



Western Australia

## **Residential Parks (Long-stay Tenants) Act 2006**

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# Residential Parks (Long-stay Tenants) Act 2006

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Western Australia

## **Residential Parks (Long-stay Tenants) Act 2006**

**An Act to regulate the relationship between the operators of residential parks and tenants who live in such parks for extended periods, to consequentially amend certain other Acts, and for related purposes.**

## **Part 1 — Preliminary matters**

### **1. Short title**

This is the *Residential Parks (Long-stay Tenants) Act 2006*.

### **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

### **3. Terms used**

In this Act, unless the contrary intention appears —

***abandoned goods*** means goods that may be treated as abandoned goods under section 48(1);

***ADI account*** means an account with an authorised deposit-taking institution as defined in the *Banking Act 1959* (Commonwealth) section 5;

***agreed premises***, in relation to a long-stay agreement, means —

- (a) the site that the long-stay tenant is entitled to use or occupy under a long-stay agreement; and
- (b) a structure on the site that the long-stay tenant is entitled to use or occupy under a long-stay agreement; and
- (c) a fixture, fitting or chattel provided under a long-stay agreement for the exclusive use of the long-stay tenant; and
- (d) in relation to an on-site home agreement — the on-site home;

***approved form*** means a form approved by the Commissioner and published on the Department's website;

***bond administrator*** has the meaning given in the *Residential Tenancies Act 1987* section 3;

**buyer**, of a relocatable home, has the meaning given in section 58(2)(a);

**close associate**, in relation to a park operator, means —

- (a) if the park operator is an individual, any of the following —
  - (i) the spouse, de facto partner, parent, child or sibling of the park operator;
  - (ii) the parent, child or sibling of the spouse or de facto partner of the park operator;
  - (iii) a body corporate, if a person referred to in subparagraph (i) or (ii) is a director or secretary of the body corporate or a person involved in the management of the body corporate;

or

- (b) if the park operator is a body corporate, any of the following —
  - (i) a director or secretary of the body corporate or of a related body corporate as defined in the *Corporations Act 2001* (Commonwealth) section 9;
  - (ii) a person involved in the management of the body corporate or of a related body corporate as defined in the *Corporations Act 2001* (Commonwealth) section 9;
  - (iii) the spouse, de facto partner, parent, child or sibling of a person referred to in subparagraph (i) or (ii);
  - (iv) the parent, child or sibling of the spouse or de facto partner of a person referred to in subparagraph (i) or (ii);
  - (v) a related body corporate as defined in the *Corporations Act 2001* (Commonwealth) section 9;

**Commissioner** means the person designated as the Commissioner under section 84;

**default notice** means a notice under section 39(1)(b) or 40(1);

**Department** means the department of the Public Service principally assisting in the administration of this Act;

**DVO** has the meaning given under the *Domestic Violence Orders (National Recognition) Act 2017* section 4(1);

**enter into**, in relation to a long-stay agreement, includes make, renew, extend, assign or otherwise transfer the agreement;

**Family Court injunction** means an injunction under the *Family Court Act 1997* section 235 or 235A or the *Family Law Act 1975* (Commonwealth) section 68B or 114;

**family violence** has the meaning given in the *Restraining Orders Act 1997* section 5A(1);

**long-stay agreement** or **agreement** has the meaning given in section 5;

**long-stay site**, in relation to a residential park, means a site that the park operator is willing to rent to a person that is used or is intended to be used as the person's principal place of residence;

**long-stay tenant** or **tenant** means the grantee of a right of occupancy under a long-stay agreement;

**non-standard term** has the meaning given in section 10B(1);

**notice of termination** means a notice to terminate a long-stay agreement, or an interest in the agreement, given in accordance with this Act;

**on-site home**, in relation to an on-site home agreement, means the relocatable home provided under the agreement by the park operator;

**on-site home agreement** means a long-stay agreement under which the long-stay tenant has the right to occupy a relocatable home provided by the park operator;

**park operator**, in relation to a residential park, means the grantor of a right of occupancy under a residential park tenancy

agreement, or the grantor's successor in title if the succession is subject to the interest of the long-stay tenant;

**park premises**, in relation to a residential park —

- (a) means all or any part of the land and structures within the boundaries of the park; and
- (b) includes premises occupied exclusively by the park operator or an agent or employee of the park operator, vacant sites, vacant on-site homes, agreed premises and shared premises;

**park rules** has the meaning given in section 54A(1);

**pet bond** means an amount paid as a security bond as mentioned in section 21(2)(b);

**prescribed** means prescribed by the regulations;

**real estate agent** means a person who holds or is required to hold a licence under the *Real Estate and Business Agents Act 1978*;

**reasonable grounds**, for suspecting that a long-stay tenant has abandoned the agreed premises, has the meaning given in section 5A;

**relocatable home** means a vehicle, building, tent or other structure that is fitted or designed for use as a residence (whether or not it includes bathroom or toilet facilities) and that is or can be parked, assembled or erected on a site in a residential park;

**rent**, in relation to a long-stay agreement, means an amount paid or payable under the agreement by the long-stay tenant in respect of the tenancy period or a part of the tenancy period;

**Rental Accommodation Account** means the Rental Accommodation Account established under the *Residential Tenancies Act 1987* Schedule 1 clause 3;

**residential park** has the meaning given in section 5B;

**security bond** means an amount payable by a long-stay tenant as security for the performance of the tenant's obligations under the long-stay agreement, including any amounts of pet bond;

**selling agency agreement** has the meaning given in section 57(1)(a);

**selling agent** means a person appointed as a selling agent in relation to the sale of a relocatable home under a selling agency agreement;

**shared premises**, in relation to a residential park, means —

- (a) the common areas, structures and amenities in the park that the park operator provides for the use of all long-stay tenants or makes accessible to all tenants; and
- (b) any fixtures, fittings or chattels in or on the common areas, structures or amenities;

**site**, in relation to a residential park, means an area of land in the park that is set aside for the use of a relocatable home;

**site-only agreement** means a long-stay agreement under which the long-stay tenant has the right to occupy a relocatable home provided by the long-stay tenant on a site in the residential park;

**successor in title** includes a person who acquires an estate in land or has a mortgage in respect of the land;

**tenancy** means a tenancy under a long-stay agreement;

**tenancy period**, in relation to a long-stay agreement, means the whole period during which the agreement is in force, whether the agreement is for a fixed term or creates a periodic tenancy;

**tenant's document** means —

- (a) an official document; or
- (b) a photograph; or
- (c) correspondence; or
- (d) another document which it would be reasonable to expect a person to keep;

**voluntary sharing arrangement** means a term in a long-stay agreement in which a long-stay tenant agrees to pay —

- (a) rent on a deferred basis in accordance with the agreement; or
  - (b) one of the following to the park operator when the relocatable home is sold —
    - (i) a share of any increase in the sale price of the relocatable home from the price paid by the long-stay tenant for the home;
    - (ii) a share of the total sale price of the relocatable home;
- or
- (c) an amount as an exit fee payable if the relocatable home is sold or removed from the site the subject of a long-stay agreement and is —
    - (i) fixed as an amount set out in the agreement; or
    - (ii) calculated by reference to a formula set out in the agreement;

**working day** means any day except a Saturday, Sunday or public holiday.

[Section 3 inserted: No. 28 of 2020 s. 4.]

#### 4. Crown bound

This Act binds the Crown.

#### 5. Long-stay agreements

- (1) In this Act, a **long-stay agreement** is an agreement made between a person and a park operator under which the park operator for valuable consideration grants to the person the right to occupy —
  - (a) a relocatable home provided by the park operator on a site in the residential park as the person's principal place of residence; or

- (b) a relocatable home provided by the person on a site in the residential park as the person's principal place of residence.
- (2) However, an agreement is not a long-stay agreement if it —
- (a) confers on a person the right to occupy a site or other park premises in a residential park for a holiday; or
  - (b) confers on an employee or agent of a park operator the right to occupy a site or other park premises in a residential park during the term of the employment or agency; or
  - (c) confers on an itinerant worker the right to occupy a site or other park premises in a residential park, unless the parties agree that the agreement is a long-stay agreement; or
  - (d) is a prescribed agreement or class of agreement.
- (3) In subsection (2)(c) an *itinerant worker* means a person who —
- (a) is undertaking seasonal work; and
  - (b) will occupy a site or other park premises in a residential park only to carry out the seasonal work; and
  - (c) does not ordinarily occupy a site in the residential park.
- Example for this definition:
- A person who stays at a residential park in order to engage in employment picking fruit for 3 months.
- (4) An agreement or class of agreement cannot be prescribed under subsection (2)(d) unless the Minister is satisfied that —
- (a) the agreement or class of agreement to be prescribed is sufficiently regulated by another Act; or
  - (b) the accommodation provided under the agreement is not accommodation that should be regulated by the Act.
- (5) If an agreement confers a right to occupy the same or similar site or other park premises for a period of 3 months or longer, the agreement is taken, in the absence of proof to the contrary,

not to have been entered into for the purpose of conferring a right to occupy the site or premises for a holiday.

- (6) A reference in subsection (5) to an agreement includes a reference to an agreement that is part of a series of consecutive agreements between the same parties.

*[Section 5 inserted: No. 28 of 2020 s. 5.]*

**5A. Reasonable grounds for suspecting abandonment of premises**

In this Act there are *reasonable grounds* for suspecting that a long-stay tenant has abandoned the agreed premises if —

- (a) the tenant has failed to pay rent in accordance with the long-stay agreement; and
- (b) one of the following applies —
  - (i) there is uncollected mail, newspapers or other material at the agreed premises;
  - (ii) another long-stay tenant of the residential park or another person has told the park operator that the tenant has abandoned the agreed premises;
  - (iii) there are no goods at the agreed premises;
  - (iv) services (including gas, electricity and telephone services) to the agreed premises have been disconnected.

*[Section 5A inserted: No. 28 of 2020 s. 5.]*

**5B. Residential parks**

- (1) A *residential park* is a place, including a caravan park, where there are —
- (a) sites on which relocatable homes may be parked, assembled or erected in accordance with a tenancy; and
  - (b) shared premises for the use of long-stay tenants in accordance with a tenancy.

- (2) However, a **residential park** is not one of the following —
- (a) a place established as a retirement village under the *Retirement Villages Act 1992*;
  - (b) a prescribed place or class of place.
- (3) A place or class of place cannot be prescribed under subsection (2)(b) unless the Minister is satisfied that —
- (a) the place or class of place to be prescribed is sufficiently regulated by another Act; or
  - (b) it is not appropriate for the Act to regulate the accommodation provided by the place or class of place.

*[Section 5B inserted: No. 28 of 2020 s. 6.]*

**6. Application of Act to long-stay agreements**

- (1) This Act applies to, and in respect of, a long-stay agreement made after the commencement of this Act.
- (2) This Act applies to, and in respect of, an existing periodic long-stay agreement as if the agreement had been made immediately after the commencement of this Act.
- (3) This Act applies to, and in respect of, an existing fixed term long-stay agreement made orally —
- (a) to the extent that it can be applied, as if the agreement had been made in accordance with this Act;
  - (b) until the agreement is terminated or replaced.
- (4) Subject to subsection (5), this Act does not apply to an existing fixed term long-stay agreement made in writing.
- (5) If an existing fixed term long-stay agreement made in writing is extended for a period commencing after the commencement of this Act, this Act applies to, and in respect of, the agreement as extended —
- (a) to the extent that it can be applied, as if the agreement had been made in accordance with this Act;

(b) until the agreement is terminated or replaced.

(6) This Act applies to a long-stay agreement except to the extent that this Act specifically provides otherwise despite the terms of any other residential tenancy agreement, other agreement, contract or arrangement, whether that agreement, contract or arrangement was made before or after the commencement of this section.

(7) In this section —

***existing fixed term long-stay agreement*** means a fixed term long-stay agreement of 3 months or longer —

(a) made before the commencement of this Act; and

(b) that is continuing at the commencement of this Act;

***existing periodic long-stay agreement*** means a long-stay agreement that continues for 3 months or longer —

(a) made before the commencement of this Act; and

(b) that is continuing at the commencement of this Act.

*[Section 6 amended: No. 28 of 2020 s. 7.]*

*[7. Deleted: No. 28 of 2020 s. 8.]*

## **8. Operation of this Act in relation to other written laws**

(1) If a residential tenancy agreement (as defined in the *Residential Tenancies Act 1987*) under which a person has a right to occupy a site in a residential park is a long-stay agreement, that Act does not apply to the agreement.

*[(2) deleted]*

(3) Except as otherwise provided by this Act, the provisions of this Act are in addition to, and do not derogate from, the provisions of any other written law.

*[Section 8 amended: No. 28 of 2020 s. 9.]*

**9. Contracting out**

- (1) Except as specifically provided by this Act —
- (a) any contract, agreement, scheme or arrangement, whether it was made before or after the commencement of this Act, has no effect to the extent that it purports to exclude, modify or restrict the operation of this Act; and
  - (b) any purported waiver of a right conferred by or under this Act has no effect.
- (2) A person must not enter into any contract, agreement or arrangement with the intention, either directly or indirectly, of defeating, evading or preventing the operation of this Act.

Penalty for this subsection: a fine of \$10 000.

*[Section 9 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 10.]*

**9A. Exemption from provision of Act by regulations**

- (1) Regulations may be made exempting any of the following from a provision of this Act —
- (a) a long-stay agreement or class of long-stay agreement;
  - (b) a residential park or class of residential park.
- (2) The regulations may provide for conditions and restrictions subject to which an exemption is to apply.
- (3) However, regulations cannot be made under this section unless the Commissioner has consulted with, and invited submissions from, persons the Commissioner considers has an interest in —
- (a) for regulations made in relation to a long-stay agreement or class of long-stay agreement — the agreement or class of agreement to be prescribed; or
  - (b) for regulations made in relation to a residential park or class of residential park — the residential park or class of residential park to be prescribed.

*[Section 9A inserted: No. 28 of 2020 s. 11.]*

## **Part 2 — Long-stay agreements and conduct of long-stay tenants and park operators**

*[Heading amended: No. 28 of 2020 s. 12.]*

### **Division 1 — Form of long-stay agreements**

*[Heading inserted: No. 28 of 2020 s. 13.]*

#### **10. Requirements for long-stay agreements**

- (1) A long-stay agreement must —
- (a) be in writing; and
  - (b) include —
    - (i) the standard terms included in the long-stay agreement under Division 5; and
    - (ii) if the agreement is a site-only agreement — the terms in the long-stay agreement under section 55;
- and
- (c) comply with other requirements for an agreement under this Act, including requirements about the content and form of the agreement; and
  - (d) make provision for any prescribed information or other matter.
- (2) A park operator must not enter into a long-stay agreement that contravenes the requirements of this section.

Penalty for this subsection: a fine of \$5 000.

Note for this section:

Under section 62, a long-stay tenant may apply to the State Administrative Tribunal for particular orders in relation to a long-stay agreement that does not comply with this section.

*[Section 10 inserted: No. 28 of 2020 s. 14.]*

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**10A. Prescribed standard-form agreement**

- (1) A standard-form long-stay agreement (a *standard-form agreement*) may be prescribed.
- (2) If a standard-form agreement is prescribed when a long-stay agreement is entered into —
  - (a) the agreement must be in that form; and
  - (b) if a term of the standard-form agreement is not included in the long-stay agreement — the long-stay agreement is taken to include the term of the standard-form agreement.
- (3) A park operator must not enter into a long-stay agreement that is not in the form of any prescribed standard-form agreement.

Penalty for this subsection: a fine of \$5 000.

Note for this section:

Under section 62, a long-stay tenant may apply to the State Administrative Tribunal for particular orders in relation to a long-stay agreement that is not in any standard form.

[Section 10A inserted: No. 28 of 2020 s. 14.]

**10B. Particular terms in long-stay agreements**

- (1) A long-stay agreement may include a term (a *non-standard term*) other than —
  - (a) a standard term stated in the Act; or
  - (b) if a standard-form agreement is prescribed under section 10A(1) — a term of that standard-form long-stay agreement.
- (2) However, a non-standard term —
  - (a) must not exclude, modify or restrict a standard term or the operation of the Act or contravene a provision of this Act; and
  - (b) must not be a type of term prescribed for this paragraph as a prohibited term; and

- (c) must not be inconsistent with a standard-form long-stay agreement that is prescribed under section 10A(1); and
  - (d) must be set out and clearly labelled as a non-standard term.
- (3) A park operator must not enter into a long-stay agreement that includes a non-standard term referred to in subsection (2).  
Penalty for this subsection: a fine of \$5 000.
- (4) The regulations may prescribe a term as a term that must be included in a long-stay agreement.
- (5) A park operator must not enter into a long-stay agreement that does not include a term prescribed under subsection (4).  
Penalty for this subsection: a fine of \$5 000.

Note for this section:

Under section 62, a long-stay tenant may apply to the State Administrative Tribunal for particular orders in relation to a long-stay agreement that does not comply with this section.

*[Section 10B inserted: No. 28 of 2020 s. 14.]*

### **Division 1A — General matters**

*[Heading inserted: No. 28 of 2020 s. 15.]*

#### **10C. Long-stay agreement binds park operator's successors in title**

Despite the *Transfer of Land Act 1893* section 68 but subject to the provisions of this Act, a long-stay agreement, and the right to occupy a site or other park premises in a residential park created under that agreement, binds the park operator's successors in title as if the successors in title had entered into the agreement.

*[Section 10C inserted: No. 28 of 2020 s. 16.]*

**11. Information for prospective long-stay tenants**

(1) In this section —

*required documents* means all of the following documents —

- (a) a copy of the proposed agreement;
- (b) a disclosure statement in the approved form (if any);
- (c) a copy of the information booklet in the approved form (if any);
- (d) a copy of any park rules that apply to the residential park where the site the subject of the long-stay agreement is located;
- (e) any other prescribed document.

(2) A park operator must give the required documents to a person before entering into a long-stay agreement with the person —

- (a) for a site-only agreement — at least 5 working days before the agreement is signed; or
- (b) otherwise — before the agreement is entered into.

Penalty for this subsection: a fine of \$5 000.

(3) However, subsection (2)(a) does not apply if the person who intends to enter into the site-only agreement —

- (a) owns a relocatable home that is a vehicle for which a vehicle licence has been granted under the *Road Traffic (Vehicles) Act 2012*; and
- (b) states in writing to the park operator that the person does not require the required documents to be given to the person at least 5 working days before the agreement is signed; and
- (c) is given the required documents by the park operator before the person occupies the site or other park premises in the residential park.

*[Section 11 inserted: No. 28 of 2020 s. 16.]*

**12. Restrictions on amounts park operators may charge**

- (1) A park operator must not require or receive from a long-stay tenant, or prospective long-stay tenant, any payment in relation to the long-stay agreement (including an entry fee or a payment for renewing or extending the agreement) other than a payment for —
- (a) rent; or
  - (b) a security bond; or
  - (c) an amount paid or payable as consideration for an option to enter into a long-stay agreement if, when the option is exercised, the amount is refunded or applied towards the rent payable under the agreement; or
  - (d) an amount that the park operator is authorised to require or receive under this Act; or
  - (e) an amount for a fee if —
    - (i) the type of fee is prescribed as a fee that a park operator may charge a long-stay tenant under the long-stay agreement; and
    - (ii) the park operator may charge the tenant the fee under the long-stay agreement; and
    - (iii) the fee is for a service or facility — the amount is necessary to recover the reasonable costs of providing the tenant a service or facility for which the fee is charged or is a reasonable amount.

Penalty for this subsection: a fine of \$5 000.

- (2) A payment accepted in contravention of this section is recoverable by the person who paid it —
- (a) as a debt due in a court of competent jurisdiction; or
  - (b) by order of the State Administrative Tribunal under Part 5.

*[Section 12 inserted: No. 28 of 2020 s. 16.]*

**13. Real estate agents prohibited from charging fees, charges or rewards for particular services**

- (1) A real estate agent who provides services on behalf of a park operator in connection with letting agreed premises or entering into a long-stay agreement must not require or receive from a long-stay tenant, or prospective long-stay tenant, any fee, charge or reward for those services.

Penalty for this subsection: a fine of \$5 000.

- (2) A real estate agent who provides services on behalf of a long-stay tenant in connection with sub-letting the agreed premises must not require or receive from a sub-tenant, or prospective sub-tenant, any fee, charge or reward for those services.

Penalty for this subsection: a fine of \$5 000.

- (3) A fee, charge or reward received in contravention of this section is recoverable by the person who paid it as a debt due in a court of competent jurisdiction.

*[Section 13 inserted: No. 28 of 2020 s. 16.]*

**13A. Restriction on voluntary sharing arrangements**

- (1) In this section —

***rent-only agreement*** means a long-stay agreement that —

- (a) does not include a voluntary sharing arrangement; and

- (b) charges rent that is not greater than the higher of —

- (i) the amount the long-stay tenant currently occupying the site is paying; or

- (ii) the rent payable by a long-stay tenant for a site of a similar size and location in the same residential park.

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- (2) A term of a long-stay agreement that includes a voluntary sharing arrangement has no effect unless —
- (a) the long-stay agreement that contains the voluntary sharing arrangement is entered into in accordance with this section; and
  - (b) the park operator gives, in the prescribed manner, to the person who intends to enter into the agreement a document that —
    - (i) is in the approved form; and
    - (ii) states how the voluntary sharing arrangement is to operate in relation to the person, including by providing examples of how the arrangement would apply to the person.
- (3) The voluntary sharing arrangement may be —
- (a) entered into only when the parties initially agree to a long-stay agreement; and
  - (b) varied during the life of a long-stay agreement only with the consent of the parties to the agreement.
- (4) Subsection (5) —
- (a) applies if a park operator intends to enter into a long-stay agreement that includes a voluntary sharing arrangement with —
    - (i) a person who is buying an on-site home from a person other than the park operator or a close associate of the park operator; or
    - (ii) a current or former long-stay tenant, and the agreement is 1 of 2 or more consecutive long-stay agreements between the same parties conferring a right to occupy the same or similar site or other park premises;
- but

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- (b) does not apply if —
  - (i) all long-stay agreements entered into between the park operator and each long-stay tenant of the residential park include a voluntary sharing arrangement; and
  - (ii) the park operator does not offer to enter into rent-only agreements.
- (5) The park operator must give the person or long-stay tenant an option to enter into a rent-only agreement as well as a long-stay agreement that includes a voluntary sharing arrangement.

