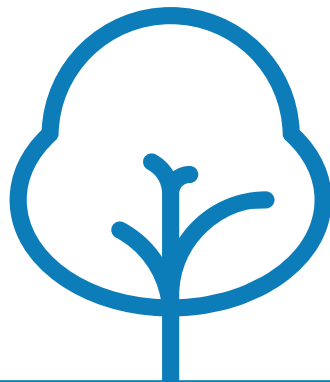
- Deal with money, borrow money, operate bank accounts or incur debt
- Enter into contracts
- Appoint agents.

If the committee is considering becoming an incorporated association, it is recommended that independent legal advice is sought.

Other committees

There can be other groups or committees in addition to the residents committee. For example:

- A social group to play cards each week
- A social committee to plan events and excursions for interested residents.



Repairs and maintenance

If damage occurs to your rented property or common areas, you should let the park owner know as soon as possible.

If you cause or allow damage to occur it is your responsibility to repair it.

If repairs are needed due to normal wear and tear or circumstances beyond your control, it is the park owner's responsibility to organise repairs.

If you have been unable to contact the park owner, or if nothing has been done after letting the park owner know there is a problem, then you can:

- Have emergency repairs carried out by a licensed tradesperson. You must get a written report from the tradesperson; or
- Apply to SACAT for the repairs to be carried out.



Moving out

When you decide you want to leave

When you decide to move out of the residential park, you will need to tell the park owner. The notice you must give the park owner will depend on the circumstances.

Circumstances	Amount of notice
Breach of agreement by the park owner	14 days, if the breach is not remedied by the park owner within this period
Repeat breaches by the park owner (usually within a short space of time)	14 days
End of fixed term agreement	28 days
No specified ground – periodic agreement only	21 days, unless the rent period is longer – e.g. if you pay rent monthly, you must give a month's notice
Site is uninhabitable – eg flooding	Immediate

You must use the correct form to give notice to the park owner. It is called *Notice of termination - end of agreement*. All forms for residential parks are available at www.sa.gov.au/tenancy/renters.

If you want to move out earlier

If you want to move out of the park before your agreement ends, you can only end your agreement if the park owner agrees. Discuss your intentions with the park owner and try to come to an arrangement, ensuring that any agreement is in writing.

If you leave a fixed term agreement early you may need to pay for:

- the costs involved in finding a new tenant
- any loss of rent.

If the owner decides that you won't be responsible for these costs, make sure this is made clear in writing.

Contact Consumer and Business Services (CBS) for advice about moving out before your agreement ends.

Undue hardship

If continuing the agreement would cause you undue hardship, you can lodge an application with SACAT to terminate the agreement.

An example of undue hardship could be the need to move into supported accommodation. Generally, 'undue hardship' does not include financial difficulties.



When the park owner wants you to move out

There are circumstances where the park owner can ask you to leave and end your agreement. The amount of notice they must give you will depend on the circumstances.

Circumstances	Amount of notice
Breach of the agreement – e.g. rent arrears	14 days, if you do not remedy the breach within this period
Repeat breaches by the resident (usually within a short space of time)	7 days
Serious misconduct	Immediate
End of fixed term agreement	28 days
No specified ground – periodic agreement only	60 days, unless the rent period is longer – eg 90 days’ notice if the rent period is 90 days
Site has been destroyed, rendered uninhabitable, or ceased to be lawfully usable for residential purposes.	Immediate
Property is acquired by a compulsory process – eg the council buys the land, or the bank takes possession of the park	60 days
Sale of rented site – periodic tenancy	28 days, unless the rent period is longer – eg if you pay rent monthly, you must be given a month’s notice

Disputing the termination notice

If you do not think you have breached the agreement, or you have already fixed the problem, contact Consumer and Business Services (CBS) for advice.

You may apply to SACAT for a determination if:

- You wish to dispute the termination notice
- You believe you were given a termination notice because you complained to a government authority or you were trying to enforce your legal rights
- The termination is so harsh that it goes against good conscience.

SACAT will consider the facts presented and make a determination.

Violence (serious misconduct)

If you have caused a serious act of violence or a threat to the safety of others in the park, you may be given an exclusion notice. You must leave the park immediately and you will not be allowed to return during the exclusion period. The amount of time will be stated on the form the park owner gives you.