*[Section 13A inserted: No. 28 of 2020 s. 16.]*

**14. Cost of preparing long-stay agreement**

The park operator must bear the cost of preparing a proposed long-stay agreement for execution by the parties to the agreement.

Penalty: a fine of \$5 000.

*[Section 14 amended: No. 28 of 2020 s. 17.]*

**15. Disclosure of park operator's particulars to long-stay tenant**

- (1) When a park operator enters into a long-stay agreement, the park operator must ensure that the long-stay tenant is given written notice of the following —
  - (a) the full name and address of the park operator and of any person having superior title to that of the park operator;
  - (b) if the park operator or person with superior title is a body corporate —
    - (i) the full name and address of the secretary of the body corporate; or
    - (ii) if the body corporate does not have a secretary — the full name and address of a

director of, or contact person for, the body corporate;

- (c) the terms of the park's operating licence and all licensing conditions including any conditions imposed by the relevant local government authority under the *Caravan Parks and Camping Grounds Act 1995*.

Penalty for this subsection: a fine of \$5 000.

- (2) If a person succeeds another person as a park operator, the new park operator must ensure that each long-stay tenant in the residential park is given written notice of the following —
- (a) the full name and address of the new park operator;
- (b) if the new park operator is a body corporate —
- (i) the full name and address of the secretary of the body corporate; or
- (ii) if the body corporate does not have a secretary — the full name and address of a director of, or contact person for, the body corporate.

Penalty for this subsection: a fine of \$5 000.

- (3) If a name or address of which the park operator is required under this section to give notice to a long-stay tenant is changed, the park operator must within 14 days after the change give the tenant written notice of the new name or address.

Penalty for this subsection: a fine of \$5 000.

- (4) However, if a residential park is managed by a real estate agent, it is sufficient for a long-stay tenant to be notified of the address of the agent, instead of the address of the park operator.

*[Section 15 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 18.]*

**16. Disclosure of tenant's particulars to park operator**

- (1) A long-stay tenant or prospective long-stay tenant must not falsely state the tenant's name or place of occupation to the park operator.

Penalty for this subsection: a fine of \$5 000.

- (2) If a long-stay tenant has given particulars of the tenant's place of occupation to the park operator and the place is changed, the tenant must notify the park operator of the new place of occupation within 14 days after the change.

Penalty for this subsection: a fine of \$5 000.

- (3) When a long-stay tenant vacates the agreed premises, the tenant must give the park operator particulars of the tenant's next intended residential address or postal address.

Penalty for this subsection: a fine of \$5 000.

*[Section 16 amended: No. 3 of 2019 s. 39.]*

**17. Tenant's copy of long-stay agreement**

- (1) When a long-stay tenant signs a long-stay agreement, the park operator must —

- (a) give the tenant a copy of the agreement; and  
(b) ensure that a fully executed copy of the agreement is given to the tenant within 21 days after it was first signed by the tenant or, if that is not practicable in the circumstances, as soon as practicable after that.

Penalty for this subsection: a fine of \$5 000.

- (2) If the park operator does not execute the long-stay agreement but gives the long-stay tenant a copy of it in accordance with subsection (1)(b), acceptance of rent from the tenant by the park operator gives the agreement the same effect as if it had been fully executed.

*[Section 17 amended: No. 3 of 2019 s. 39.]*

**18. Cooling off period**

- (1) A long-stay tenant under a site-only agreement is entitled to rescind the agreement —
  - (a) if the park operator has complied with section 11(2) — at any time within 5 working days after the date of the agreement; or
  - (b) if the park operator has not complied with section 11(2) within the time specified in that subsection but has given the tenant the documents required under that section — at any time within 10 working days after the day on which the documents required under that section are given to the tenant; or
  - (c) if the park operator has not complied with section 11(2) — at any time.
- (2) However, a long-stay tenant is not entitled to rescind a long-stay agreement under this section after taking up occupation of the agreed premises.

*[Section 18 amended: No. 28 of 2020 s. 19.]*

**19. Recovery of amounts paid under a mistake of law or fact**

- (1) A party to a long-stay agreement is entitled to recover an amount paid to the other party under a mistake of law or fact relating to the agreement.
- (2) A long-stay tenant may recover an amount mistakenly paid to the park operator by deducting it from rent payable by the tenant under the long-stay agreement.

**20. Age-restricted residential parks**

- (1) A long-stay agreement may include a term to the effect that children are not permitted to occupy a site in a residential park only if the site the subject of the agreement is within a park, or part of a park, in which —

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- (a) both of the following apply —
- (i) it is intended that each site within the park, or part of the park, will be solely or principally occupied by a person of a particular age;
  - (ii) each long-stay agreement entered into between the park operator and a long-stay tenant of the park, or part of the park, includes a term to the effect that children are not permitted to live on the agreed premises;
- or
- (b) the residential park is operated under a licence under the *Caravan Parks and Camping Grounds Act 1995* and the licence permits the park operator to include such a term in the agreement.
- (2) A park operator must not do any of the following on the grounds that it is intended that a child will live on the agreed premises unless the site the person is to use or occupy is within a park, or part of a park, to which subsection (1) applies —
- (a) refuse to enter into a long-stay agreement with a person;
  - (b) advertise or otherwise indicate an intention to refuse to enter into a long-stay agreement with a person;
  - (c) instruct anyone else on the park operator's behalf —
    - (i) to refuse to enter into a long-stay agreement with a person; or
    - (ii) to advertise or otherwise indicate an intention to refuse to enter into a long-stay agreement with a person.

Penalty for this subsection: a fine of \$5 000.

*[Section 20 inserted: No. 28 of 2020 s. 20.]*

**20A. Park operator's continuing disclosure obligations about material changes in relation to residential parks**

(1) In this section —

**material change**, in relation to a residential park, means an arrangement or restriction that is reasonably likely to occur and might materially affect the occupation or use of a site or other park premises in a park by the park operator or long-stay tenant.

Examples of material changes:

1. A sale or redevelopment of the residential park.
2. A change in a requirement of a licence a park operator is required to hold under a written law that impacts on the tenant's use of the park.
3. A change in the use of land for which an approval of development is required under the *Planning and Development Act 2005*.

(2) This section applies if, after a long-stay tenant has entered into a site-only agreement a park operator becomes aware of a material change in relation to the residential park where the site the subject of the long-stay agreement is located.

(3) The park operator must give the long-stay tenant a written notice stating how the tenant's use or enjoyment will be affected as soon as reasonably practicable after the park operator becomes aware of the material change in relation to the park.

Penalty for this subsection: a fine of \$5 000.

[Section 20A inserted: No. 28 of 2020 s. 20.]

**Division 2 — Security bonds**

**21. Security bonds**

(1AA) In this section —

**pet** does not include an assistance dog as defined in the *Dog Act 1976* section 8(1).

(1) A park operator must not require or receive payment of more than one security bond in respect of a long-stay agreement.

Penalty for this subsection: a fine of \$5 000.

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- (1A) However, subsection (1) does not prevent a park operator from receiving a security bond in instalments.
- (2) A park operator must not require or receive payment of a security bond if the amount of the bond is more than the sum of —
- (a) 4 weeks' rent; and
  - (b) if the long-stay tenant is permitted to keep a pet capable of carrying parasites that can affect humans at the agreed premises — a prescribed amount to meet the cost of fumigating the premises at the end of the tenancy, if necessary.

*[(c) deleted]*

Penalty for this subsection: a fine of \$5 000.

- (3) When a long-stay tenant pays a security bond, the park operator must give the long-stay tenant a receipt that specifies —
- (a) the amount paid; and
  - (b) the date on which it is paid; and
  - (c) if a pet bond is paid — the amount of the pet bond; and
  - (d) the name of the tenant; and
  - (e) particulars of the agreed premises for which it is paid.

Penalty for this subsection: a fine of \$20 000.

- (4) Nothing in subsection (1) prevents the park operator from requiring further payment from a remaining long-stay tenant towards the security bond in order to cover the disposal of a former long-stay tenant's portion of the security bond under section 74C(3).

*[Section 21 amended: No. 3 of 2019 s. 27 and 39; No. 28 of 2020 s. 21.]*

**22. Payment of bond to bond administrator**

- (1) When a person receives a security bond, the person must, within 14 days after receiving the bond —
- (a) deposit an amount equal to the amount of the bond with the bond administrator or an authorised agent as defined in the *Residential Tenancies Act 1987* Schedule 1 clause 1; and
  - (b) give the bond administrator or an authorised agent a record relating to the payment in the form approved by the bond administrator and available on the department's website.

Penalty for this subsection: a fine of \$20 000.

- (2) A person must not make an entry in a record given to the bond administrator or an authorised agent under subsection (1)(b) that the person knows is false or misleading in a material particular.

Penalty for this subsection: a fine of \$20 000.

*[Section 22 inserted: No. 28 of 2020 s. 22.]*

*[23. Deleted: No. 28 of 2020 s. 22.]*

**24. Increase in security bond**

- (1A) A park operator must not increase a security bond except under this section.
- (1) When the amount of rent payable under a long-stay agreement is increased, the park operator may increase the amount of the security bond payable by the long-stay tenant by giving the tenant a written notice specifying the amount of the increase and the day on which it is payable.
- (2) The day specified in the notice on which the bond is payable must be —
- (a) at least 60 days after the day on which the notice is given; and

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- (b) for on-site home agreements, at least 6 months after —
  - (i) if the security bond has been increased — the day of the last increase; or
  - (ii) otherwise — the day the long-stay agreement commenced;and
- (c) for site-only agreements, at least 12 months after —
  - (i) if the security bond has been increased — the day of the last increase; or
  - (ii) otherwise — the day the long-stay agreement commenced.
- (3) A security bond cannot be increased to an amount that would exceed the sum of —
  - (a) 4 weeks' rent under the long-stay agreement at the time at which the amount of the increase would be payable; and
  - (b) if a pet bond is payable — the maximum amount chargeable under section 21(2)(b).
- (4) A notice of increase of the amount of security bond that has been given in accordance with this section and that has not been withdrawn by the park operator varies the long-stay agreement to the effect that the amount of the increase specified in the notice is payable under the agreement on the day specified in the notice.
- (5) Sections 21(3) and 22 apply to an amount paid under this section.

*[Section 24 amended: No. 28 of 2020 s. 23.]*

### **Division 3 — Rent**

#### **25. Rent in advance**

- (1) A park operator must not require a long-stay tenant or prospective long-stay tenant to pay more than 2 weeks' rent before or during the first 2 weeks of the tenancy.  
Penalty for this subsection: a fine of \$5 000.
- (2) A park operator must not require a long-stay tenant to pay any further rent before the end of any period for which rent has been paid.  
Penalty for this subsection: a fine of \$5 000.  
*[Section 25 amended: No. 3 of 2019 s. 39.]*

#### **26. Written receipts for rent**

- (1) When a park operator receives any rent under a long-stay agreement, the park operator must give the long-stay tenant a written receipt for the rent within 3 working days after receiving the rent.
- (2) The receipt must specify —
  - (a) the date on which the rent was received; and
  - (b) the amount paid; and
  - (c) the period for which the amount is paid; and
  - (d) the name of the long-stay tenant; and
  - (e) particulars of the agreed premises.Penalty for this subsection: a fine of \$5 000.
- (3) However, the park operator does not have to give a written receipt for rent that is paid, under an agreement between the park operator and the long-stay tenant, into an ADI account nominated by the park operator.  
*[Section 26 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 24.]*

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**27. Requiring post-dated cheques prohibited**

A person must not require a post-dated cheque or other post-dated negotiable instrument in payment of rent.

Penalty: a fine of \$5 000.

**28. Rent records kept by park operator**

- (1) Each time a park operator receives rent under a long-stay agreement for agreed premises, the park operator must keep a record of the rent received in accordance with subsection (1A).

Penalty for this subsection: a fine of \$5 000.

- (1A) The record must state the following each time the rent is received —

- (a) that the payment received is for rent;
- (b) the date the rent was received;
- (c) the name of the person paying the rent;
- (d) the amount paid;
- (e) the period in respect of which the rent is paid;
- (f) the site in respect of which the rent is paid.

- (2) A person must not make an entry in a record that the person knows is false or misleading in a material particular.

Penalty for this subsection: a fine of \$5 000.

*[Section 28 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 25.]*

**29. Apportionment of rent**

- (1) Rent payable under a long-stay agreement —
- (a) accrues from day to day; and
  - (b) must be apportioned accordingly when the agreement ends.

- (2) Any amount payable or recoverable as a result of the apportionment is payable or recoverable immediately.

*[Section 29 amended: No. 28 of 2020 s. 26.]*

**29A. Reviewing and varying rent under long-stay agreement**

- (1) A term of a long-stay agreement that provides for rent to be reviewed and varied has no effect if —
- (a) the long-stay agreement provides for review of the rent at —
    - (i) for a site-only agreement — intervals of less than 12 months; or
    - (ii) for an on-site home agreement — intervals of less than 6 months;
  - or
  - (b) the term does not, for each review to be carried out during the tenancy period, state —
    - (i) the amount of rent; or
    - (ii) a single basis for calculating the amount of rent;
  - or
  - (c) current market rent is the basis for calculating the amount of rent; or
  - (d) the term provides the rent may not be reduced if the rent calculated using the basis for calculating the rent stated in the agreement is less than the rent paid before the review date.
- (2) Subsection (1)(a)(i) and (ii) do not prevent the term from specifying a day for carrying out the first review that is earlier than the intervals stated in those provisions after the beginning of the tenancy if —
- (a) it is the practice of the park operator to review the rent payable by long-stay tenants in accordance with a set review date schedule; and

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- (b) the long-stay tenant was given written notice of the set review date schedule before the long-stay agreement was entered into.
- (3) Subsection (1)(b) does not prevent the long-stay agreement from specifying different bases for calculating the amount of rent for different review dates.

*[Section 29A inserted: No. 28 of 2020 s. 27.]*

**30. Process for varying rent under long-stay agreement**

- (1) If a long-stay agreement includes a term providing for reviewing and varying rent under section 29A, a park operator may vary the amount of rent payable under the agreement by giving a written notice to the long-stay tenant specifying —
    - (a) the amount of the varied rent; and
    - (b) the day from which the varied rent becomes payable.
  - (2) The day specified in the notice from which the varied rent becomes payable must be —
    - (a) at least 60 days after the day on which the notice is given; and
    - (b) at least —
      - (i) for a site-only agreement — 12 months after the day on which the tenancy period began; or
      - (ii) for an on-site home agreement — 6 months after the day on which the tenancy period began;and
    - (c) if the rent has previously been varied, at least —
      - (i) for a site-only agreement — 12 months after the day on which the rent was previously varied; or
      - (ii) for an on-site home agreement — 6 months after the day on which the rent was previously varied.
- [(d) deleted]*

- (3) Subsection (2)(b) does not apply in respect of the first notice given to a long-stay tenant after the beginning of the tenancy period if —
- (a) it is the practice of the park operator to review the rent payable by long-stay tenants in accordance with a set review date schedule; and
  - (b) the long-stay tenant was given written notice of the set review date schedule before the long-stay agreement was entered into.
- (4) A notice of varying rent that has been given in accordance with this section and has not been withdrawn by the park operator varies the long-stay agreement to the effect that the varied rent specified in the notice is payable under the agreement from the day specified in the notice.

*[(5) deleted]*

*[Section 30 amended: No. 28 of 2020 s. 28.]*

**31. Increasing rent due to significant cost increases**

- (1) This section applies if —
- (a) the park operator wants to increase rent payable by a long-stay tenant under a long-stay agreement; and
  - (b) the increase in rent is intended to cover —
    - (i) significant increased operational costs in relation to the residential park in which the tenant is occupying a site or other park premises, including a significant increase in rates, taxes or utilities; or
    - (ii) significant unforeseen repair costs in relation to the residential park in which the tenant is occupying a site or other park premises;
- and
- (c) the increase —
    - (i) is not provided for in the long-stay agreement; or

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- (ii) is not consistent with a term in the long-stay agreement.
- (2) The park operator may increase the rent payable by giving the long-stay tenant a written notice in the approved form stating —
- (a) the amount of the increased rent; and
  - (b) the reason the rent is being increased; and
  - (c) the day from which the increased rent becomes payable; and
  - (d) that the tenant must give the park operator, within 28 days after receiving a written notice from the park operator, a written notice stating whether the tenant agrees or does not agree to the proposed increase; and
  - (e) if the tenant does not give the park operator a written notice stating the tenant agrees with the increase in rent — the park operator may apply to the State Administrative Tribunal to increase the rent under section 63A.
- (3) The day from which the increased rent becomes payable must be at least 60 days after the day on which the notice is given to the long-stay tenant under subsection (2).
- (4) The park operator may increase the rent payable —
- (a) in accordance with the notice given under subsection (2) only if the long-stay tenant gives a written notice to the park operator stating that the tenant agrees to the proposed increase; or
  - (b) if the State Administrative Tribunal made an order under section 63A(2)(a) or (c) — in accordance with the State Administrative Tribunal's order.

*[Section 31 inserted: No. 28 of 2020 s. 29.]*

**31A. Accelerated rent and liquidated damages prohibited**

- (1) A park operator must not enter into a long-stay agreement that provides that if the long-stay tenant breaches the agreement, this Act or another written law, the tenant is liable to pay —
- (a) all or part of the rent remaining payable under the agreement; or
  - (b) rent of an increased amount; or
  - (c) an amount by way of penalty; or
  - (d) an amount by way of liquidated damages.

Penalty for this subsection: a fine of \$5 000.

- (2) A long-stay agreement has no effect to the extent that it includes a provision of the kind referred to in subsection (1).

*[Section 31A inserted: No. 28 of 2020 s. 29.]*

**31B. Application of benefits and rent reductions for not breaching agreement**

- (1) This section applies if a long-stay agreement provides that if the long-stay tenant does not breach the agreement or a written law, the tenant is or may be granted —
- (a) a reduction in rent; or
  - (b) a rebate, refund or other benefit.
- (2) The long-stay agreement is taken to have been varied from the commencement of the agreement so the long-stay tenant is granted the rent reduction, rebate, refund or other benefit from the commencement of the agreement.

*[Section 31B inserted: No. 28 of 2020 s. 29.]*

**Division 4 — Relocating long-stay tenants to another site in residential park**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**32. Long-stay agreement may include term requiring long-stay tenant to relocate to comparable site**

A long-stay agreement may include a term that permits a park operator to require a long-stay tenant to relocate from the site the tenant is currently occupying to another site only if —

- (a) it is reasonably necessary in the circumstances to relocate the tenant from the tenant's current site to another site; and
  - (b) the other site —
    - (i) is another site in the same residential park as the tenant's current site; and
    - (ii) is reasonably comparable to the tenant's current site;
- and
- (c) the park operator pays the tenant compensation under section 32A.

*[Section 32 inserted: No. 28 of 2020 s. 30.]*

**32A. Park operator to pay long-stay tenant compensation because of relocation**

- (1) A park operator must pay a long-stay tenant compensation for reasonable financial loss incurred as a result of being required to relocate from the site the tenant is currently occupying to another site, including —
  - (a) the costs incurred by the tenant to transport the tenant's possessions from the current site to the other site; and
  - (b) other financial loss that the tenant has suffered because of the relocation; and

- (c) other expenses paid by the tenant that are reasonably associated with moving to the other site; and
  - (d) for an on-site home agreement — the costs of disconnecting and reconnecting utilities and services to the site; and
  - (e) for a site-only agreement —
    - (i) the cost of removing the relocatable home from the agreed premises, including the costs incurred in disconnecting utilities and services to the home; and
    - (ii) the cost of moving the relocatable home from the current site to the other site; and
    - (iii) the cost of erecting the relocatable home on the other site, including the costs incurred in connecting utilities and services to the home; and
    - (iv) the cost of establishing the relocatable home at the other site, including any costs reasonably incurred in landscaping the site to a standard comparable to that of the previous site;
- and
- (f) any prescribed matter.
- (2) The amount payable is the amount agreed between the long-stay tenant and the park operator or, if they cannot agree, the amount determined by the State Administrative Tribunal on an application under section 64B.

*[Section 32A inserted: No. 28 of 2020 s. 30.]*

**Division 5 — Standard terms**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**Subdivision 1 — Occupation of premises**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**32B. Vacant possession**

It is a term of a long-stay agreement that vacant possession of the agreed premises must be given to the long-stay tenant on the day on which the tenant is entitled under the agreement to take up occupation of the agreed premises.

*[Section 32B inserted: No. 28 of 2020 s. 30.]*

**32C. No legal impediment to lawful enjoyment**

(1) In this section —

*tenant's lawful enjoyment*, of the agreed premises, means the long-stay tenant's lawful occupation of the agreed premises as a residence or use of the agreed premises for the period of the long-stay agreement.

(2) It is a term of a long-stay agreement that, at the time of entering into the agreement —

- (a) the park operator is not aware of a legal impediment to the long-stay tenant's lawful enjoyment of the agreed premises for the period of the agreement; and
- (b) there is no legal impediment to the tenant's lawful enjoyment that the park operator ought reasonably to have known about.

*[Section 32C inserted: No. 28 of 2020 s. 30.]*

**Subdivision 2 — Agreed and shared premises**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**32D. Quiet enjoyment**

- (1) It is a term of a long-stay agreement that —
  - (a) the long-stay tenant has a right to quiet enjoyment of the agreed premises without interruption by the park operator or any person claiming by, through or under the park operator or having superior title to that of the park operator; and
  - (b) the park operator must not cause or permit any interference with the reasonable peace, comfort or privacy of the long-stay tenant in the use by the tenant of the agreed premises or the reasonable use by the tenant of the shared premises; and
  - (c) the park operator must take all reasonable steps to enforce the obligation of any other tenant of the park operator not to cause or permit any interference with the reasonable peace, comfort or privacy of the long-stay tenant in the use by the tenant of the agreed premises or the reasonable use by the tenant of the shared premises.
- (2) A park operator must not cause or permit any interference with the reasonable peace, comfort or privacy of the long-stay tenant in the use by the tenant of the agreed premises or the reasonable use by the tenant of the shared premises.

Penalty for this subsection: a fine of \$10 000.
- (3) The liability of a park operator in civil proceedings is not affected by the commencement of proceedings against, or the conviction of, a park operator for an offence under subsection (2).
- (4) When a charge of an offence under subsection (2) relates to a failure by the park operator to give the long-stay tenant a copy

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of a key to the premises, it is a defence to the charge to prove that —

- (a) the copy of the key had been given to the park operator under section 32H(9)(b); and
- (b) the tenant was a person to whom the park operator was instructed not to give the copy of the key under section 32H(9)(c)(ii).

*[Section 32D inserted: No. 28 of 2020 s. 30.]*

**32E. Park operator's right of entry**

(1) In this section —

***reasonable time*** means —

- (a) between 8 am and 6 pm on a weekday; or
- (b) between 9 am and 5 pm on a Saturday; or
- (c) at another time agreed between the park operator and each long-stay tenant.

(2) It is a term of a long-stay agreement that the park operator may, in accordance with section 32F(1) and (2), enter the agreed premises and any other premises occupied by the long-stay tenant under the agreement, including any relocatable home or other structure provided by the tenant —

- (a) if the tenant consents to the entry immediately before, or at the time of, the entry; or
- (b) in an emergency.

(3) It is a term of a long-stay agreement that the park operator may enter the agreed premises in accordance with section 32F —

- (a) to meet the park operator's obligations under this Act or another written law, if the park operator —
  - (i) enters at a reasonable time; and
  - (ii) gives at least 24 hours' written notice to the long-stay tenant;

or

- (b) to inspect the premises or for any other purpose, if the park operator —
  - (i) enters at a reasonable time; and
  - (ii) gives the long-stay tenant written notice at least 7 and not more than 14 days before the day the park operator intends to enter the premises;or
- (c) to carry out or inspect necessary repairs or maintenance, if the park operator —
  - (i) enters at a reasonable time; and
  - (ii) gives at least 72 hours' written notice to the long-stay tenant before the park operator intends to enter the premises;or
- (d) to show the agreed premises to prospective long-stay tenants, if the park operator —
  - (i) enters at a reasonable time and on a reasonable number of occasions during the 21 days before the agreement ends; and
  - (ii) gives the long-stay tenant reasonable written notice;or
- (e) to show the agreed premises to prospective purchasers of the agreed premises, if the park operator —
  - (i) enters at a reasonable time and on a reasonable number of occasions; and
  - (ii) gives the long-stay tenant reasonable written notice;or
- (f) if the long-stay agreement makes provision for the collection of the rent at the agreed premises — to collect the rent once a week, at a reasonable time; or

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- (g) under section 44A; or
- (h) for the purpose of inspecting the agreed premises and assessing any damage after the termination of a tenant's interest under —
  - (i) section 33(2A) or (2B); or
  - (ii) section 74B.
- (4) It is a term of every long-stay agreement that the park operator may enter the agreed premises under subsection (3)(h)(i) —
  - (a) not more than 7 days after receiving notice of termination under section 45A(1) or 45B(4); and
  - (b) not less than 3 days after giving notice to the long-stay tenant of the park operator's intention to enter the agreed premises.
- (5) It is a term of every long-stay agreement that the park operator may enter the agreed premises under subsection (3)(h)(ii) —
  - (a) not more than 10 days before the hearing of the application under section 74B; and
  - (b) not less than 3 days after giving notice to each long-stay tenant of the park operator's intention to enter the agreed premises.

*[Section 32E inserted: No. 28 of 2020 s. 30.]*

**32F. Conditions of park operator's entry under s. 32E**

- (1) It is a term of a long-stay agreement that the park operator exercising a right of entry under section 32E(2) or (3) —
  - (a) must do so in a reasonable manner; and
  - (b) must not, without the long-stay tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.
- (2) It is a term of a long-stay agreement that the park operator must compensate the long-stay tenant if the park operator or any person accompanying the park operator causes damage to the

tenant's property when exercising a right of entry under section 32E(2) or (3).

- (3) It is a term of a long-stay agreement that if it would unduly inconvenience the long-stay tenant for the park operator to enter the agreed premises as specified in a notice given under section 32E(3), the park operator must make a reasonable attempt to negotiate a day and time for that entry that does not unduly inconvenience the tenant.
- (4) It is a term of a long-stay agreement that the park operator may enter the premises under section 32E(3)(b) for the purpose of inspecting the premises not more than 4 times in any 12-month period.
- (5) It is a term of a long-stay agreement that the written notice given to the long-stay tenant under section 32E(3) must —
  - (a) be in the approved form; and
  - (b) specify —
    - (i) the day of the entry; and
    - (ii) whether the entry will be before or after 12 pm on that day.
- (6) It is a term of a long-stay agreement that if the park operator exercises a right of entry under section 32E(3)(d) or (e) the long-stay tenant is entitled to be on the premises during the entry.

*[Section 32F inserted: No. 28 of 2020 s. 30.]*

**32G. Long-stay tenant's conduct on premises**

It is a term of a long-stay agreement that the long-stay tenant must not —

- (a) cause or permit a nuisance anywhere in the residential park; and

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- (b) use the agreed premises or the shared premises, or cause or permit them to be used, for an illegal purpose.

*[Section 32G inserted: No. 28 of 2020 s. 30.]*

**32H. Locks and security**

- (1) It is a term of an on-site home agreement that the park operator must provide and maintain such locks or other devices as are necessary to ensure that the on-site home is reasonably secure.
- (2) Except as provided in subsection (10), it is a term of a long-stay agreement that the long-stay tenant must not alter, remove or add any lock or similar device to the agreed premises or the shared premises without the consent of the park operator given at, or immediately before, the time that the alteration, removal or addition is carried out.
- (3) It is a term of a long-stay agreement that the park operator must not alter, remove or add any lock or similar device to the agreed premises or to anything that belongs to the long-stay tenant without the consent of the tenant given at, or immediately before, the time that the alteration, removal or addition is carried out.
- (4) It is a term of a long-stay agreement that the park operator must not alter, remove or add any lock or similar device to the shared premises without first notifying the long-stay tenant and providing the tenant with a means of access to the shared premises.
- (5) A long-stay tenant must not breach the term referred to in subsection (2) without reasonable excuse.  
Penalty for this subsection: a fine of \$20 000.
- (6) A park operator must not breach the term referred to in subsection (3) or (4) without reasonable excuse.  
Penalty for this subsection: a fine of \$20 000.

- (7) A park operator who alters, removes or adds a lock or similar device to the shared premises other than in accordance with subsection (4) —
- (a) does not breach the term referred to in subsection (4) if the park operator alters, removes or adds the lock or device for the health and safety of persons who may use the shared premises; and
  - (b) does not commit an offence under subsection (6) related to a breach of the term referred to in subsection (4) if the park operator alters, removes or adds the lock or device for the health and safety of persons who may use the shared premises.
- (8) An agent of the park operator must not alter, remove or add a lock or device to the agreed premises or the shared premises without —
- (a) reasonable excuse; or
  - (b) the consent of the following persons given when, or immediately before, the alteration, removal or addition is carried out —
    - (i) if the lock or device is to the agreed premises — each long-stay tenant who occupies the agreed premises;
    - (ii) if the lock or device is to the shared premises — each long-stay tenant who is able to use the shared premises.
- Penalty for this subsection: a fine of \$20 000.
- (9) A civil proceeding is not affected by the commencement of proceedings against, or the conviction of, a person for an offence under subsection (5), (6) or (8).
- (10) It is a term of every on-site home agreement —
- (a) that a long-stay tenant may alter or add any lock or similar device to the agreed premises —

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- (i) after the termination of an excluded tenant's interest in a long-stay agreement under section 74B; or
    - (ii) in any event, if it is necessary to prevent the commission of family violence that the tenant suspects, on reasonable grounds, is likely to be committed against the tenant or a dependant of the tenant;
  - and
  - (b) that the tenant must give to the park operator a copy of the key to any lock or similar device altered or added under paragraph (a) as soon as practicable, and in any event within 7 days, after the lock or similar device has been altered or added; and
  - (c) that the park operator must not give a copy of a key referred to in paragraph (b) —
    - (i) to an excluded tenant whose interest in the long-stay agreement has been terminated under section 74B; or
    - (ii) in any event, to a person who the tenant has instructed the park operator in writing not to give the copy of the key.
- (11) A long-stay tenant who breaches a term referred to in subsection (10)(b) without reasonable excuse, in addition to any civil liability that the tenant might incur, commits an offence.  
Penalty for this subsection: a fine of \$5 000.
- (12) Subsection (10)(b) does not apply if the park operator is a person reasonably suspected of being likely to commit the family violence referred to in subsection (10)(a)(ii).
- (13) A park operator who breaches a term referred to in subsection (10)(c) without reasonable excuse, in addition to any civil liability that the park operator might incur, commits an offence.



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and

- (b) the park operator may only refuse consent —
  - (i) if affixing the item to the wall would disturb material containing asbestos; or
  - (ii) for a prescribed reason;

and

- (c) unless the park operator agrees otherwise in writing, the tenant must remove the item from the wall when the tenant vacates the on-site home and either —
  - (i) restore the wall to its original condition; or
  - (ii) compensate the park operator for any reasonable expenses incurred by the park operator in doing that restoration;

and

- (d) the cost of affixing the item to the wall, removing it and restoring the wall to its original condition, must be borne by the tenant; and
- (e) if the tenant causes damage to the on-site home when affixing or removing the item or restoring the wall to its original condition —
  - (i) the tenant must notify the park operator in writing that damage has been caused to the on-site home; and
  - (ii) the park operator may require the tenant to repair the damage and restore the on-site home to its original condition or compensate the park operator for the reasonable expenses incurred in doing the repair and restoration.

- (4) The park operator is taken to have consented to affixing the furniture or thing to the wall of the on-site home under subsection (3)(a) if, and only if —

- 
- (a) the long-stay tenant has given the park operator a request, in the approved form, seeking the park operator's consent to affix the item to the wall; and
- (b) the park operator has not refused consent under subsection (3)(b) within 14 days after the day on which the park operator receives the request.
- (5) Except as provided in subsection (8), a site-only agreement may provide that affixing a fixture or making a renovation, alteration or addition to the exterior of the relocatable home on the site or to the exterior of any other structure —
- (a) is or is not prohibited; or
- (b) is not prohibited if the long-stay tenant obtains the park operator's consent at the time when, or immediately before, the tenant affixes the fixture or makes the renovation, alteration or addition.
- (6) If a long-stay agreement includes the provision described in subsection (2)(b) or (5)(b), it is a term of the agreement that —
- (a) the park operator must not unreasonably withhold consent; and
- (b) at any time while the long-stay tenant's right to occupy the agreed premises continues, the tenant may remove any fixture that the tenant has, with the park operator's consent, affixed to the premises, unless the removal of the fixture would cause irreparable damage to the agreed premises; and
- (c) if the long-stay tenant's removal of a fixture causes damage to the agreed premises, the tenant must notify the park operator and, at the option of the park operator, repair the damage or compensate the park operator for any reasonable expenses incurred by the park operator in repairing the damage.

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- (7) It is a term of a long-stay agreement that —
- (a) the park operator may affix any fixture or make any renovation, alteration or addition to the agreed premises, but only with the long-stay tenant's consent given when, or immediately before, the park operator affixes the fixture or makes the renovation, alteration or addition; and
  - (b) the long-stay tenant must not unreasonably withhold such consent.
- (8) It is a term of every long-stay agreement that a long-stay tenant may affix any prescribed fixture, or make any prescribed renovation, alteration or addition to the agreed premises (the ***prescribed alterations***), necessary to prevent entry onto the agreed premises of a person —
- (a) if the person is an excluded tenant whose interest in a long-stay agreement has been terminated under section 74B; or
  - (b) in any event, if it is necessary to prevent the commission of family violence that the tenant suspects, on reasonable grounds, is likely to be committed by the person against the tenant or a dependant of the tenant.
- (9) For the purposes of subsection (8) —
- (a) the cost of making the prescribed alterations must be borne by the long-stay tenant; and
  - (b) the long-stay tenant must give written notice to the park operator of the tenant's intention to make the prescribed alterations; and
  - (c) work on the prescribed alterations must be undertaken by a qualified tradesperson, a copy of whose invoice the long-stay tenant must provide to the park operator within 14 days of the alterations being completed; and
  - (d) the prescribed alterations must be effected having regard to the age and character of the property and any applicable strata company by-laws; and

- (e) the long-stay tenant must restore the agreed premises to their original condition at the end of the long-stay agreement if the park operator requires the tenant to do so and, where restoration work has been undertaken by a tradesperson, must provide to the park operator a copy of that tradesperson's invoice within 14 days of that work being performed.

*[Section 32I inserted: No. 28 of 2020 s. 30.]*

**Subdivision 3 — Cleanliness, damage and repair**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**32J. Long-stay tenant's responsibility for cleanliness and repair**

- (1) It is a term of an on-site home agreement that the long-stay tenant must keep the site and the relocatable home on the site in a reasonable state of cleanliness.
- (2) It is a term of a site-only agreement that the long-stay tenant must —
  - (a) keep the site and the exterior of the relocatable home on the site in a reasonable state of cleanliness; and
  - (b) keep the relocatable home on the site in a reasonable state of repair so it is fit to live in.

*[Section 32J inserted: No. 28 of 2020 s. 30.]*

**32K. Long-stay tenant's responsibility for damage**

- (1) It is a term of a long-stay agreement that the long-stay tenant must not intentionally or negligently cause or permit damage to the agreed premises or the shared premises.
- (2) It is a term of a long-stay agreement that the long-stay tenant must notify the park operator, as soon as practicable but in any case within 3 days of the damage occurring, of any damage —
  - (a) to the site or to any fittings or fixtures on the site; and
  - (b) to the exterior of the relocatable home on the site; and

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- (c) for an on-site home agreement —
  - (i) to the interior of the on-site home; and
  - (ii) to any chattels, fittings or fixtures in or on the on-site home that are provided by the park operator for the use of the tenant.

*[Section 32K inserted: No. 28 of 2020 s. 30.]*

**32L. Park operator's responsibility for cleanliness and repairs**

- (1) It is a term of a long-stay agreement that the park operator must —
  - (a) provide the agreed premises and shared premises in a reasonable state of cleanliness; and
  - (b) maintain the shared premises in a reasonable state of cleanliness; and
  - (c) provide and maintain the agreed premises and shared premises in a reasonable state of repair having regard to the age, character and prospective life of the premises; and
  - (d) comply with any other written laws that apply in relation to the buildings in the residential park or the health and safety of park residents.
- (2) If the park operator carries out work to comply with the park operator's obligations under subsection (1), the work must be carried out —
  - (a) as soon as reasonably practicable and in a manner that minimises disruption to the residents; and
  - (b) at an appropriate standard having regard to the age, character and prospective life of the agreed premises or shared premises; and
  - (c) if the work is carried out on agreed premises and the park operator must enter the agreed premises — in accordance with section 32E.

Note for this section:

Under section 64, a long-stay tenant may apply to the State Administrative Tribunal for particular orders in relation to this section.

*[Section 32L inserted: No. 28 of 2020 s. 30.]*

**32M. Urgent repairs**

(1) In this section —

*essential service* means a service prescribed as an essential service;

*suitable repairer*, in relation to urgent repairs, means a person who is suitably qualified, trained or, if necessary under a written law, licensed or otherwise authorised, to undertake the urgent repairs;

*urgent repairs*, in relation to agreed premises, means repairs to the premises that are necessary —

- (a) for the supply or restoration of an essential service; or
- (b) to avoid —
  - (i) exposing a person to the risk of injury; or
  - (ii) exposing property to damage; or
  - (iii) causing the long-stay tenant undue hardship or inconvenience.

(2) It is a term of a long-stay agreement that if a need of urgent repairs arises otherwise than as a result of the breach of the agreement by the long-stay tenant —

- (a) the tenant must notify the park operator of the need for those repairs as soon as practicable after the need arises; and
- (b) the park operator must ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification.

(3) It is a term of a long-stay agreement that the long-stay tenant may arrange for the urgent repairs to be carried out by a suitable

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repairer to the minimum extent necessary to effect those repairs if —

- (a) the tenant is unable to contact the park operator within —
    - (i) in relation to urgent repairs for the supply or restoration of an essential service — 24 hours; or
    - (ii) in relation to other urgent repairs — 48 hours or any longer prescribed period;
  - or
  - (b) the tenant contacts the park operator about the need for the urgent repairs but the park operator fails to ensure that the repairs are carried out by a suitable repairer as soon as practicable after the notification.
- (4) It is a term of a long-stay agreement that if the long-stay tenant arranges for the urgent repairs to be carried out under subsection (3), the park operator must, as soon as practicable after the repairs are carried out, reimburse the tenant for the reasonable expense incurred in arranging for those repairs to be carried out.

*[Section 32M inserted: No. 28 of 2020 s. 30.]*

**Subdivision 4 — Particular financial matters**

*[Heading inserted: No. 28 of 2020 s. 30.]*

**32N. Levies, rates, taxes and charges to be paid by park operator**

- (1) It is a term of a long-stay agreement that the park operator must bear the cost of —
  - (a) if a contribution is levied under the *Strata Titles Act 1985* or the *Community Titles Act 2018* — the contribution; and
  - (b) all rates, taxes or charges imposed in respect of the agreed premises and shared premises under —
    - (i) the *Land Tax Act 2002*; and

- (ii) the *Local Government Act 1995*; and
  - (iii) the *Water Services Act 2012*, except a charge for the volume of water consumed.
- (2) Despite subsection (1), a term of a long-stay agreement or another written contract, agreement, scheme, deed or other written arrangement between a long-stay tenant and the park operator may provide that the long-stay tenant indirectly pays, as a component of rent paid under the long-stay agreement, a prescribed charge as defined in the *Rates and Charges (Rebates and Deferments) Act 1992* section 3(1).

*[Section 32N inserted: No. 28 of 2020 s. 30.]*

#### **Subdivision 5 — Miscellaneous provisions**

*[Heading inserted: No. 28 of 2020 s. 30.]*

### **320. Assigning rights and obligations under long-stay agreement or sub-letting agreed premises**

- (1) A long-stay agreement may provide that the long-stay tenant —
- (a) may assign the tenant's rights and obligations under the agreement or sub-let the agreed premises; or
  - (b) may assign the tenant's rights and obligations under the agreement or sub-let the agreed premises only with the written consent of the park operator; or
  - (c) must not assign the tenant's rights and obligations under the agreement or sub-let the agreed premises.
- (2) If a long-stay agreement does not include a term mentioned in subsection (1), it is a term of the agreement that a long-stay tenant may assign the tenant's rights and obligations under the agreement or sub-let the agreed premises only with the written consent of the park operator.

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- (3) If a long-stay agreement includes a term mentioned in subsection (1)(b), or subsection (2) applies, it is a term of the agreement that —
- (a) the park operator must not unreasonably withhold consent; and
  - (b) the park operator must not make any charge for giving the consent except for reasonable incidental expenses.
- (4) However, the operation of a provision of a long-stay agreement that purports to permit the assignment of the long-stay tenant's rights and obligations under the agreement is subject to the operation of any other written law that prohibits or regulates such an assignment.

*[Section 32O inserted: No. 28 of 2020 s. 30.]*

**32P. Long-stay tenant's vicarious responsibility for breach of agreement**

- (1) It is a term of a long-stay agreement that the long-stay tenant is vicariously responsible for any act or omission of another person who is lawfully on the agreed premises or shared premises, if the act or omission would have constituted a breach of the agreement if done or omitted by the tenant.
- (2) However, subsection (1) does not extend to a person who is lawfully on the agreed premises or shared premises but whose authority does not derive from the permission, express or implied, of the long-stay tenant.

*[Section 32P inserted: No. 28 of 2020 s. 30.]*

## **Part 3 — Termination of long-stay agreements**

### **Division 1 — Termination of agreements generally**

#### **32Q. Long-stay agreement may be terminated only under Act**

A long-stay agreement may be terminated only under a provision of this Act.

*[Section 32Q inserted: No. 28 of 2020 s. 31.]*

#### **32R. Notice of intention before end of fixed term long-stay agreement**

- (1) This section applies if —
  - (a) a park operator entered into a fixed term long-stay agreement with a long-stay tenant; and
  - (b) the agreement does not provide the long-stay tenant with an option to renew.
- (2) A park operator must give the long-stay tenant a written notice stating —
  - (a) whether or not the park operator intends to renew or extend the fixed term long-stay agreement or enter into a new long-stay agreement with the tenant; and
  - (b) if the park operator intends to renew or extend the fixed term long-stay agreement or enter into a new long-stay agreement — the proposed terms and conditions of the new agreement.
- (3) A park operator must give the long-stay tenant the written notice within the prescribed time frame.