If you have a visitor to the park, who is there with your consent, and your visitor is violent or threatens the safety of others in the park, your visitor may be given an exclusion notice.

If you believe that you or your visitor did not behave in that way, you can lodge an urgent application with SACAT requesting an order that:

- you can return to live in the park
- the park owner compensates you for any rent paid during the exclusion period
- the park owner compensates you for any other reasonable expenses.

Sale of the park or your site

If the park or your rented site is sold:

- The new owner may decide to keep the existing agreement with you.
- For a **periodic agreement**, the existing owner can give you 28 days' notice to terminate your agreement (or a longer notice period, if your rent period is longer). However, the park owner can only give this notice if they have entered into a contract for sale of the rented property and the contract requires them to give vacant possession of the rented property to the new owner.

If a resident passes away

If you pass away, a dependant person who is living in the property can choose to:

- Stay at the park under the existing agreement
- Seek written approval from the park owner for the agreement to be transferred/assigned to another person
- Terminate the agreement.

If there is no dependant person already living in the property when you pass away, your agreement will end.

When you leave the park

When you leave the park to live somewhere else you must:

- Give the rented property back to the park owner in a clean and reasonable condition
- Give your forwarding address to the park owner if they ask for it
- Leave any keys or devices that were provided to you by the park owner – e.g. access card to the park.

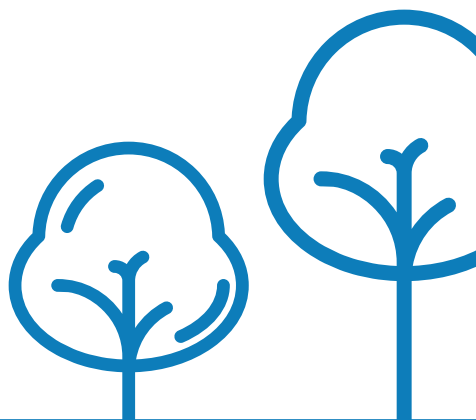
Bond refund

At the end of your agreement you should arrange for the bond to be refunded. If there is no damage, rent owed or other liability, the bond can be refunded to you.

You will need to fill out a residential park bond refund form (available from www.sa.gov.au/tenancy/renters). Both you and the park owner will need to sign the form.

You can lodge the form either by post or in person to Consumer and Business Services (CBS). If the park owner tries to claim the bond without your consent, CBS will send you a 'Notice of Claim', which will explain your options.

If you do not respond to the notice, the park owner will need to provide CBS with evidence of their claim. If they cannot provide evidence, the park owner will need to make an application to SACAT.



Resolving issues

If you have a dispute with the park owner, follow these steps to help resolve the issue.

1. Talk to the owner

Discuss the problem with the park owner to try to resolve the dispute. If an agreement cannot be reached, contact Consumer and Business Services (CBS) for advice.

2. Raise the matter with the residents committee

Other residents may have similar concerns. If the committee raises an issue with the park owner, the owner must consider the matter and provide a written response to the committee within one month, or a longer period if agreed by the committee.

3. Contact CBS

CBS provides free impartial advice about your rights and responsibilities and can recommend options to help resolve the issue. If a suitable outcome is not found, you can apply to the South Australian Civil and Administrative Tribunal (SACAT).

4. Apply to SACAT

SACAT is an independent specialist tribunal that provides a prompt and informal way of determining disputes between park owners and residents.

SACAT may send your matter to mediation, where a mediator will help explore options for you and the park owner to reach an agreement. A mediator has the power to make legally binding orders.

SACAT may also refer your matter to a hearing. SACAT can make a decision and issue a binding order.

Contacts

Consumer and Business Services (CBS)

Customer Service Centre

91 Grenfell Street, Adelaide 5000
(GPO Box 965, Adelaide 5001)

Phone: 131 882

Renting information is available at
sa.gov.au/tenancy/renters

South Australian Civil and Administrative Tribunal (SACAT)

Level 4, 100 Pirie Street, Adelaide 5000
(GPO Box 2361)

Phone: 1800 723 767

sacat.sa.gov.au

Housing SA

Phone: 131 299

sa.gov.au/housingsa

Concessions

Department of Human Services

Phone: 1800 307 758

sa.gov.au/concessions