*[Section 32R inserted: No. 28 of 2020 s. 31.]*

**33. How long-stay agreements and tenant's interests in agreements are terminated**

(1A) In this section —

*period of notice*, in relation to the termination of a long-stay agreement under a notice of termination, means the period beginning on the day on which the notice is given and ending on the specified day stated in the notice of termination.

(1) If a long-stay tenant or park operator gives a notice of termination of a long-stay agreement, the agreement is terminated when both of the following events have happened —

- (a) the period of notice, or any shorter or longer period agreed between the tenant and the park operator, has ended; and
- (b) the tenant has given vacant possession of the agreed premises to the park operator.

(2) A fixed term long-stay agreement is terminated when both of the following events have occurred —

- (a) the fixed term has ended; and
- (b) the long-stay tenant has given vacant possession of the agreed premises to the park operator.

(2A) A long-stay tenant's interest in a long-stay agreement is terminated if the tenant has —

- (a) given notice of termination under section 45A(1) together with at least 1 of the documents required under section 45A(2); and
- (b) vacated the agreed premises on or after the expiration of the period of notice required under section 45A(5).

(2B) A long-stay tenant's interest in a long-stay agreement is terminated if the tenant has —

- (a) given notice of termination under section 45B(4); and
- (b) vacated the agreed premises on or after the expiration of the period of notice required under section 45B(5).

- (2C) The termination of a long-stay tenant's interest in a long-stay agreement does not terminate the agreement in respect of any other long-stay tenant under the agreement.
- (3) In any other case, a long-stay agreement ends when —
- (a) the State Administrative Tribunal terminates the agreement under Part 5; or
  - (b) a person whose title is superior to the title of the park operator, other than a mortgagee, becomes entitled to possession of the agreed premises; or
  - (c) the agreement is terminated under section 44B; or
  - (d) for an on-site home agreement — each long-stay tenant to the agreement dies; or
  - (da) for a site-only agreement —
    - (i) each long-stay tenant to the agreement dies; and
    - (ii) if there is a relocatable home on the site — the relocatable home is removed or sold;
- or
- (e) the long-stay tenant gives vacant possession of the premises under a written agreement with the park operator to end the long-stay agreement; or
  - (f) the rights under the agreement of the park operator or the long-stay tenant are ended by merger.

Note for this subsection:

For the purposes of paragraph (da), under section 64C the State Administrative Tribunal may make an order if each long-stay tenant to the agreement dies but the relocatable home is not removed or sold because the park operator is interfering with, or obstructing, the removal or sale of the relocatable home.

*[Section 33 amended: No. 3 of 2019 s. 28; No. 28 of 2020 s. 32.]*

### **34. Terms of continued long-stay agreement**

If a long-stay agreement continues beyond the day on which it would upon its terms have ended as a result of the passage of

time or the happening of an event, the same terms as last applied before that day continue to apply unless the terms are modified by the State Administrative Tribunal under Part 5.

**35. Withholding rent in anticipation of release of security bond**

A long-stay tenant must not fail or refuse to pay any rent due under a long-stay agreement with the intention that the park operator will recover the amount of the rent from the security bond paid by the tenant.

Penalty: a fine of \$5 000.

**35A. Fixed term long-stay agreement does not become periodic tenancy at end of term**

Unless the park operator and long-stay tenant agree otherwise, a fixed term long-stay agreement does not become a periodic long-stay agreement at the end of the fixed term tenancy under the agreement.

*[Section 35A inserted: No. 28 of 2020 s. 33.]*

**36. Failure to give vacant possession at end of fixed term**

Failure by a long-stay tenant under a fixed term long-stay agreement to give vacant possession of the agreed premises to the park operator at the end of the fixed term does not constitute a breach of the agreement.

*[Section 36 amended: No. 28 of 2020 s. 34.]*

**37. Form of default notice**

A default notice must —

- (a) be in writing signed by the park operator; and
- (b) identify the agreed premises; and
- (c) include any prescribed information.

*[Section 37 amended: No. 28 of 2020 s. 35.]*

**38. Form of notice of termination**

- (1) Except as provided in subsection (2), a notice of termination must —
- (a) be in writing in the approved form; and
  - (b) be signed by the person who is giving the notice; and
  - (c) identify the agreed premises; and
  - (d) include any prescribed information.
- (2) A notice given under section 45A(1) must be in a prescribed form.

*[Section 38 amended: No. 3 of 2019 s. 29; No. 28 of 2020 s. 36.]*

**Division 2 — Grounds for notice of termination by park operator**

*[Heading amended: No. 28 of 2020 s. 37.]*

**39. Termination by park operator for non-payment of rent**

- (1A) In this section —
- default day*** means the day on or before which the park operator requires the amount of outstanding rent to be paid.
- (1) If a long-stay tenant does not pay rent in accordance with the long-stay agreement, the park operator may give to the tenant, in accordance with this section —
- (a) a notice of termination; or
  - (b) a default notice and, if the rent is not paid in full on or before the default day in the default notice, a notice of termination.
- (2) A notice of termination under subsection (1)(a) or (b) must —
- (a) specify the amount of rent outstanding; and
  - (b) specify the day (the ***specified day***) on which the park operator requires the long-stay tenant to give vacant

- possession of the agreed premises to the park operator;  
and
- (c) tell the tenant that, if the amount is not paid in full on or before the specified day, the park operator is entitled to terminate the long-stay agreement under this Act; and
  - (d) comply with section 38.
- (3) A default notice under subsection (1)(b) must —
- (a) specify the amount of rent outstanding; and
  - (b) specify the default day; and
  - (c) tell the long-stay tenant that, if the amount is not paid in full on or before the default day, the park operator is entitled to give to the tenant a notice of termination under this Act; and
  - (d) comply with section 37.
- (4) The following provisions apply where the park operator gives a default notice to the long-stay tenant under subsection (1)(b) —
- (a) the default day in the default notice must be at least 14 days after the day on which the default notice was given to the tenant;
  - (b) if the park operator also gives the tenant a notice of termination under subsection (1)(b), the specified day in the notice of termination must be at least 7 days after the default day in the default notice;
  - (c) if the park operator makes an application to the State Administrative Tribunal under section 66 in relation to the notice of termination, the application may be heard and determined even if the rent is paid in full before the time set down for hearing the application.
- (5) The following provisions apply where the park operator gives a notice of termination to the long-stay tenant under subsection (1)(a) without having first given a default notice under subsection (1)(b) —

- (a) the specified day in the notice of termination must be at least 7 days after the day on which the notice of termination is given to the tenant;
  - (b) if the park operator makes an application to the State Administrative Tribunal under section 66 in relation to the notice of termination, the park operator must withdraw the application if the rent and the amount of the filing fee for the application are both paid in full more than 24 hours before the time set down for hearing the application.
- (6) The specified day in a notice of termination given under subsection (1)(a) or (b) may be —
- (a) a day earlier than the last day of the fixed term of a fixed term tenancy; or
  - (b) a day earlier than the last day of a period of a periodic tenancy.

*[Section 39 amended: No. 28 of 2020 s. 38.]*

**40. Termination by park operator for other breaches**

- (1) If a long-stay tenant breaches a term of the long-stay agreement (except a term for the payment of rent) the park operator may give a default notice to the tenant.
- (2) The default notice must —
  - (a) describe the breach and state when it occurred; and
  - (b) specify a day (the *default day*) on or before which the breach must be remedied; and
  - (c) tell the long-stay tenant that, if the breach is not remedied on or before the default day, the park operator is entitled to terminate the long-stay agreement under this Act; and
  - (d) comply with section 37.

- (3) The default day in the default notice must be at least 14 days after the day on which the notice is given to the long-stay tenant.
- (4) If the breach is not remedied on or before the default day in the default notice or within any further time agreed between the park operator and the long-stay tenant, the park operator may give a notice of termination to the tenant.
- (5) The notice of termination must —
  - (a) state the grounds for giving the notice; and
  - (b) specify the day (the *specified day*) on or before which the park operator requires the long-stay tenant to give vacant possession of the agreed premises to the park operator; and
  - (c) comply with section 38.
- (6) The specified day in the notice of termination must be at least 7 days after the day on which the notice was given to the long-stay tenant.
- (7) The specified day in the notice of termination may be —
  - (a) a day earlier than the last day of the fixed term of a fixed term tenancy; or
  - (b) a day earlier than the last day of a period of a periodic tenancy.

*[Section 40 amended: No. 28 of 2020 s. 39.]*

**41. Termination if vacant possession required on sale of park**

- (1) A park operator may give a notice of termination to a long-stay tenant on the grounds that the park operator has entered into a contract for the sale of park premises and is required under the contract to give vacant possession of the agreed premises.
- (2) The notice of termination must —
  - (a) state that the park operator intends to terminate the long-stay agreement under this section; and

- (b) specify the day (the *specified day*) on or before which the park operator requires the long-stay tenant to give vacant possession of the agreed premises to the park operator; and
  - (c) comply with section 38.
- (3) The specified day —
- (a) for an on-site home agreement — must be at least 60 days after the day on which the notice is given; and
  - (b) for a site-only agreement — must be at least 180 days after the day on which the notice is given; and
  - (c) for a fixed term tenancy —
    - (i) if the long-stay tenant agrees in writing — may be a day earlier than the last day of the term of the tenancy; or
    - (ii) if the long-stay tenant does not agree in writing — must not be a day earlier than the last day of the term of the tenancy;
- and
- (d) for a periodic tenancy — may be a day earlier than the last day of a period of the tenancy.

[(4) *deleted*]

- (5) A park operator must not knowingly give a notice of termination that falsely claims or falsely implies that grounds exist for terminating the long-stay agreement under this section.

Penalty for this subsection: a fine of \$10 000.

*[Section 41 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 40.]*

**41A. Termination because park to be used for different purpose**

- (1) A park operator may give a notice of termination of a long-stay agreement to a long-stay tenant because the residential park where the site the subject of the agreement is located will be —

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- (a) closed; or
  - (b) used for a purpose other than a residential park.
- (2) However, if an approval of development under the *Planning and Development Act 2005* is required before the residential park may be used for a different purpose, the park operator may terminate the long-stay agreement only if an approval under that Act has been granted for the development.
- (3) The park operator must give notice in writing to the Commissioner that the park operator intends to give a long-stay tenant a notice of termination at least 7 days before the park operator gives a tenant the notice of termination.

Penalty for this subsection: a fine of \$5 000.

- (4) A failure to give the Commissioner the notice under subsection (3) does not affect the validity of the notice.
- (5) The notice of termination must be in accordance with section 41D.

*[Section 41A inserted: No. 28 of 2020 s. 41.]*

**41B. Termination because vacant possession is required for works**

- (1) A park operator may give a notice of termination of a long-stay agreement to a long-stay tenant because the park operator is required to carry out works for which vacant possession of the site the subject of the agreement, or the part of the residential park where the site is located, is required in order to complete the works.
- (2) However, the park operator may terminate the long-stay agreement under subsection (1) only if the park operator gives the long-stay tenant evidence that shows the basis upon which the works will be carried out.

Example of evidence:

A notice under a written law requiring work to be carried out.

- (3) The notice of termination must be in accordance with section 41D.

*[Section 41B inserted: No. 28 of 2020 s. 41.]*

**41C. Termination because long-stay site is intended to be used for other purpose**

- (1) A park operator may give a notice of termination of a long-stay agreement to a long-stay tenant because the site the subject of the agreement is intended to be used for a different purpose than as a long-stay site.
- (2) However, if an approval of development under the *Planning and Development Act 2005* is required before the site may be used for a different purpose, the park operator may terminate the long-stay agreement only if an approval under that Act has been granted for the development.
- (3) The notice of termination must be in accordance with section 41D.

*[Section 41C inserted: No. 28 of 2020 s. 41.]*

**41D. Requirements of notice of termination under s. 41A to 41C**

- (1) A notice of termination given under sections 41A to 41C must —
- (a) state the section under which the park operator intends to terminate the long-stay agreement; and
  - (b) specify the ground upon which the long-stay agreement is terminated; and
  - (c) specify the day on or before which the park operator requires the long-stay tenant to give vacant possession of the agreed premises to the park operator; and
  - (d) comply with section 38.

- (2) The day specified under subsection (1)(c) —
- (a) for a site-only agreement — must be at least 180 days after the day on which the notice is given; and
  - (b) for an on-site home agreement — must be at least 60 days after the day on which the notice is given; and
  - (c) for a fixed term tenancy — must not be earlier than the last day of a term of the tenancy.

*[Section 41D inserted: No. 28 of 2020 s. 41.]*

**42. Termination of on-site home agreements by park operator without grounds**

- (1) A park operator may give a notice of termination to a long-stay tenant to terminate an on-site home agreement without grounds.
- (2) The notice of termination must —
- (a) state that the park operator intends to terminate the on-site home agreement under this section; and
  - (b) specify the day (the *specified day*) on or before which the park operator requires the long-stay tenant to give vacant possession of the agreed premises to the park operator; and
  - (c) comply with section 38.
- (3) The specified day —
- (a) must be at least 60 days after the day on which the notice is given; and
  - (b) for a fixed term tenancy — must not be a day earlier than the last day of the term of the tenancy; and
  - (c) for a periodic tenancy — may be a day earlier than the last day of a period of the tenancy.

*[(4) deleted]*

- (5) Unless the State Administrative Tribunal otherwise orders under section 74, a notice of termination under this section is of no effect if —
- (a) an application for an order under section 63(1) fixing the maximum rent for the agreed premises has been made but has not been heard and determined; or
  - (b) an order under section 63(3) is in force in respect of the agreed premises.

*[Section 42 amended: No. 28 of 2020 s. 42.]*

**43. Notice not waived by acceptance of rent**

A demand for, any proceeding for the recovery of, or acceptance of, rent by a park operator after the park operator has become aware of a breach by the long-stay tenant of a term of the long-stay agreement (except a breach of a term for the payment of rent) or has given the tenant notice of termination under this Act does not operate as a waiver of the breach or of the notice.

**Division 3 — Notice of termination by tenant**

**44. Termination by tenant without grounds**

- (1) A long-stay tenant may give a notice of termination to the park operator to terminate the long-stay agreement without grounds.
- (2) The notice of termination must —
  - (a) specify the day (the *specified day*) on which the long-stay tenant intends to give vacant possession of the agreed premises to the park operator; and
  - (b) comply with section 38.
- (3) The specified day must be —
  - (a) at least 21 days after the day on which the notice is given to the park operator; and

- (b) if the long-stay agreement is for a fixed term — not before the end of the fixed term.

*[Section 44 amended: No. 28 of 2020 s. 43.]*

**Division 3A — Agreed premises abandoned**

*[Heading inserted: No. 28 of 2020 s. 44.]*

**44A. Park operator’s right of entry in relation to abandonment**

- (1) A park operator may enter agreed premises to inspect and secure the premises if —
  - (a) the park operator has reasonable grounds to suspect that a long-stay tenant has abandoned the agreed premises; and
  - (b) the park operator gives the long-stay tenant a written notice under subsections (2) and (3); and
  - (c) the long-stay tenant does not inform the park operator within 24 hours after receiving the notice that the tenant has not abandoned the premises.
- (2) The written notice must be in the approved form stating that —
  - (a) the park operator suspects that the long-stay tenant has abandoned the premises; and
  - (b) the long-stay tenant must inform the park operator within 24 hours after receiving the notice whether the tenant has abandoned the premises; and
  - (c) if the long-stay tenant does not inform the park operator that the tenant has not abandoned the agreed premises, the park operator may enter the agreed premises to inspect and secure the premises; and
  - (d) the park operator may —
    - (i) give the long-stay tenant a notice of abandonment under section 44B if the park operator suspects on reasonable grounds that the tenant has abandoned the agreed premises; or

- (ii) apply to the State Administrative Tribunal to terminate the agreement under section 70B because the long-stay tenant occupying the agreed premises under the agreement has abandoned the premises.
- (3) The park operator may give the written notice to the long-stay tenant —
  - (a) by leaving a copy of the notice at the agreed premises; and
  - (b) either —
    - (i) by leaving a copy of the notice at the tenant's last known place of employment or business; or
    - (ii) if the tenant and park operator agree —by electronic means.

*[Section 44A inserted: No. 28 of 2020 s. 44.]*

**44B. Termination if agreed premises abandoned**

- (1) If a park operator suspects on reasonable grounds that a long-stay tenant has abandoned the agreed premises, the park operator may give a notice (***notice of abandonment***) to the tenant terminating the agreement.
- (2) The notice of abandonment must —
  - (a) be in writing and any approved form; and
  - (b) be signed by or for the park operator; and
  - (c) identify the premises; and
  - (d) state the park operator is terminating the agreement because the long-stay tenant has abandoned the premises; and
  - (e) state that if the long-stay tenant does not take action under section 70A to dispute the notice of abandonment within 7 days after being given the notice —

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- (i) the tenant is taken to have abandoned the premises; and
  - (ii) the long-stay agreement is terminated.
- (3) If the long-stay tenant does not take action under section 70A to dispute the notice of abandonment within 7 days after being given the notice —
- (a) the tenant is taken to have abandoned the premises; and
  - (b) the long-stay agreement is terminated.

*[Section 44B inserted: No. 28 of 2020 s. 44.]*

**Division 4 — Notice of termination by park operator or tenant — agreement frustrated**

**45. Termination if agreement frustrated**

- (1) This section applies if agreed premises or shared premises —
  - (a) become uninhabitable or unusable for the intended purpose otherwise than as a result of a breach of the long-stay agreement; or
  - (b) cease to be lawfully usable for the intended purpose; or
  - (c) are compulsorily acquired by an authority under a written law.
- (2) The rent payable under the long-stay agreement is abated appropriately.
- (3) Either party to the long-stay agreement may give a notice of termination to the other.
- (4) The notice of termination must —
  - (a) state that the person giving the notice intends to terminate the long-stay agreement under this section; and
  - (b) specify the day (the *specified day*) on which the agreement will be terminated; and

- (c) comply with section 38.
- (5) If the park operator gives the notice of termination to the long-stay tenant, the specified day must be at least 7 days after the day on which the notice is given.
- (6) If the long-stay tenant gives the notice of termination to the park operator, the specified day must be at least 2 days after the day on which the notice is given.
- (7) In either case the specified day may be —
  - (a) a day earlier than the last day of the fixed term of a fixed term tenancy; or
  - (b) a day earlier than the last day of a period of a periodic tenancy.

*[Section 45 amended: No. 28 of 2020 s. 45.]*

**Division 4A — Special provisions about termination of tenant's interest on grounds of family violence**

*[Heading inserted: No. 3 of 2019 s. 30.]*

**45A. Notice of termination of tenant's interest on ground that tenant subject to family violence**

- (1) Despite any other provision of this Act or another written law or a requirement under a contract, a long-stay tenant may give to the park operator notice of termination of the tenant's interest in an on-site home agreement on the ground that the tenant or a dependant of the tenant is, during the tenancy period, likely to be subjected or exposed to family violence.
- (2) A notice under this section must be accompanied by a document, applicable during the tenancy under the agreement, comprising 1 of the following —
  - (a) a DVO;
  - (b) a Family Court injunction or an application for a Family Court injunction;

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- (c) a copy of a prosecution notice or indictment containing a charge relating to violence against the long-stay tenant or a court record of a conviction of the charge;
- (d) a report of family violence, in a form approved by the Commissioner, completed by a person who has worked with the long-stay tenant and is 1 of the following —
  - (i) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;
  - (ii) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession;
  - (iii) a social worker as defined in the *Mental Health Act 2014* section 4;
  - (iv) a police officer;
  - (v) a person in charge of a women's refuge;
  - (vi) a prescribed person or class of persons.
- (3) The park operator must not disclose information in a document provided to the park operator under subsection (2) to another person except in accordance with this Act or another written law.  
Penalty for this subsection: a fine of \$5 000.
- (4) The park operator must ensure that information provided to the park operator under subsection (2) is kept in a secure manner so far as it is reasonably practicable to do so.  
Penalty for this subsection: a fine of \$5 000.
- (5) If a long-stay tenant gives notice under this section, the period of notice must be not less than 7 days before the termination day.

*[Section 45A inserted: No. 3 of 2019 s. 30.]*

**45B. Rights of co-tenants after notice under s. 45A**

- (1) In this section —  
*co-tenant*, in relation to a notice under section 45A(1), does not include the tenant who gave the notice.
- (2) A park operator must give a copy of a notice received by the park operator under section 45A(1) to each co-tenant under the long-stay agreement within 7 days of receiving the notice.
- (3) Nothing in subsection (2) requires or permits the park operator to give a copy of a document provided under section 45A(2) to a co-tenant.
- (4) The co-tenant may, within 7 days after receiving the copy of the notice, give notice of termination of the co-tenant's interest in the long-stay agreement to the park operator.
- (5) If a co-tenant gives notice of termination under subsection (4), the period of notice must be not less than 21 days before the termination day.

*[Section 45B inserted: No. 3 of 2019 s. 30.]*

**45C. Review of Division**

- (1) The Minister must carry out a review of the operation and effectiveness of this Division, and prepare a report based on the review, as soon as practicable after the 3<sup>rd</sup> anniversary of the day on which this Division comes into operation.
- (2) Without limiting the scope of the review, the review must address the following —
  - (a) the effect of this Division on lessors' rights to recover debts owed by tenants;
  - (b) the effect of this Division on lessors' insurance policies;
  - (c) the effect of this Division on contractual certainty;
  - (d) the extent to which this Division affects contractual obligations upon lessors and co-tenants who are not

perpetrators of family violence and the impact of those obligations;

- (e) such other matters as appear to the Minister to be relevant.

- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3<sup>rd</sup> anniversary.

*[Section 45C inserted: No. 3 of 2019 s. 30.]*

### **Division 5 — Compensation**

#### **46. When long-stay tenant is entitled to compensation as a result of termination of agreement**

- (1) The park operator must pay compensation to a long-stay tenant under a fixed term long-stay agreement for loss incurred as a result of the termination of the long-stay agreement —
- (a) under section 41 (termination if vacant possession required on sale of park); or
- [(b) deleted]*
- (c) under section 45 (termination if agreement frustrated); or
- (d) under an order under section 73 (termination on grounds of hardship).
- (2) The amount payable is the amount agreed between the long-stay tenant and the park operator or, if the parties cannot agree, the amount determined by the State Administrative Tribunal on an application under section 65.

*[Section 46 amended: No. 28 of 2020 s. 46.]*

#### **47. When park operator is entitled to compensation**

- (1) If a long-stay tenant abandons the agreed premises, the park operator is entitled to compensation by the tenant for any loss

(including loss of rent) incurred by the park operator as a result of the abandonment.

Note for this subsection:

The State Administrative Tribunal may make an order requiring the long-stay tenant to pay the park operator compensation under section 70B(2)(b).

- (2) A park operator is also entitled to compensation if the State Administrative Tribunal orders compensation be paid to the park operator under section 73(2A).

*[Section 47 amended: No. 28 of 2020 s. 47.]*

### **Division 6 — Abandoned goods**

#### **47A. Application of Division**

This Division applies to goods, other than —

- (a) a tenant's document; or
- (b) prescribed goods.

*[Section 47A inserted: No. 28 of 2020 s. 48.]*

#### **48. Disposing of goods abandoned by long-stay tenant**

- (1A) In this section —

***storage period*** means the period beginning on the day on which the long-stay agreement is terminated and ending 60 days after that day.

- (1) Goods that are or were owned by, or under the control of, a long-stay tenant may be treated as abandoned goods if they remain on the agreed premises for more than 2 days after the day on which the long-stay agreement was terminated.
- (2) The park operator may remove and destroy or otherwise dispose of abandoned goods if —
  - (a) the goods are perishable foodstuffs; or

(b) the cost of the removal, storage and sale of the goods is or is likely to be more than the estimated value of the goods.

(3) If abandoned goods cannot be dealt with under subsection (2), the park operator must store them appropriately in a safe place for at least the storage period.

Penalty for this subsection: a fine of \$5 000.

(4) The park operator must —

(a) give a notice in the approved form to the long-stay tenant or former long-stay tenant within 7 days after storing the abandoned goods; or

(b) do both of the following —

(i) arrange for a notice in the approved form or a summary of the notice to be made publicly available in the prescribed manner within 7 days after storing the abandoned goods;

(ii) display the notice in a prominent position at the residential park that was the subject of the long-stay agreement within 9 days after storing the abandoned goods.

Penalty for this subsection: a fine of \$5 000.

(5) If the abandoned goods are not reclaimed within 60 days after the day on which they were put into storage, the park operator must as soon as practicable arrange for the goods to be sold at public auction.

(6) At the request of the park operator, the Commissioner may state in writing whether or not in the Commissioner's opinion there are reasonable grounds for believing that subsection (2) applies in respect of particular goods.

*[Section 48 amended: No. 28 of 2020 s. 49.]*

**49. Right to reclaim abandoned goods put into storage**

A person who has a legal right to goods put into storage under section 48(3) may reclaim the goods at any time before they are sold under section 48(5) on payment to the park operator of an amount equal to the costs reasonably incurred by the park operator in removing the goods from the agreed premises and storing them.

**50. Title acquired by purchaser of abandoned goods**

If abandoned goods are sold in accordance with section 48(5) then, unless the purchaser of the abandoned goods has actual notice of any interest in the goods of any person except the former long-stay tenant, the purchaser acquires a good title to the goods which defeats any such interest.

**51. Park operator's liability for abandoned goods**

- (1) The park operator is not liable for loss caused in respect of the removal, destruction or disposal of abandoned goods under section 48(2).
- (2) Also, the park operator is not liable, in respect of the removal, destruction, storage, sale or disposal of abandoned goods to which section 48(2) does not apply, except —
  - (a) for intentional or negligent damage to the goods; or
  - (b) to a person who had an interest in the abandoned goods if the park operator —
    - (i) had actual knowledge the person had the interest in the goods; and
    - (ii) failed to take all reasonable steps to notify the person of the whereabouts of the goods; and
    - (iii) failed to afford the person an opportunity to reclaim the goods.
- (3) If the park operator is found liable to the long-stay tenant for abandoned goods that were destroyed or otherwise disposed of,

but the park operator establishes that the goods were dealt with in reliance on a statement of the Commissioner to the effect that, in the Commissioner's opinion, there are reasonable grounds for believing that section 48(2) applies to the goods, then the park operator is entitled to be paid an amount equal to the amount of the liability out of the Rental Accommodation Account.

*[Section 51 amended: No. 60 of 2011 s. 108; No. 28 of 2020 s. 50.]*

**52. Disposition of proceeds of sale of abandoned goods**

When abandoned goods are sold under section 48(5), the park operator is entitled to retain out of the proceeds of the sale an amount equal to the sum of —

- (a) the reasonable costs of removing, storing and selling the goods; and
- (b) any amount owed to the park operator by the long-stay tenant under the long-stay agreement.

Note for this section:

Under section 76(1)(a) a park operator may apply to the State Administrative Tribunal for an order to be paid out of the Rental Accommodation Account if the proceeds of the sale of abandoned goods are insufficient to meet the costs of removing, storing and selling the goods.

*[Section 52 amended: No. 28 of 2020 s. 51.]*

**Division 6A — Abandoned tenant's documents**

*[Heading inserted: No. 28 of 2020 s. 52.]*

**52A. Dealing with abandoned tenant's documents**

- (1) In this section —

***lawful owner***, of a tenant's document, means a person who has a lawful right to the document;

***storage period*** means the period beginning on the day on which the long-stay agreement is terminated and ending 60 days after that day.

- (2) This section applies if a tenant's document remains on the agreed premises on the day after the day on which the long-stay agreement was terminated.
- (3) A park operator must take reasonable care of a tenant's document for at least the storage period.  
Penalty for this subsection: a fine of \$5 000.
- (4) The park operator must, during the storage period, take reasonable steps to notify the former long-stay tenant or, if known to the park operator, the lawful owner —
- (a) that the tenant's document was left at the agreed premises; and
  - (b) how the lawful owner of the tenant's document may collect the document.
- Penalty for this subsection: a fine of \$5 000.
- (5) The park operator must give a tenant's document to the lawful owner of the document if —
- (a) the tenant's document has not been destroyed or otherwise disposed of under this section; and
  - (b) the lawful owner of the document paid any reasonable costs incurred by the park operator in storing the tenant's document and notifying the former long-stay tenant or the lawful owner about the tenant's document.
- Penalty for this subsection: a fine of \$5 000.
- (6) If a tenant's document kept under this section has not been claimed by the lawful owner of the document within the storage period, the park operator may destroy or otherwise dispose of the tenant's document.

Note for this subsection:

Under section 76(1)(b) a park operator may apply to the State Administrative Tribunal for an order to be paid out of the Rental Accommodation Account if the park operator destroys or otherwise disposes of a tenant's document under this subsection.

- (7) Nothing in this section affects the operation of another written law or other law affecting the destruction or disposal of a document.

*[Section 52A inserted: No. 28 of 2020 s. 52.]*

### **Division 7 — Miscellaneous provisions**

**53. Duty of mitigation following breach of agreement**

The rules under the law of contract relating to mitigation of loss or damage upon breach of a contract apply to a breach of a long-stay agreement.

**54. No recovery of vacant possession during tenancy period**

A person must not enter the agreed premises during the tenancy period for the purpose of recovering possession of the premises or part of them from the long-stay tenant, whether the entry is effected peaceably or otherwise, except in accordance with an order of the State Administrative Tribunal.

Penalty: a fine of \$20 000.

## **Part 4 — Other matters related to residential parks**

### **Division 1A — Park rules**

*[Heading inserted: No. 28 of 2020 s. 53.]*

#### **54A. Park operator may make park rules**

- (1) A park operator may make rules (*park rules*) for long-stay tenants in a residential park about the use, enjoyment, control and management of the park.
- (2) The park rules must —
  - (a) be made in accordance with this Division and regulations made under this Division; and
  - (b) not require, or have the effect of requiring, a long-stay tenant to undertake significant works, unless the works are required for health and safety; and
  - (c) be fair and reasonable; and
  - (d) be clearly expressed; and
  - (e) operate in a prospective manner.

Note for this subsection:

Under section 63B(2)(d) a long-stay tenant may apply to the State Administrative Tribunal for an order if a park rule is inconsistent with this subsection.

*[Section 54A inserted: No. 28 of 2020 s. 53.]*

#### **54B. Regulations may provide for matters in park rules**

- (1) The regulations may prescribe —
  - (a) matters that must be included in the park rules; and
  - (b) matters or types of rules that must not be included in the park rules.

Note for this subsection:

Under section 63B(2)(d) a long-stay tenant may apply to the State Administrative Tribunal for an order if a park rule is inconsistent with regulations made under this subsection.

- (2) A park operator must ensure that the park rules comply with any regulations prescribed under subsection (1).

Penalty for this subsection: a fine of \$5 000.

*[Section 54B inserted: No. 28 of 2020 s. 53.]*

**54C. Making and altering park rules**

- (1) In this section —

*alter* includes replace, substitute in whole or in part, add to, vary or delete.

- (2) The regulations may prescribe the manner in which a park operator must make or alter the park rules.

- (3) The park operator may make or alter park rules only in accordance with any regulations made under subsection (2).

*[Section 54C inserted: No. 28 of 2020 s. 53.]*

**54D. Compliance, application and enforcement of park rules**

- (1) A long-stay tenant must —

- (a) comply with the park rules; and
- (b) use reasonable endeavours to ensure that a person living with the long-stay tenant or invited by the tenant into the residential park complies with the park rules.

- (2) A park operator must —

- (a) comply with the park rules; and
- (b) take all reasonable steps to ensure that all long-stay tenants comply with the park rules; and
- (c) ensure that the park rules are applied and enforced reasonably, fairly and equitably.

*[Section 54D inserted: No. 28 of 2020 s. 53.]*

**Division 1 — Sale of relocatable homes on site**

**55. Long-stay tenant’s right to sell relocatable home on site**

- (1) It is a term of a site-only agreement that the long-stay tenant is entitled to sell a relocatable home owned by the tenant while it is in place on the agreed premises.
- (2) The long-stay tenant is entitled to display a “for sale” sign, but must comply with any term of the site-only agreement or the park rules that reasonably restricts the size and placement of the sign.
- (3) Before offering the relocatable home for sale, or displaying a “for sale” sign, the long-stay tenant must tell the park operator of the tenant’s intention to offer the home for sale while it is on the agreed premises.
- (4) If the long-stay tenant is permitted under the site-only agreement to assign the tenant’s rights under the agreement to a third party, the tenant must also tell the park operator whether the tenant intends to assign those rights to the purchaser of the relocatable home.

*[Section 55 amended: No. 28 of 2020 s. 54.]*

**55A. Information to be given to purchaser of relocatable home on site**

- (1) In this section —  
*seller* means —
  - (a) the long-stay tenant; or
  - (b) if the long-stay tenant has a selling agent — the tenant’s selling agent.
- (2) A long-stay tenant must not sell a relocatable home on a site to a potential buyer unless the seller has given the potential buyer a purchase disclosure notice in the approved form before the potential buyer signs the sale contract.

Note for this subsection:

Under section 64A, a potential buyer may apply to the State Administrative Tribunal for particular orders if a purchase disclosure notice is not given to the buyer under this subsection.

*[Section 55A inserted: No. 28 of 2020 s. 55.]*

**56. Park operator's obligations**

- (1) A park operator must not interfere with, hinder or obstruct the sale of a relocatable home by a long-stay tenant, including by —
- (a) unreasonably restricting potential buyers from inspecting the relocatable home and the shared premises; and
  - (b) making a false or misleading statement about the residential park that may affect the sale.

Penalty for this subsection: a fine of \$20 000.

- (2) A park operator does not interfere with, hinder or obstruct the sale only because the park operator does not enter into a long-stay agreement with a potential purchaser of a relocatable home on reasonable grounds.

*[Section 56 inserted: No. 28 of 2020 s. 55.]*

**57. Long-stay tenant may appoint selling agent**

- (1) A long-stay tenant may appoint a park operator or another person as a selling agent in relation to the sale of a relocatable home only if —
- (a) the person and the long-stay tenant enter into a written agreement (*selling agency agreement*) for the person to be the tenant's selling agent in relation to the home; and
  - (b) the selling agency agreement complies with any prescribed requirements for selling agency agreements.
- (2) A park operator must not require a long-stay tenant to appoint a particular person as a selling agent, whether as part of a long-stay agreement or otherwise.

Penalty for this subsection: a fine of \$5 000.

- (3) A term of a long-stay agreement stating that the long-stay tenant must appoint a particular person as a selling agent has no effect.
- (4) If a long-stay tenant appoints a selling agent other than the park operator, the park operator must not unreasonably hinder the selling agent's access to the residential park.

Penalty for this subsection: a fine of \$20 000.

*[Section 57 inserted: No. 28 of 2020 s. 55.]*

**57A. Selling agent's commission and incidental expenses**

- (1) In this section —

***incidental expenses*** —

- (a) means reasonable expenses —

- (i) paid or payable by the selling agent to a person who provides a service; and
- (ii) that were incurred by the selling agent in the course of selling or negotiating the sale of a relocatable home;

and

- (b) includes prescribed expenses;

***sale commission*** means a commission, fee or other amount, other than incidental expenses, for the sale or negotiation of the sale of a relocatable home.

- (2) A person must not demand or receive a sale commission, an amount for incidental expenses or any other valuable consideration from a long-stay tenant in relation to the sale of a relocatable home unless —
  - (a) the person is appointed as a selling agent under a selling agency agreement; and
  - (b) the selling agency agreement complies with any requirements for the agreement prescribed under section 57(1)(b).

Penalty for this subsection: a fine of \$5 000.

- (3) Also, a selling agent may be paid a sale commission or an amount for incidental expenses by the long-stay tenant in relation to the sale of a relocatable home only if —
- (a) the selling agency agreement specifies that a sale commission or incidental expenses must be paid by the tenant; and
  - (b) if a sale commission must be paid under the agreement, the agreement —
    - (i) specifies the amount of sale commission or the method by which the sale commission must be calculated; and
    - (ii) sets out the nature of the services the selling agent must perform in return for the sale commission;
- and
- (c) if incidental expenses are to be paid under the agreement, the agreement sets out the nature of the services for which incidental expenses must be paid for by the tenant; and
  - (d) the selling agent gives an invoice or statement of claim to the tenant that sets out the amounts claimed and the details of the services performed.
- (4) However, no sale commission is payable if —
- (a) the relocatable home is not sold; or
  - (b) the relocatable home is sold but the actions of the selling agent did not result in the sale; or
  - (c) for a selling agent who is a park operator —
    - (i) there is a voluntary sharing arrangement in the long-stay agreement; or
    - (ii) the relocatable home is sold but the sale is made to the park operator or a close associate of the park operator.

- (5) A sale commission, an amount for incidental expenses or any other valuable consideration received in contravention of this section is recoverable by the long-stay tenant who paid it as a debt due in a court of competent jurisdiction.

*[Section 57A inserted: No. 28 of 2020 s. 55.]*

**57B. Park operator not required to be licensed to act as selling agent**

When a park operator acts as a selling agent under a selling agency agreement, the park operator is not required to hold —

- (a) a dealer's licence under the *Motor Vehicle Dealers Act 1973*; or
- (b) a licence of an agent under the *Real Estate and Business Agents Act 1978*.

*[Section 57B inserted: No. 28 of 2020 s. 55.]*

**57C. Trust accounts for selling agents**

- (1) If a selling agent receives money under the selling agency agreement (except commission payable to the selling agent), the selling agent must either —
- (a) if the selling agent is licensed under the *Motor Vehicle Dealers Act 1973* or *Real Estate and Business Agents Act 1978* — deposit the money in a trust account maintained under the *Motor Vehicle Dealers Act 1973* or the *Real Estate and Business Agents Act 1978*; or
  - (b) otherwise — deal with the money in accordance with subsections (2) and (3).

Penalty for this subsection: a fine of \$3 000.

- (2) The selling agent must —
- (a) deposit the money in a separate ADI account (a ***sale trust account***) opened in the name of the selling agent and the long-stay tenant and entitled “sale trust account”; and

(b) when the sale is completed, pay the proceeds at the direction of the long-stay tenant after deducting in accordance with the selling agency agreement any amounts owing to the selling agent by way of expenses or commission.

(3) The *Real Estate and Business Agents Act 1978* section 68(2) to (6) apply to the sale trust account as if a reference in those subsections to an agent and to a trust account were a reference to the selling agent and to the sale trust account respectively.

*[Section 57C inserted: No. 28 of 2020 s. 55.]*

**57D. Park operator's recovery of reasonable expenses for sale of relocatable home**

A park operator may recover reasonable expenses incurred because a long-stay tenant is selling a relocatable home, including the costs of considering whether a potential buyer of a relocatable home is a person suitable to be a long-stay tenant.

*[Section 57D inserted: No. 28 of 2020 s. 55.]*

**58. Sale of relocatable home at agreed premises conditional on assignment of rights and obligations under, or entry into, long-stay agreement**

(1) In this section —

*relevant long-stay agreement* means an agreement between the seller and the relevant park operator;

*relevant park operator* means a park operator of the residential park where a relocatable home that is being sold under a sale contract is located.

(2) This section applies if —

(a) a long-stay tenant (the *seller*) is to sell a relocatable home to a person (the *buyer*) under a contract (the *sale contract*); and

- (b) the buyer intends to use or occupy the home at the agreed premises; and
  - (c) before the sale contract was entered into, the park operator had not entered into a long-stay agreement with the buyer; and
  - (d) the seller has not assigned, under the sale contract or before the sale contract was entered into, the seller's rights and obligations under the relevant long-stay agreement to the buyer.
- (3) It is a condition of the sale contract that —
- (a) the sale of the relocatable home is conditional on —
    - (i) the relevant park operator entering into a long-stay agreement with the buyer; or
    - (ii) the assignment of the seller's rights and obligations under the relevant long-stay agreement to the buyer;and
  - (b) if the agreement or assignment does not occur within the later of the following periods after the sale contract has been entered into, the sale contract has no effect —
    - (i) if an application is made to the State Administrative Tribunal under section 62A(2)(f) — when the application is finally decided or otherwise dealt with;
    - (ii) otherwise — 60 days or another period agreed by the long-stay tenant and the buyer.
- (4) If the relevant long-stay agreement prohibits the assignment of the seller's rights and obligations under the relevant long-stay agreement, the relevant park operator must enter into a long-stay agreement with the buyer unless —
- (a) the relevant park operator refuses to enter into the agreement on reasonable grounds; or

- (b) the relevant park operator and the buyer cannot agree on the terms of a new agreement.

Note for this subsection:

Under section 32O(1)(c), a long-stay agreement may provide that the long-stay tenant must not assign the tenant's interest in the agreed premises.

- (5) If the relevant long-stay agreement provides that the assignment of the seller's rights and obligations under the relevant long-stay agreement is not subject to the written consent of the relevant park operator, the relevant park operator must consent to the assignment of the seller's rights and obligations under the relevant long-stay agreement to the buyer.

Note for this subsection:

Under section 32O(1)(a), a long-stay agreement may provide that the long-stay tenant may assign the tenant's interest in the agreed premises.

- (6) If the relevant long-stay agreement provides that the assignment of the seller's rights and obligations under the relevant long-stay agreement is subject to the written consent of the relevant park operator, the relevant park operator must —
- (a) consent to the assignment to the buyer; or
- (b) refuse to consent to the assignment to the buyer on reasonable grounds.

Note for this subsection:

Under section 32O(1)(b), a long-stay agreement may provide that the long-stay tenant may assign the tenant's interest in the agreed premises only with the written consent of the park operator.

*[Section 58 inserted: No. 28 of 2020 s. 55.]*

**58A. Discrimination against tenants subjected or exposed to family violence**

A park operator must not refuse to enter into a long-stay agreement with any person on the ground that the person —

- (a) has been or might be subjected or exposed to family violence; or

- (b) has been convicted of a charge relating to family violence.

Penalty: a fine of \$5 000.

*[Section 58A inserted: No. 3 of 2019 s. 31.]*

## **Division 2 — Park liaison committees**

### **59. Establishment of park liaison committee**

- (1) A park operator must convene and maintain a park liaison committee for a residential park under section 60 if —
  - (a) the park has 20 or more long-stay sites; and
  - (b) a majority of the long-stay tenants in the park vote to ask the park operator to form a park liaison committee.

Penalty for this subsection: a fine of \$5 000.

- (1A) The regulations may prescribe the manner in which a vote must be held under subsection (1)(b).
- (2) It is a defence to a prosecution for an offence under subsection (1) that the park operator took all reasonable steps to convene and maintain a park liaison committee.

*[Section 59 amended: No. 3 of 2019 s. 39; No. 28 of 2020 s. 56.]*

### **60. Constitution of park liaison committee**

- (1) A park liaison committee consists of —
  - (a) one or more long-stay tenants of the residential park, chosen by the other long-stay tenants of the park to represent the interests of long-stay tenants; and
  - (b) one or more representatives of the park operator.
- (2) There must be more members of the park liaison committee who are representatives of the long-stay tenants than there are members who are representatives of the park operator.

- (3) The regulations may prescribe the manner in which the members of a park liaison committee that represent long-stay tenants must be chosen.
- (4) A park operator must not unduly interfere with how the members of a park liaison committee are chosen by the long-stay tenants.

Penalty for this subsection: a fine of \$5 000.

*[Section 60 amended: No. 28 of 2020 s. 57.]*

**61. Functions of park liaison committee**

- (1) The principal objective of a park liaison committee is to assist the park operator to maintain and improve the lifestyle and wellbeing of persons who use the residential park as their sole or principal place of residence.
- (2) The park liaison committee's functions are —
  - (a) to advise and consult with the park operator about the following —
    - (i) the preparation of park rules and amendments of the rules;
    - (ii) the development of guidelines for the standards of behaviour applicable to the residents of the residential park;
    - (iii) the development of policies for the improvement and maintenance of the natural environment and the amenities of the residential park;
    - (iv) any other prescribed matter;and
  - (b) to assist the park operator —
    - (i) to ensure that the park rules are observed by park residents; and
    - (ii) to resolve disputes between park residents; and

- (iii) to resolve disputes between park residents and the park operator;
  - and
  - (c) to carry out any other prescribed function.
- (3) In this section —
- park resident* means —
- (a) a long-stay tenant; or
  - (b) a person who occupies agreed premises in accordance with the long-stay agreement and with the permission of the long-stay tenant.

*[Section 61 amended: No. 28 of 2020 s. 58.]*

**61A. Other long-stay tenant committees**

Nothing in this Act is taken to prevent long-stay tenants at a residential park from forming social or other tenant committees that have different functions than the park liaison committee.

*[Section 61A inserted: No. 28 of 2020 s. 59.]*

## **Part 5 — State Administrative Tribunal powers**

### **Division 1 — General provisions**

#### **62. Orders if form of long-stay agreement does not comply with Pt. 2 Div. 1**

- (1) A long-stay tenant who is a party to a long-stay agreement may apply to the State Administrative Tribunal for relief if the agreement —
  - (a) contravenes the requirements of section 10(1); or
  - (b) is not in the form of any standard-form agreement prescribed under section 10A; or
  - (c) includes a non-standard term referred to in section 10B(2); or
  - (d) does not include a term prescribed under section 10B(4).
- (2) The State Administrative Tribunal may make an order —
  - (a) terminating the long-stay agreement; or
  - (b) determining the terms of the long-stay agreement; or
  - (c) that a term has no effect; or
  - (d) requiring the park operator to prepare a long-stay agreement that —
    - (i) complies with section 10(1); or
    - (ii) is in the form of the standard-form agreement; or
    - (iii) does not include a term referred to in section 10B(2); or
    - (iv) includes a term prescribed under section 10B(4).

*[Section 62 inserted: No. 28 of 2020 s. 60.]*

**62A. Breaches of agreement and other disputes**

- (1) This section applies in relation to a party, or a former party, to any of the following —
  - (a) an agreement for an option to enter into a long-stay agreement;
  - (b) a long-stay agreement;
  - (c) a selling agency agreement.
- (2) The party or former party may apply to the State Administrative Tribunal for relief in any of the following circumstances —
  - (a) a breach of the agreement has occurred;
  - (b) a term of a long-stay agreement is harsh or unreasonable or inconsistent with the Act;
  - (c) the park operator contravened section 11 or 20A;
  - (d) the agreement has been terminated;
  - (e) any other dispute has arisen under or in connection with —
    - (i) the agreement; or
    - (ii) any payment to be made, or purported to be made, under or in connection with the agreement;
  - (f) the park operator refuses to enter into a new long-stay agreement with, or consent to the assignment of the long-stay tenant's interest in the agreement to, the buyer under section 58(4), (5) or (6).

*[Section 62A inserted: No. 28 of 2020 s. 60.]*

**62B. Matters State Administrative Tribunal may consider**

- (1) In this section —

*Australian Consumer Law (WA)* has the meaning given in the *Fair Trading Act 2010* section 17.

- (2) In making a decision under a provision of this Act, the State Administrative Tribunal may consider whether the long-stay tenant or park operator —
- (a) made a false or misleading representation; or
  - (b) engaged in conduct that is misleading or deceptive or likely to mislead or deceive; or
  - (c) engaged in conduct that is unconscionable under the *Australian Consumer Law (WA)* section 20; or
  - (d) used physical force, undue harassment or coercion.

*[Section 62B inserted: No. 28 of 2020 s. 60.]*

**62C. Directions and orders**

- (1) On hearing an application under a provision of this Act, the State Administrative Tribunal may give such directions and make such orders as it considers appropriate.
- (2) Without limiting subsection (1), the State Administrative Tribunal may do any or all of the following —
- (a) restrain any action in breach of a long-stay agreement;
  - (b) require any action in performance of a long-stay agreement;
  - (c) order the payment of any amount payable under a long-stay agreement;
  - (d) if a park operator failed to comply with section 11 or 20A —
    - (i) order the payment of compensation to a long-stay tenant or prospective long-stay tenant for loss; or
    - (ii) if the tribunal is satisfied that the long-stay tenant would not have entered into the contract had disclosure been made under section 11 — order that the contract is terminated and make such further orders as the tribunal considers appropriate;

- (e) order the repayment to a party to a long-stay agreement of an amount paid by the party to the other party under a mistake of law or fact;
  - (f) determine the amount of rent payable under a long-stay agreement;
  - (g) order the payment of compensation for loss or injury (except personal injury) caused by a breach of the agreement or by breach of an order of the tribunal or a court;
  - (h) authorise the payment to the tribunal of an amount of rent payable under the agreement until the agreement has been complied with, or an application for compensation has been determined;
  - (i) order that rent paid to the tribunal must be paid out towards the cost of remedying a breach of the agreement, towards the amount of any compensation, or otherwise as the tribunal considers appropriate;
  - (j) if a term of a long-stay agreement is harsh, unreasonable or is inconsistent with the Act — declare that the term has no effect;
  - (k) order the park operator to enter into a new long-stay agreement with, or to consent to the assignment of the long-stay tenant's interest in the agreement to, the buyer under section 58(4), (5) or (6);
  - (l) make such other orders as the tribunal considers appropriate.
- (3) The powers of the State Administrative Tribunal to make orders and give directions is in addition to, and does not derogate from, the powers of the tribunal to give directions or make orders under another provision of this Act.

*[Section 62C inserted: No. 28 of 2020 s. 60.]*

**62D. Orders in relation to park operator's representations**

- (1) A long-stay tenant may apply to the State Administrative Tribunal for relief if —
  - (a) the park operator made an oral or written representation, whether before or after the long-stay agreement was entered into, about a facility or service to be provided to the tenant; and
  - (b) the facility or service has not been provided.
- (2) If the State Administrative Tribunal is satisfied of the matters referred to in subsection (1), the tribunal may order —
  - (a) the park operator to pay the long-stay tenant compensation for loss caused by the failure to provide the facility or service; or
  - (b) if the tribunal is satisfied that a long-stay tenant would not have entered into the long-stay agreement if the facility or service the subject of the representation made before the agreement was entered into was not provided by the park operator — that the agreement is terminated; or
  - (c) the park operator to take an action in performance of the representation; or
  - (d) a reduction in rent because of the failure to provide the facility or service.

*[Section 62D inserted: No. 28 of 2020 s. 60.]*

**63. Orders for reduction of rent**

- (1) A long-stay tenant may apply to the State Administrative Tribunal for an order reducing the amount of rent payable for the agreed premises on the grounds that —
  - (a) since the long-stay agreement was entered into, or was last renewed or extended, there has been, without any default on the part of the tenant, a significant reduction in —

- (i) the size or quality of the agreed premises; or
    - (ii) the number or quality of the chattels provided with the agreed premises; or
    - (iii) the extent or quality of the shared premises or the facilities provided as part of the shared premises;
  - or
  - (b) in determining the amount of rent payable for the agreed premises the park operator was wholly or partly motivated by a desire for the tenancy to be terminated.
- (2) An application may be made whether or not a long-stay tenant has paid or agreed to pay the amount of rent the subject of the application.
- (3) The State Administrative Tribunal may order that the amount of rent payable for the agreed premises is reduced if satisfied that —
- (a) the grounds of the application are made out; and
  - (b) the amount is excessive in the circumstances.
- (4) In deciding the application, the State Administrative Tribunal must have regard to anything the tribunal considers relevant, including —
- (a) the amounts of rent generally payable for comparable premises in the locality or a similar locality; and
  - (b) the estimated capital value of the agreed premises at the date of the application; and
  - (c) the amount of the outgoings to be borne by the park operator in respect of the agreed premises; and
  - (d) the estimated cost of any services provided by the park operator or the long-stay tenant under the long-stay agreement; and
  - (e) the value and nature of any chattels provided for the use of the long-stay tenant with the agreed premises or as part of the shared premises; and

- (f) the standard and nature of the facilities and amenities that are available for the use of the long-stay tenant as part of the shared premises; and
  - (g) in the case of an on-site home agreement — the standard of accommodation and amenities provided in the agreed premises and the state of repair and general condition of the agreed premises.
- (5) When the State Administrative Tribunal makes the order, it must specify —
- (a) the maximum amount of rent payable by the long-stay tenant for the agreed premises; and
  - (b) the day on and after which the reduced amount is payable, being a day not earlier than the day on which the long-stay tenant applied for the reduction in rent; and
  - (c) the minimum period for which the reduced amount is payable.

*[Section 63 inserted: No. 28 of 2020 s. 60.]*

**63A. Determination of proposed rental increase under s. 31**

- (1) A park operator may apply to the State Administrative Tribunal for an order to increase the amount of rent payable as a result of significant cost increases under section 31 if —
- (a) the park operator gives a written notice to the long-stay tenant under section 31(2); and
  - (b) either —
    - (i) the long-stay tenant does not give the park operator a written notice within 28 days after receiving the notice from the park operator; or
    - (ii) the long-stay tenant does not agree by written notice to the proposed increase within 28 days after receiving the notice from the park operator.

- (2) In deciding the application, the State Administrative Tribunal may make —
- (a) an order reducing the amount of the proposed increase by a stated amount; or
  - (b) an order setting aside the proposed increase; or
  - (c) an order confirming the proposed increase, on any conditions stated in the notice; or
  - (d) another order that the tribunal considers appropriate.
- (3) In deciding the application, the State Administrative Tribunal must have regard to anything the tribunal considers relevant, including —
- (a) the amount of the increase when compared to the rent currently payable under the agreement; and
  - (b) the frequency, and amount, of previous rental increases; and
  - (c) any increase in the all groups consumer price index for Perth published by the Australian Bureau of Statistics; and
  - (d) the standard and nature of the facilities and services that are available for the use of the long-stay tenant as part of the shared premises; and
  - (e) any withdrawal of facilities and services that were available for the use of the long-stay tenant as part of the shared premises; and
  - (f) any addition to the standard and nature of the facilities and services that are available for the use of the long-stay tenant as part of the shared premises; and
  - (g) the significant cost increases or unforeseen repair costs that necessitate the proposed increase; and
  - (h) whether the increase is fair and equitable in all the circumstances.

*[Section 63A inserted: No. 28 of 2020 s. 60.]*

**63B. Disputes about park rules**

- (1) A long-stay tenant may apply to the State Administrative Tribunal for relief in relation to park rules.
- (2) Without limiting subsection (1), the long-stay tenant may make an application for any of the following reasons —
  - (a) a park rule is unreasonable;
  - (b) a park rule is not applied or enforced in a reasonable, fair or equitable way;
  - (c) the manner a park rule is applied or enforced affects the tenant in a harsh or unreasonable way;
  - (d) a park rule is inconsistent with section 54A(2) or any regulations made under section 54B(1).
- (3) A park operator may also apply to the State Administrative Tribunal for relief in relation to park rules.
- (4) In deciding whether a park rule is applied or enforced in a way that is contrary to subsection (2)(b) or (c), the State Administrative Tribunal may consider —
  - (a) the nature of the breach of the park rule; and
  - (b) what timeframes were imposed as a result of the breach; and
  - (c) any previous breaches.
- (5) The State Administrative Tribunal may, if the tribunal considers it is appropriate —
  - (a) order that a person comply with the park rules; or
  - (b) revoke or alter a park rule, or give directions modifying the operation of a park rule in relation to a long-stay tenant; or
  - (c) make another order the tribunal considers appropriate.

*[Section 63B inserted: No. 28 of 2020 s. 60.]*

**63C. Recognising persons as long-stay tenants**

- (1) This section applies if —
  - (a) a person (*resident*) is not a long-stay tenant but is residing in agreed premises the subject of a long-stay agreement; and
  - (b) the resident asks the park operator who is a party to the long-stay agreement to vary the agreement to add the resident as a long-stay tenant; and
  - (c) the park operator refuses to vary the long-stay agreement.
- (2) The resident may apply to the State Administrative Tribunal to be recognised as a long-stay tenant in respect of the agreed premises.
- (3) The application may be made —
  - (a) during another application or a proceeding before the tribunal; or
  - (b) when no application or proceeding is before the tribunal.
- (4) The State Administrative Tribunal may, if the tribunal considers it is appropriate —
  - (a) order —
    - (i) that the long-stay agreement is varied so that the resident is a long-stay tenant who is a party to the agreement, and is taken for any written law or the agreement to be a tenant under the agreement; and
    - (ii) that the long-stay agreement be continued on the terms and conditions that the tribunal considers are appropriate;
  - or
  - (b) order that the resident is joined as a party to an application or a proceeding before the tribunal.

- (5) In making an order under subsection (4), the State Administrative Tribunal must consider whether the resident is suitable to be recognised as a long-stay tenant in respect of the agreed premises.

Example for this subsection:

The agreed premises the resident is occupying is within a residential park, or part of a park, to which section 20(1) applies and the resident has not reached the age at which the resident is permitted to live on the agreed premises.

*[Section 63C inserted: No. 28 of 2020 s. 60.]*

**64. Orders requiring works after failure to comply with responsibility for cleanliness and repair under s. 32L**

- (1) A long-stay tenant may apply to the State Administrative Tribunal if a park operator does not comply with the park operator's obligations under section 32L.
- (2) If the State Administrative Tribunal is satisfied that the park operator has not complied with the park operator's obligations under section 32L, the tribunal may make —
- (a) an order requiring work of a specified kind to be carried out; or
  - (b) an order requiring the park operator to pay compensation to the long-stay tenant or to another tenant; or
  - (c) another order that the tribunal considers is appropriate in the circumstances.

*[Section 64 inserted: No. 28 of 2020 s. 60.]*

**64A. Orders if potential buyer not given purchase disclosure notice**

- (1) If a potential buyer is not given a purchase disclosure notice under section 55A, the potential buyer may apply to the State Administrative Tribunal for —
- (a) an order for compensation; or

- (b) an order for rescission of the sale contract between the potential buyer and the long-stay tenant; or
  - (c) another order the tribunal considers is appropriate.
- (2) In deciding the application, the State Administrative Tribunal must have regard to —
- (a) whether the potential buyer has been disadvantaged because the buyer was not given the purchase disclosure notice; and
  - (b) another matter the tribunal considers relevant.

*[Section 64A inserted: No. 28 of 2020 s. 60.]*

**64B. Determination of compensation payable to long-stay tenant because of relocation under s. 32A**

- (1) A party to a long-stay agreement may apply to the State Administrative Tribunal for a determination of the amount of compensation to which the long-stay tenant is entitled under section 32A when the tenant is required to relocate from the tenant's current site to another site.
- (2) When determining the amount of compensation to be paid to the long-stay tenant because of the relocation, the State Administrative Tribunal must have regard to the losses arising from the matters mentioned in section 32A(1).

*[Section 64B inserted: No. 28 of 2020 s. 60.]*

**64C. Orders in relation to site-only agreement if long-stay tenants die and removal or sale of relocatable home is obstructed**

- (1) This section applies if —
  - (a) every long-stay tenant to a site-only agreement dies; and
  - (b) there is a relocatable home on the site that has not yet been removed or sold; and
  - (c) the park operator is interfering with, or obstructing, an executor or personal representative of a deceased

long-stay tenant, or the tenant's beneficiary, in removing or selling the relocatable home.

- (2) The executor or personal representative of a deceased long-stay tenant, or the tenant's beneficiary, may apply to the State Administrative Tribunal for an order in relation to the site-only agreement.
- (3) If the State Administrative Tribunal is satisfied of the matters in subsection (1), the tribunal may make —
  - (a) an order terminating the site-only agreement; or
  - (b) an order reducing the rent paid under the site-only agreement; or
  - (c) an order suspending or deferring the obligation to pay rent under the site-only agreement until the relocatable home is removed or sold; or
  - (d) an order terminating the obligation to pay rent under the site-only agreement; or
  - (e) another order the tribunal considers appropriate.

*[Section 64C inserted: No. 28 of 2020 s. 60.]*

**65. Determination of compensation payable to long-stay tenant for termination under s. 46**

- (1) A party to a long-stay agreement may apply to the State Administrative Tribunal for a determination of the amount of compensation to which the long-stay tenant is entitled under section 46 in relation to the agreement.
- (2) When determining the amount of compensation to be paid to the long-stay tenant on the termination of a site-only agreement, the State Administrative Tribunal must have regard to the following —
  - (aa) the cost incurred by the long-stay tenant in travelling, and transporting the tenant's possessions that are kept at the residential park, for the distance from the residential

- park to other premises designated by the tenant, or for 600 km, whichever is shorter;
- (a) the cost of removing the relocatable home from the agreed premises, including the costs incurred in disconnecting telephone, gas, electricity, water or other services;
  - (b) the cost of towing or transporting the relocatable home for the distance from the residential park to another site designated by the long-stay tenant, or for 600 km, whichever is shorter;
  - (c) the cost of erecting the relocatable home on the other site, including the costs incurred in connecting telephone, gas, electricity, water or other services;
  - (d) the cost of establishing the relocatable home at the new site, including any costs reasonably incurred in landscaping the site to a standard comparable to that of the previous site;
  - (da) any other financial loss incurred as a result of the termination of the agreement;
  - (e) any prescribed matters.
- (3) When determining the amount of compensation to be paid to the long-stay tenant on the termination of an on-site home agreement, the State Administrative Tribunal may have regard to the following —
- (a) the cost incurred by the long-stay tenant in travelling, and transporting the tenant's possessions that are kept at the residential park, for the distance from the residential park to other premises designated by the tenant, or for 600 km, whichever is shorter;
  - (aa) the costs of disconnecting and reconnecting utilities to the site;
  - (b) any other financial loss incurred as a result of the termination of the agreement;

(c) any prescribed matters.

*[Section 65 amended: No. 28 of 2020 s. 61.]*

## **Division 2 — Orders relating to vacant possession**

### **66. Orders for vacant possession if rent not paid**

- (1) This section applies where —
  - (a) a park operator has given a notice of termination to a long-stay tenant under section 39(1)(a) or (b) on the grounds that the tenant has not paid rent in accordance with the long-stay agreement; and
  - (b) the tenant does not give vacant possession of the agreed premises to the park operator on the day specified in the notice of termination.
- (2) The park operator may apply to the State Administrative Tribunal for —
  - (a) an order terminating the long-stay agreement; and
  - (b) an order requiring the long-stay tenant to give vacant possession of the premises to the park operator.
- (3) An application cannot be made —
  - (a) before the notice of termination is given to the long-stay tenant; or
  - (b) more than 30 days after the day specified in the notice of termination as the day on which the park operator requires the tenant to give vacant possession of the agreed premises to the park operator.
- (4) If, under section 39(1)(a), the park operator gave to the long-stay tenant a notice of termination only, then, on hearing the application, the State Administrative Tribunal may make the orders if —
  - (a) the notice of termination was given in accordance with this Act; and

- (b) the day on which the orders are made is at least 21 days after the day on which the notice of termination was given to the tenant; and
  - (c) the park operator was not required to withdraw the application under section 39(5)(b).
- (5) If, under section 39(1)(b), the park operator gave to the long-stay tenant both a default notice and a notice of termination, the State Administrative Tribunal may make the orders if —
  - (a) the notices were given in accordance with this Act; and
  - (b) the day on which the orders are made is at least 21 days after the day on which the default notice was given to the tenant.
- (6) The State Administrative Tribunal must specify in an order the day on which the order takes effect.
- (7) The day specified in the order must be at least 7 days after the day on which the order is made.
- (8) The day specified in the order may be —
  - (a) a day earlier than the last day of the fixed term of a fixed term tenancy; or
  - (b) a day earlier than the last day of a period of a periodic tenancy.

**67. Orders for vacant possession at end of fixed term**

- (1) This section applies where —
  - (a) the fixed term under a fixed term long-stay agreement has ended; and
  - (b) there is no agreement between the long-stay tenant and the park operator to continue the tenancy as a periodic tenancy; and
  - (c) the tenant has not given vacant possession of the agreed premises to the park operator.

- (2) The park operator may apply to the State Administrative Tribunal for —
  - (a) an order terminating the long-stay agreement; and
  - (b) an order for the long-stay tenant to give vacant possession of the premises to the park operator.
- (3) The State Administrative Tribunal may make the orders.
- (4) The State Administrative Tribunal must specify in an order the day on which the order takes effect.
- (5) The day specified under subsection (4) must be at least 7 days after the day on which the order is made.
- (6) However, the State Administrative Tribunal may suspend the operation of the order for a further period of not more than 30 days, having regard to the relative hardship that would be caused —
  - (a) to the park operator by suspending the orders; and
  - (b) to the long-stay tenant by not suspending the orders.
- (7) Also, the State Administrative Tribunal may suspend the operation of the order for a further period decided by the tribunal if the park operator did not give the long-stay tenant a written notice under section 32R(2) that the park operator did not intend to enter into a new long-stay agreement with the tenant.

*[Section 67 amended: No. 28 of 2020 s. 62.]*

**68. Orders for vacant possession on other grounds**

- (1) This section applies where —
  - (a) a park operator has given a notice of termination to a long-stay tenant (except a notice of termination under section 39), or a long-stay tenant has given a notice of termination to the park operator; and

- (b) the tenant does not give vacant possession of the agreed premises to the park operator on the day specified in the notice of termination.
- (2) The park operator may apply to the State Administrative Tribunal for —
  - (a) an order terminating the long-stay agreement; and
  - (b) an order for the long-stay tenant to give vacant possession of the premises to the park operator.
- (3) An application must be made within 30 days after the day specified in the notice of termination.
- (4) The State Administrative Tribunal may make the orders if a notice of termination was given in accordance with this Act and —
  - (a) where the notice was given on the grounds that the long-stay tenant has breached the long-stay agreement — the State Administrative Tribunal is satisfied that the grounds are made out and that the breach is in all the circumstances such as to justify terminating the agreement; or
  - (b) if the notice was given for any other reason — the tribunal is satisfied that terminating the agreement is justified in all the circumstances.
- (5) However, the State Administrative Tribunal may refuse to make the orders if satisfied —
  - (a) that the park operator was wholly or partly motivated to give the notice by the fact that the long-stay tenant had complained to a public authority about the park operator's conduct in relation to the long-stay agreement, or taken steps to secure or enforce the tenant's rights as a tenant under the agreement; or
  - (b) if the notice was given by the park operator on the grounds of a breach by the tenant — that the tenant has remedied the breach, but when making the decision the

tribunal must take into account any previous breaches of the agreement by the tenant; or

- (c) if the notice was given by the park operator under section 45(3) on the grounds of frustration of the agreement — that the consequences of continuing the agreement would not be unduly burdensome to the park operator.
- (6) If the State Administrative Tribunal makes the orders, it may suspend the operation of the orders for not more than 30 days if satisfied that it is desirable in the circumstances to do so having regard to the relative hardship that would be caused —
  - (a) to the park operator by suspending the orders; or
  - (b) to the long-stay tenant by refusing to suspend the orders.
- (7) Where the park operator gave the notice of termination to the long-stay tenant, and the State Administrative Tribunal is satisfied that the tenant had, within the 6 months before the notice was given to the tenant, complained to a public authority about the park operator's conduct in relation to the long-stay agreement, or taken steps to secure or enforce the tenant's rights as a tenant under the agreement, the burden is on the park operator to prove that the park operator was not to any extent motivated by that fact when giving notice to the tenant.
- (8) When the State Administrative Tribunal makes the orders, the tribunal must specify the day on which the orders take effect.
- (9) The day specified in the order must be no later than 7 days after the day on which the order is made.
- (10) The *Limitation Act 2005* does not apply to an application under this section.

*[Section 68 amended: No. 28 of 2020 s. 63.]*

**69. Orders for compensation to park operator for holding over**

- (1) A park operator is entitled to compensation for any loss (including loss of rent) incurred by the park operator as a result

of the long-stay tenant's failure to comply with an order for vacant possession made by the State Administrative Tribunal.

- (2) The park operator may apply to the State Administrative Tribunal for an order for compensation.
- (3) An application must be made within 30 days after the day specified in the order as the day on which the long-stay tenant was to give vacant possession of the agreed premises.
- (4) The State Administrative Tribunal may order the long-stay tenant to pay to the park operator the amount to which the park operator is entitled under subsection (1).

*[Section 69 amended: No. 28 of 2020 s. 64.]*

**70. Long-stay tenant's protection against holder of superior title**

- (1) The State Administrative Tribunal must not make an order for recovery of possession of agreed premises unless the tribunal is satisfied —
  - (aa) that the person has a right to possession of the agreed premises under this Act or another written law; and
  - (a) as to whether or not a person has possession of the agreed premises as a long-stay tenant under a long-stay agreement or as a former tenant holding over after the termination of a long-stay agreement, not being the immediate tenant or former tenant of the applicant for the order; and
  - (b) if so, that the tenant or former tenant has had reasonable notice of the application.
- (2) A person who has possession of the agreed premises as described in subsection (1) may apply to the State Administrative Tribunal for an order vesting a tenancy of the agreed premises in the person.
- (3) An application under subsection (2) may be made within a reasonable time after the person has notice of the proceedings

for the recovery of possession, or notice of the making of the order for recovery of possession, as the case may be.

- (4) The State Administrative Tribunal may make an order vesting the tenancy in the applicant on such terms and conditions as the tribunal thinks appropriate.

*[Section 70 amended: No. 28 of 2020 s. 65.]*

**Division 2A — Orders relating to abandoned premises**

*[Heading inserted: No. 28 of 2020 s. 66.]*

**70A. Disputing s. 44B notice**

- (1) A long-stay tenant who has received a notice of abandonment under section 44B may apply to the State Administrative Tribunal for an order —
- (a) setting aside the notice; or
  - (b) for compensation.
- (2) The application must be made within 28 days after the notice of abandonment is given.
- (3) The State Administrative Tribunal may make 1 or more of the following orders —
- (a) if an application under subsection (1) was made within 7 days after the notice of abandonment was given — an order setting aside the notice;
  - (b) if paragraph (a) does not apply — an order terminating the agreement;
  - (c) an order requiring the park operator to pay compensation to the long-stay tenant for loss or expense incurred by the tenant because of the termination of the agreement;
  - (d) another order the tribunal considers appropriate.

*[Section 70A inserted: No. 28 of 2020 s. 66.]*

**70B. Orders to terminate agreement because agreed premises abandoned**

- (1) A park operator may apply to the State Administrative Tribunal for an order terminating a long-stay agreement because the long-stay tenant occupying the agreed premises under the agreement has abandoned the premises.
- (2) If the State Administrative Tribunal is satisfied that the long-stay tenant has abandoned the agreed premises, the tribunal —
  - (a) must —
    - (i) make a declaration that the tenant has abandoned the premises and specifying the day on which the premises were abandoned; and
    - (ii) make an order terminating the agreement on the day the tribunal specifies is the day the premises were abandoned;
  - or
  - (b) may make an order specifying the amount of compensation to which the park operator is entitled under section 47(1).

*[Section 70B inserted: No. 28 of 2020 s. 66.]*

**Division 3 — Orders relating to termination of agreements**

**71. Orders to terminate agreement if tenant is causing damage or injury**

- (1) A park operator may apply to the State Administrative Tribunal for an order terminating a long-stay agreement on the grounds that the long-stay tenant has intentionally or recklessly caused or permitted, or is likely, intentionally or recklessly, to cause or permit —
  - (a) serious damage to park premises; or

- (b) injury to the park operator or to an agent of the park operator, or to any other person lawfully on park premises.
- (2) The State Administrative Tribunal may make the order if satisfied that the grounds are made out.
- (3) If the State Administrative Tribunal makes the order, it must also order the long-stay tenant to give vacant possession of the agreed premises to the park operator.
- (4) An order under this section takes effect immediately.

**71A. Orders to terminate agreement for repeated interference with quiet enjoyment or threats or abuse**

- (1) In this section, a long-stay tenant, or the tenant's guest, engages in *serious misconduct* when the tenant or the tenant's guest —
  - (a) repeatedly interferes, or has repeatedly interfered, with another tenant's quiet enjoyment of the residential park; or
  - (b) seriously or persistently threatens or abuses, or has seriously or persistently threatened or abused, the park operator or the park operator's employee.
- (2) A park operator may apply to the State Administrative Tribunal to terminate a long-stay agreement because the long-stay tenant, or the tenant's guest, has engaged in serious misconduct.
- (3) The State Administrative Tribunal may make an order terminating the long-stay agreement if the tribunal is satisfied of all of the following —
  - (a) the long-stay tenant, or the tenant's guest, has engaged in serious misconduct;
  - (b) the park operator has given a notice to the long-stay tenant in an approved form that asks the tenant, or the tenant's guest, to stop engaging in the serious misconduct;

- (c) despite being asked to stop engaging in the serious misconduct, the long-stay tenant or the tenant's guest has not stopped engaging in the serious misconduct;
  - (d) terminating the agreement is justified in all the circumstances.
- (4) However, the State Administrative Tribunal may refuse to make an order if satisfied that the park operator was wholly or partly motivated to give the notice by the fact that the long-stay tenant had complained to a public authority about the park operator's conduct in relation to the long-stay agreement, or taken steps to secure or enforce the tenant's rights under the agreement.
- (5) If the State Administrative Tribunal makes the order, it must also order the long-stay tenant to give vacant possession of the agreed premises to the park operator when the tribunal orders.

*[Section 71A inserted: No. 28 of 2020 s. 67.]*

**72. Orders to terminate agreement for breach by park operator**

- (1) A long-stay tenant may apply to the State Administrative Tribunal for an order to terminate the long-stay agreement on the grounds that the park operator has breached a term of the agreement.
- (2) The State Administrative Tribunal may make the order if it is satisfied that —
  - (a) the grounds are made out; and
  - (b) the breach is in all the circumstances such as to justify terminating the long-stay agreement.
- (3) The State Administrative Tribunal must specify in the order the day on which the long-stay tenant is to give vacant possession of the agreed premises to the park operator.

**73. Termination on grounds of hardship**

- (1) A park operator or long-stay tenant may apply to the State Administrative Tribunal for an order under subsection (2).

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- (2) The State Administrative Tribunal may make an order terminating a long-stay agreement if satisfied that the park operator or long-stay tenant would, in the circumstances of the case, suffer undue hardship if required to terminate the agreement under any other provision of this Act.
- (2A) When making an order terminating the long-stay agreement, the State Administrative Tribunal may also order compensation to be paid to the park operator or long-stay tenant for any loss caused to either person.
- (3) The State Administrative Tribunal must specify in the order the day on which the long-stay tenant is to give vacant possession of the agreed premises to the park operator.

*[Section 73 amended: No. 28 of 2020 s. 68.]*

**74. Tribunal's power during fair rent proceedings**

For the purposes of section 42(5), the State Administrative Tribunal may, on the application of a park operator, authorise the park operator to give a notice of termination to a long-stay tenant under section 42(1) if the tribunal is satisfied that the park operator is not wholly or partly motivated to give the notice of termination by an application made by the tenant for an order under section 63, or by the making or effect of an order that is in force under section 63.

**Division 3A — Orders relating to termination of tenant's interest on grounds of family violence**

*[Heading inserted: No. 3 of 2019 s. 32.]*

**74A. Review of notice of termination under s. 45A**

- (1) In this section —  
***terminating tenant*** means a long-stay tenant who has given, or purportedly given, notice of termination under section 45A.
- (2) A park operator may, within 7 days after receiving a notice of termination under section 45A, apply to the State

Administrative Tribunal to review whether notice was validly given under that section.

- (3) In its review, the State Administrative Tribunal —
  - (a) must examine whether the terminating tenant has complied with section 45A in giving the notice; and
  - (b) cannot examine whether the terminating tenant, or a dependant of the tenant, has been or might be subject to family violence.
- (4) If the State Administrative Tribunal finds that notice was not validly given under section 45A, the Tribunal must make an order declaring that the terminating tenant's interest in the on-site home agreement has not been terminated, otherwise the Tribunal must dismiss the application.

*[Section 74A inserted: No. 3 of 2019 s. 32.]*

**74B. Termination of tenant's interest by SAT on grounds of family violence**

- (1) In this section —

***excluded tenant*** means a tenant against whom an order is sought or made under subsection (2);

***family violence order*** means a DVO, Family Court injunction or other court order denying a long-stay tenant's right of occupancy in the agreed premises;

***protected tenant*** means a tenant for whose benefit an order is sought or made under subsection (2).
- (2) Despite any other provision of this Act or another written law or a requirement under a contract, the State Administrative Tribunal may make an order terminating a tenant's interest in an on-site home agreement if it is satisfied —
  - (a) that a family violence order is in force against the excluded tenant; or

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- (b) that the excluded tenant has, during the tenancy period, committed family violence against the protected tenant or a dependant of the protected tenant.
- (3) The State Administrative Tribunal may make the order on an application by any of the following —
  - (a) the excluded tenant;
  - (b) a protected tenant;
  - (c) a prescribed person acting on behalf of the protected tenant.
- (4) Before making the order the State Administrative Tribunal must consider the following matters —
  - (a) the best interests of any child ordinarily resident at the premises;
  - (b) the best interests of the protected tenant;
  - (c) the effect the order might have on the lessor and any remaining tenants;
  - (d) the effect the order might have on any pets kept on the agreed premises;
  - (e) the fact that perpetrators of family violence might seek to misuse the protections offered to long-stay tenants and park operators under this Act to further their violence, and the need to prevent that misuse.
- (5) The State Administrative Tribunal is to have regard to the matter set out in subsection (4)(a) as being of primary importance.
- (6) The State Administrative Tribunal must specify in an order the day on which the order takes effect.
- (7) The day specified under subsection (6) must be not less than 7 days and not more than 30 days after the order is made.

*[Section 74B inserted: No. 3 of 2019 s. 32.]*

**74C. Determination of rights and liabilities after termination of tenant's interest on grounds of family violence**

- (1) A long-stay tenant, or former long-stay tenant, may apply to the State Administrative Tribunal for a determination of the rights and liabilities of the parties to the long-stay agreement once the former long-stay tenant's interest in the agreement has been terminated under section 33(2A) or (2B).
- (2) When hearing an application under subsection (1) or section 74B(3), State Administrative Tribunal —
  - (a) must determine the rights and liabilities of the parties to the agreement, as affected by the termination; and
  - (b) may order a party to pay compensation to another party for loss or injury (except personal injury) relating to the termination.
- (3) Without limiting subsection (2), a determination or order under that provision may apportion the disposal of the security bond to the park operator and each long-stay tenant or former long-stay tenant as appropriate having regard to subsection (4).
- (4) Despite any law to the contrary, each long-stay tenant under a long-stay agreement has an equal interest in the security bond in respect of the agreement unless the State Administrative Tribunal in a particular case determines otherwise under this section.
- (5) In making a determination or order under subsection (2), the State Administrative Tribunal must have regard to all of the following principles —
  - (a) that family violence is a fundamental violation of human rights and is unacceptable in any form;
  - (b) the need to prevent further victimisation of a person who has experienced family violence through the unjust application of the principle of joint and several liability or the principle of vicarious liability;

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- (c) the need to maximise the safety of persons who have experienced family violence by reducing any financial burden arising from the family violence;
  - (d) the need to prevent, or reduce to the greatest extent possible, the consequences of family violence;
  - (e) the need to protect the wellbeing of children by preventing them from being subjected or exposed to further family violence;
  - (f) the need to encourage perpetrators of family violence to accept responsibility for their behaviour and the effect it has on others.
- (6) Nothing in subsection (2) is to be read as enabling the State Administrative Tribunal to order compensation for early termination of a long-stay agreement.

*[Section 74C inserted: No. 3 of 2019 s. 32.]*

**74D. Review of Division**

- (1) The Minister must carry out a review of the operation and effectiveness of this Division, and prepare a report based on the review, as soon as practicable after the 3<sup>rd</sup> anniversary of the day on which this Division comes into operation.
- (2) Without limiting the scope of the review, the review must address the following —
  - (a) the effect of this Division on lessors' rights to recover debts owed by tenants;
  - (b) the effect of this Division on lessors' insurance policies;
  - (c) the effect of this Division on contractual certainty;
  - (d) the extent to which this Division affects contractual obligations upon lessors and co-tenants who are not perpetrators of family violence and the impact of those obligations;
  - (e) such other matters as appear to the Minister to be relevant.

- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3<sup>rd</sup> anniversary.

*[Section 74D inserted: No. 3 of 2019 s. 32.]*

#### **Division 4 — Orders relating to abandoned goods**

##### **75. Disposing of proceeds of sale of abandoned goods**

- (1) Where the proceeds of the sale of abandoned goods exceed the amount to which the park operator is entitled under section 52, the park operator may apply to the State Administrative Tribunal to determine the amount of the balance.
- (2) If the amount specified in the determination is paid to the State Administrative Tribunal, the receipt of the tribunal for the amount is sufficient discharge to the park operator of the park operator's liability in respect of the proceeds of the sale.
- (3) Amounts paid to the State Administrative Tribunal are payable to the Rental Accommodation Account.

*[Section 75 amended: No. 60 of 2011 s. 108.]*

##### **76. Park operator's claim for costs in relation to abandoned goods and tenant's documents**

- (1) A park operator may apply to the State Administrative Tribunal for an order if —
- (a) the proceeds of the sale of abandoned goods are insufficient to meet the costs of removing, storing and selling the goods; or
  - (b) the park operator destroys or otherwise disposes of a tenant's document under section 52A(6).
- (2) In relation to an application made under subsection (1)(a), the State Administrative Tribunal may make an order for the payment to the park operator of an amount equal to the

difference between the proceeds of the sale and the reasonable costs of removing, storing and selling the goods if —

- (a) the park operator has obtained a written statement from the Commissioner to the effect that, in the opinion of the Commissioner, section 48(2) does not apply to the goods; and
- (b) the tribunal is satisfied that the amount of the costs exceeds the amount of the proceeds.

(2A) In relation to an application made under subsection (1)(b), the State Administrative Tribunal may make an order for the payment to the park operator of an amount equal to the reasonable costs incurred by the park operator in discharging the duties imposed on the park operator under section 52A if the tribunal is satisfied that —

- (a) the park operator incurred reasonable costs in discharging the park operator's duty under section 52A; and
- (b) the tenant's document has been destroyed under section 52A(6).

(3) The amount specified in the order under subsection (2) or (2A) is payable to the park operator out of the Rental Accommodation Account.

*[Section 76 amended: No. 60 of 2011 s. 108; No. 28 of 2020 s. 69.]*

**77. Recovery by owner of value of goods sold**

- (1) If an amount of money is paid into the Rental Accommodation Account from the proceeds of the sale of abandoned goods, a person who had a legal right to the goods before they were sold may apply to the State Administrative Tribunal for the amount to be paid to the person.
- (2) The State Administrative Tribunal may order the amount to be paid to the applicant out of the Rental Accommodation Account if satisfied that the applicant is entitled to it.

[Section 77 amended: No. 60 of 2011 s. 108; No. 28 of 2020 s. 70.]

### **Division 5 — Miscellaneous provisions**

**78. Term used: original party**

In this Division —

**original party** in relation to legal proceedings, means a party to a long-stay agreement on whose behalf the Commissioner is acting in the proceedings as provided in section 79.

**79. Proceedings instituted or defended by Commissioner**

- (1) The Commissioner may take part in proceedings under this Act with a view to enforcing or protecting the rights under this Act of a party to a long-stay agreement (the **original party**) if —
  - (a) the Commissioner is satisfied that there is a cause of action and that it is in the public interest to take part in the proceedings; and
  - (b) the Commissioner has obtained the written consent of both the original party and the Minister; and
  - (c) if the long-stay agreement has ended — the original party made a complaint to the Commissioner within 3 months after the day on which it ended.
- (2) For the purposes of subsection (1), the Commissioner may —
  - (a) institute proceedings on behalf of the original party; or
  - (b) defend any proceedings brought against the original party; or
  - (c) assume the conduct of proceedings that have already been commenced by or against the original party.
- (3) The original party cannot withdraw their consent without the consent of the Commissioner.
- (4) The Minister may make their consent subject to conditions.

*[Section 79 amended: No. 28 of 2020 s. 71.]*

**80. Evidence in proceedings undertaken by Commissioner**

- (1) In proceedings to which the Commissioner is a party under section 79, a statement purporting to be signed by the Commissioner to the effect that the Commissioner is satisfied that there is a cause of action and that it is in the public interest to institute or assume the conduct of the proceedings, as the case may be, on behalf of the original party is proof, in the absence of evidence to the contrary, that the Commissioner instituted or assumed the conduct of the proceedings in accordance with section 79.
- (2) In proceedings to which the Commissioner is a party, a statement purporting to give the consent of the original party, or the consent of the Minister, to the institution, defence or assumption of the conduct of the proceedings by the Commissioner is sufficient proof, in the absence of evidence to the contrary, that the consent was given for the purposes of section 79(1)(b).

**81. Conduct of legal proceedings by Commissioner**

- (1) In proceedings undertaken by the Commissioner under section 79, the Commissioner has, on behalf of the original party, in all respects the same rights in, and control over, the proceedings as the original party would have had in the conduct of the proceedings, including the right to settle any action or part of any action.
- (2) The Commissioner may conduct the proceedings as the Commissioner thinks fit, without consulting or seeking the consent of the original party.
- (3) Where the Commissioner assumes the conduct of proceedings already commenced by or against the original party, the State Administrative Tribunal —

- (a) must, on the application of the Commissioner, order the substitution of the Commissioner for the original party as a party to the proceedings; and
  - (b) may make other orders or give directions as it thinks fit.
- (4) If any party to the proceedings alleges another cause of action, or if the original party has another cause of action, then, on the application of the Commissioner, the State Administrative Tribunal —
- (a) must order that the proceedings for the other cause of action are to be heard separately; and
  - (b) must order that the original party is, in the party's own right, a party to the proceedings for the other cause of action; and
  - (c) may make other orders or give directions as it thinks fit.

*[Section 81 amended: No. 28 of 2020 s. 72.]*

**82. Orders exempting persons from operation of Act**

- (1) A park operator or a long-stay tenant or prospective long-stay tenant may apply to the State Administrative Tribunal for an order under subsection (2).
- (2) The State Administrative Tribunal may order that a provision of this Act does not apply, or applies in a modified manner as specified in the order, in relation to —
  - (a) the long-stay agreement or proposed long-stay agreement; or
  - (b) the park premises or any part of them.

**83. Payment of costs and other amounts**

- (1) Any amount (excluding costs) recovered by the Commissioner in proceedings to which the Commissioner is a party under section 79 belongs and must be paid to the original party without deduction.

- (2) Any amount awarded against the original party is payable by and recoverable from the original party.
- (3) The costs of the proceedings must be borne by or paid to and retained by the Commissioner, as the case requires.
- (4) Any amount that the Commissioner becomes liable to pay as a result of the operation of this section is charged to the Consolidated Account, and the Consolidated Account is appropriated accordingly.

*[Section 83 amended: No. 77 of 2006 s. 4.]*

**83A. State Administrative Tribunal may refer matter to Commissioner for investigation**

- (1) The State Administrative Tribunal may refer a matter to the Commissioner for investigation if, while conducting a proceeding under this Act, the tribunal suspects that an offence has been committed under the Act.
- (2) If the State Administrative Tribunal refers a matter under subsection (1), the tribunal must give the Commissioner any relevant documents or other records in the tribunal's possession.

*[Section 83A inserted: No. 28 of 2020 s. 73.]*

## Part 6 — Other matters

### 84. Commissioner

- (1) The Minister is required, by notice published in the *Gazette*, to designate a person who is an executive officer of the Department as the Commissioner for the purposes of this Act.
- (2) The Commissioner may be referred to by a title specified by the Minister by notice published in the *Gazette*.
- (3) In this section —  
*executive officer* has the meaning given by the *Public Sector Management Act 1994* section 3(1).

### 85. Commissioner's functions

The Commissioner has the following functions —

- (a) the investigation of and conduct of research into matters relating to the interests of parties to long-stay agreements generally or any particular party or parties;
- (b) the publication of reports and the dissemination of information on matters relating to the interests of parties to long-stay agreements;
- (c) the giving of advice to persons on the provisions of this Act or any other law relating to or affecting the interests of parties to long-stay agreements;
- (d) the investigation, upon the complaint of a party to a long-stay agreement or otherwise, of an offence against this Act or of an infringement of a party's rights arising out of any long-stay agreement and the taking of action by negotiation, prosecution of an offence or otherwise;
- (e) the making of reports to the Minister on matters referred to the Commissioner by the Minister and any other matters of importance investigated by the Commissioner for the purposes of this Act.

**86. Delegation by Commissioner**

- (1) The Commissioner may delegate to any other person employed in the Department any power or duty of the Commissioner under another provision of this Act.
- (2) The delegation must be in writing signed by the Commissioner.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Commissioner to perform a function through an officer or agent.

**87. Information officially obtained to be confidential**

- (1) A person who misuses information obtained by reason of any function that person has, or at any time had, in the administration of this Act commits an offence.  
Penalty for this subsection: a fine of \$20 000.
- (2) A person misuses information if it is, directly or indirectly, recorded, used, or disclosed to another person, other than —
  - (a) in the course of duty under this Act; or
  - (b) under this or any other Act; or
  - (c) for the purposes of the investigation of any suspected offence or the conduct of proceedings against any person for an offence; or
  - (d) in a manner that could not reasonably be expected to lead to the identification of any person to whom the information refers; or
  - (e) with the consent of the person to whom the information relates, or each of them if there is more than one.

- (3) In this section —  
*information* means information concerning the affairs of a person.

[Section 87 amended: No. 3 of 2019 s. 39.]

**88. Protection from liability for wrongdoing**

- (1) A person is not liable for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2) The State is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

**88A. Long-stay agreements are excluded matters for Corporations Act 2001 (Commonwealth) s. 5F**

A long-stay agreement is declared to be an excluded matter for the purposes of the *Corporations Act 2001* (Commonwealth) section 5F in relation to Chapter 5 Part 5.6 Division 7A of that Act.

[Section 88A inserted: No. 28 of 2020 s. 74.]

**89. Judicial notice**

All courts, judges and persons acting judicially must take judicial notice of the official signature of every person who is for the time being and every person who has at any time been the Commissioner and of the fact that such person holds or has held such office.

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**90. Time for commencement of offence proceedings**

Proceedings for an offence against this Act cannot be commenced more than 3 years after the day on which the offence is alleged to have been committed.

*[Section 90 amended: No. 28 of 2020 s. 75.]*

**90A. Infringement notices and *Criminal Procedure Act 2004***

- (1) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section applies in relation to the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act.
- (2) The infringement notice must be served within —
  - (a) 21 days after the authorised officer forms the opinion that there is sufficient evidence to support the allegation of the offence; and
  - (b) 6 months after the alleged offence is believed to have been committed.
- (3) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

*[Section 90A inserted: No. 28 of 2020 s. 76.]*

**91. Service of documents**

- (1) A document that is required or permitted to be given to a person under this Act may be —
  - (a) given to the person personally; or
  - (b) sent by post addressed to the person at —
    - (i) if the person has specified a place where the person's mail be directed — the specified place; or

- (ii) if the person has not specified an address — the person’s last known place of residence, employment or business;
  - or
  - (c) if the long-stay tenant and park operator agree or in other circumstances specified in the regulations — given or sent by electronic means in accordance with the regulations.
- (2) The park operator may give a document to a long-stay tenant for the purposes of the long-stay agreement by giving it to —
- (a) a person who is apparently 17 years of age or older and who is apparently residing on the agreed premises; or
  - (b) the person who ordinarily pays rent under the long-stay agreement.
- (3) If a document that is required or permitted to be given to a person under this Act cannot be given under subsection (1), the document is taken to have been given to the person if —
- (a) a copy of the document is published in a daily newspaper circulating throughout all, or most of, the State; or
  - (b) if the State Administrative Tribunal or court is hearing a proceeding under this Act —
    - (i) the tribunal or court orders an alternative manner of giving the document; and
    - (ii) the document is given in that manner;
- or
- (c) the document is made publicly available in the manner prescribed for this paragraph, including making the document available on a website.
- (4) If there are 2 or more park operators or 2 or more long-stay tenants who are parties to a long-stay agreement, the document may be given to the park operators or the tenants for the

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purposes of the long-stay agreement by giving it to any one of them.

*[Section 91 amended: No. 28 of 2020 s. 77.]*

*[92, 93. Deleted: No. 28 of 2020 s. 78.]*

**94. Responsibilities of bond administrator**

The bond administrator must —

- (a) pay into the Rental Accommodation Account all amounts of security bond paid to the bond administrator under this Act; and
- (b) keep records in relation to each amount of security bond showing the name and address of the park operator and the long-stay tenant for whom the amount is held; and
- (c) pay out the amount of the bond in accordance with the regulations.

*[Section 94 amended: No. 60 of 2011 s. 108.]*

**94A. Cross-examination of persons in proceedings involving family violence**

The *Restraining Orders Act 1997* section 44C applies to proceedings under this Act dealing with the issue of family violence as if references to the respondent were references to the person allegedly committing the family violence.

*[Section 94A inserted: No. 3 of 2019 s. 33.]*

**95. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

- (2) Without limiting the generality of subsection (1), regulations made under that subsection may —
- (a) require the parties to a long-stay agreement to record on an inspection sheet, before the commencement, and after the termination, of the tenancy, their opinions of the state of the premises and prescribe the form of such inspection sheets and the manner in which the parties record their opinions; and
  - [(b)-(d) *deleted*]
  - (e) provide for payment of security bond amounts and amounts of accrued interest, and for the repayment or distribution of the amounts paid out.
  - [(f) *deleted*]
- (3) Regulations made under subsection (1) may —
- (a) impose a penalty not exceeding \$5 000 for offences against the regulations; and
  - (b) provide for penalties not exceeding \$500 for each separate and further offence under the *Interpretation Act 1984* section 71(2).
- (4) Regulations made under subsection (1) for the purposes of section 45A(2)(d)(vi) or Schedule 1 clause 14(4) cannot come into operation earlier than 6 months after they are published in the *Gazette*.

[Section 95 amended: No. 3 of 2019 s. 34; No. 28 of 2020 s. 79.]

## 96. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5<sup>th</sup> anniversary of the day on which the *Residential Parks (Long-stay Tenants) Amendment Act 2020* section 3 comes into operation.

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- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5<sup>th</sup> anniversary.
- (3) The Minister must transmit a copy of the report to the Clerk of a House of Parliament if —
  - (a) the report has been prepared; and
  - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (4) A copy of the report transmitted to the Clerk of a House is taken to have been laid before that House.
- (5) The laying of a copy of a report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

*[Section 96 inserted: No. 28 of 2020 s. 80.]*

## **Part 7 — Transitional and savings provisions**

*[Heading inserted: No. 28 of 2020 s. 81.]*

### **Division 1 — Transitional provisions — Residential Parks (Long-stay Tenants) Act 2006**

*[Heading inserted: No. 28 of 2020 s. 81.]*

#### **97. Transitional provisions**

- (1) If, immediately before the commencement of this Act, a person held an option to make, renew or extend a residential park tenancy agreement, or to assign or otherwise transfer rights under a residential park tenancy agreement, the option may be exercised at the discretion of the person as if this Act had not been made.
- (2) Despite section 6(3), the following applies to, and in respect of, an existing fixed term long-stay agreement made orally (as defined in section 6) to which this Act applies —
  - (a) if any proceedings instituted in relation to the agreement under the *Residential Tenancies Act 1987* before the commencement of this Act have not been completed — that Act continues to apply to the proceedings as if this Act had not been made;
  - (b) proceedings may be brought subject to and in accordance with this Act in respect of a cause of action that —
    - (i) arose in connection with the long-stay agreement before the commencement of this Act; and
    - (ii) was not, immediately before that commencement, the subject of proceedings under the *Residential Tenancies Act 1987*;
  - (c) a notice of termination given in relation to the agreement under the *Residential Tenancies Act 1987* before the commencement of this Act has effect and may be enforced as if this Act had not been made;

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- (d) any process begun before the commencement of this Act by which the rent payable under the agreement may be increased may be continued and completed, and has effect to increase the rent, as if this Act had not been made, but subject to any order or determination of the State Administrative Tribunal under Part 5;
- (e) no civil or criminal liability is incurred as a result of the application of this Act to the agreement for anything done or not done before the commencement of this Act;
- (f) any amount of bond money held, at the commencement of this Act, in relation to the agreement under the *Residential Tenancies Act 1987* is to be treated as if it were held under this Act.

**Division 2 — Transitional provisions about residential parks —  
*Residential Parks (Long-stay Tenants) Amendment Act 2020***

*[Heading inserted: No. 28 of 2020 s. 83.]*

**98. Places before commencement day taken to be residential parks and lifestyle villages**

- (1) In this section —

***application period*** means the period beginning on 3 August 2007 and ending on the day before commencement day;

***caravan*** has the meaning given in *Caravan Parks and Camping Grounds Act 1995* section 5(1);

***commencement day*** means the day on which the *Residential Parks (Long-stay Tenants) Amendment Act 2020* section 83 comes into operation.

- (2) For the purposes of an act or omission under this Act before, on or after commencement day —
- (a) a place is taken to have been a residential park on each day during the application period that the place —
    - (i) had long-stay sites; and

- (ii) did not have caravans situated for habitation; and
  - (iii) had relocatable homes other than caravans situated for habitation; and
  - (iv) was held out as a residential park or a place that had long-stay sites;
- and
- (b) a place, or a part of a place, is taken to have been a lifestyle village on each day that —
    - (i) the place is taken to have been a residential park under paragraph (a); and
    - (ii) the place, or part of the place, included long-stay sites that were occupied, or intended to be occupied, solely or principally by individuals having a particular interest or quality in common.
- (3) However, a place is not taken to have been a residential park if the regulations provide that the place is not a residential park.

*[Section 98 inserted: No. 28 of 2020 s. 83.]*

**Division 3 — Transitional and savings provisions — Residential Parks (Long-stay Tenants) Amendment Act 2020**

*[Heading inserted: No. 28 of 2020 s. 84.]*

**Subdivision 1 — Preliminary**

*[Heading inserted: No. 28 of 2020 s. 84.]*

**99. Terms used**

In this Division —

***amended***, for a provision of this Act, means the provision as in force on and after commencement day;

***amending Act*** means the *Residential Parks (Long-stay Tenants) Amendment Act 2020*;

**authorised deposit-taking institution** has the meaning given in the *Banking Act 1959* (Commonwealth) section 5;

**commencement day** means the day on which Part 2 of the amending Act comes into operation;

**former**, for a provision of this Act, means the provision as in force immediately before commencement day;

**pre-commencement long-stay agreement** means a long-stay agreement entered into before commencement day;

**tenancy bond account** means —

- (a) in relation to a park operator — an ADI account held under former section 22(1)(b); or
- (b) in relation to a real estate agent — a trust account referred to in former section 22(2).

[Section 99 inserted: No. 28 of 2020 s. 84.]

#### **Subdivision 2 — Bonds**

[Heading inserted: No. 28 of 2020 s. 84.]

### **100. Return of key bond to long-stay tenant**

- (1) In this section —

**key bond** means an amount paid under former section 21(2)(b) by way of security for keys, remote control entry devices or other security devices provided by the park operator for the use of a long-stay tenant.

- (2) If a park operator received a key bond, the park operator must pay the amount to the long-stay tenant —
- (a) if the long-stay agreement for which the key bond is paid is renewed within 18 months after commencement day — as soon as practicable after the renewal; or
  - (b) when the amount is transferred to the bond administrator or paid to the tenant under section 101(2) — within 18 months after commencement day; or

- (c) in any other case — within 18 months after commencement day.

*[Section 100 inserted: No. 28 of 2020 s. 84.]*

**101. Amounts paid into tenancy bond account to be transferred to bond administrator**

- (1) This section applies to a park operator or real estate agent who, on commencement day, holds an amount deposited in a tenancy bond account under former section 22(1)(b) or (2).
- (2) The park operator or real estate agent must take all reasonable steps to ensure that the amount is transferred to the bond administrator under amended section 22 or paid to the long-stay tenant —
- (a) if the long-stay agreement for which the security bond is paid is renewed or the security bond is increased under amended section 24 within 18 months after commencement day — as soon as practicable after the renewal or increase; or
- (b) in any other case — within 18 months after commencement day.

Penalty for this subsection: a fine of \$5 000.

*[Section 101 inserted: No. 28 of 2020 s. 84.]*

**102. Requirements for holding security bond amounts**

- (1) An amount held in an ADI account under section 101(1) must be held by the authorised deposit-taking institution on the following terms —
- (a) interest at a rate not less than the prescribed rate accrues on the amount for the period during which the amount is held;
- (b) the authorised deposit-taking institution must pay an amount equal to the amount of interest accrued at the prescribed rate into the Rental Accommodation Account in accordance with the regulations;

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- (c) if interest accrues on the amount at a higher rate than the prescribed rate — the authorised deposit-taking institution must pay the difference between the amount of interest accrued at the prescribed rate and the amount of interest accrued at the higher rate to the long-stay tenant in accordance with the regulations;
  - (d) the authorised deposit-taking institution may deduct from an amount paid under paragraph (b) or (c) an amount not exceeding the prescribed fee;
  - (e) the security bond amount must be paid out in the prescribed manner.
- (2) The prescribed rate under subsection (1) may be prescribed by reference to a prescribed market rate indicator.
- (3) An authorised deposit-taking institution must ensure that the following records are kept, in a form approved by the bond administrator, in relation to an amount held in an ADI account under section 101(1) —
- (a) the name and number of the account in which the amount is held;
  - (b) the amount;
  - (c) the date the amount was paid into the account.

*[Section 102 inserted: No. 28 of 2020 s. 84.]*

**103. Information from authorised deposit-taking institution about tenancy bond accounts**

- (1) In this section —
- auditor** means —
- (a) a person registered as an auditor, or taken to be registered as an auditor, under the *Corporations Act 2001* (Commonwealth) Part 9.2; or
  - (b) another suitably qualified person approved by the Commissioner under former section 93;

*authorised financial institution* has the meaning given in the *Residential Tenancies Act 1987* section 92.

- (2) The Commissioner may, by notice in writing under subsection (3) to a person who is the manager, or other officer for the time being in charge of, an authorised financial institution, require that person to give to the Commissioner such information as the Commissioner requires in relation to a tenancy bond account, including information as to the balances of and amounts of interest paid on the account.
- (3) The notice —
- (a) must specify the time at or within which the information must be given; and
  - (b) may require the information to be —
    - (i) given in writing; and
    - (ii) certified as correct by an auditor; and
    - (iii) given at or sent or delivered to a place specified in the notice; and
    - (iv) sent or delivered by any means specified in the notice; and
    - (v) given on oath or affirmation or by statutory declaration;
- and
- (c) must state that the person is required under this Act to give the information.

*[Section 103 inserted: No. 28 of 2020 s. 84.]*

**104. Offences relating to s. 103**

- (1) A person must not, without reasonable excuse, refuse or fail to comply with a written requirement under section 103(2).  
Penalty for this subsection: a fine of \$15 000.

**Residential Parks (Long-stay Tenants) Act 2006**

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- (2) A person must not give information in response to a written requirement under section 103(2) that the person knows is false or misleading in a material particular.

Penalty for this subsection: a fine of \$15 000.

- (3) It is a defence in proceedings for an offence against subsection (1) for the person to show that —
- (a) the notice under section 103(3) did not state that the person was required under this Act to give the information; or
  - (b) the time specified in the requirement did not give the person sufficient notice to enable compliance with the requirement.

- (4) A person is not entitled to refuse to give the information required under section 103 on the grounds that the information could tend to incriminate the person or render the person liable to a penalty.

- (5) Despite subsection (4), information given under section 103 is not admissible in evidence in any proceedings against the person except proceedings for an offence against subsection (2).

*[Section 104 inserted: No. 28 of 2020 s. 84.]*

**Subdivision 3 — Other transitional provisions**

*[Heading inserted: No. 28 of 2020 s. 84.]*

**105. Pre-commencement long-stay agreement provides for cost of preparing long-stay agreement**

If a pre-commencement long-stay agreement provides that a person other than the park operator must bear the cost of preparing a proposed long-stay agreement under former section 14, former section 14 continues to apply to the long-stay agreement until the agreement ends as if the section had not been amended by the amending Act.

*[Section 105 inserted: No. 28 of 2020 s. 84.]*

**106. Variation of rent on the basis of market rent**

- (1) This section applies if a pre-commencement long-stay agreement includes a provision providing for a review of rent on a market rent basis.
- (2) Despite amended section 29A(1)(c), the provision continues to apply on and from commencement day until the provision is varied by the parties to the long-stay agreement.
- (3) When calculating the amount of rent to be payable on and after the review date under the provision, the park operator must have regard to a report obtained for the purpose by the park operator from a person licensed under the *Land Valuers Licensing Act 1978*.

Penalty for this subsection: a fine of \$5 000.

*[Section 106 inserted: No. 28 of 2020 s. 84.]*

**107. Variation of rent under on-site home agreements entered into before commencement day**

If an on-site home agreement was entered into before commencement day a park operator may increase the rent payable under the long-stay agreement, on and from commencement day until the agreement ends, by giving a written notice to the long-stay tenant under former section 30 as if the section had not been amended by the amending Act.

*[Section 107 inserted: No. 28 of 2020 s. 84.]*

**108. Application of former s. 32 to pre-commencement long-stay agreements**

- (1) Part 2 Division 5 applies to a pre-commencement long-stay agreement as if the agreement was made on commencement day.

**Residential Parks (Long-stay Tenants) Act 2006**

**Part 7** Transitional and savings provisions

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- (2) A term of a pre-commencement long-stay agreement has no effect to the extent that —
- (a) under former section 32(2), the term excluded, modified or restricted a term set out in former Schedule 1; and
  - (b) the term is inconsistent with a provision of this Act as in force on and from commencement day.
- (3) Despite the repeal of former section 32(2), a person does not commit an offence under this Act only because the pre-commencement long-stay agreement purports to exclude, modify or restrict the operation of a term set out in former Schedule 1.

*[Section 108 inserted: No. 28 of 2020 s. 84.]*

**109. Taking possession of agreed premises under mortgage entered into before commencement day**

- (1) This section applies to a mortgage entered into before commencement day.
- (2) Despite the amendment of former section 33(3)(b) and the repeal of section 33(3)(c), a long-stay agreement ends when a mortgagee of the agreed premises takes possession of the premises under the mortgage as if those sections had not been amended or repealed by the amending Act.

*[Section 109 inserted: No. 28 of 2020 s. 84.]*

**110. Former s. 41 continues to apply to pre-commencement long-stay agreements**

Despite amended section 41, the specified day in a notice given under that section on and from commencement day in relation to a pre-commencement long-stay agreement may be a day earlier than the last day of the term of a fixed term tenancy under former section 41(4)(a).

*[Section 110 inserted: No. 28 of 2020 s. 84.]*

**111. Site-only agreements entered into before commencement day cannot be terminated without grounds**

A site-only agreement entered into before commencement day cannot be terminated under former section 42 after commencement day.

*[Section 111 inserted: No. 28 of 2020 s. 84.]*

**112. Park rules made by park liaison committee before commencement day taken to be made by park operator**

If a park liaison committee prepared park rules that were in force immediately before commencement day, the park rules are taken, on and from commencement day, to have been made by the park operator under section 54A.

*[Section 112 inserted: No. 28 of 2020 s. 84.]*

**113. Former s. 55 continues to apply to pre-commencement long-stay agreements**

If a term of a site-only agreement entered into before commencement day expressly provides that on site sales are prohibited, despite amended section 55, the term continues to apply to the site-only agreement on and from commencement day.

*[Section 113 inserted: No. 28 of 2020 s. 84.]*

**114. Written selling agent agreement under former s. 57 continues to apply on and after commencement day**

If a park operator is acting as a selling agent under a written agreement signed under former section 57 before commencement day —

- (a) former section 57 continues to apply to the written agreement on and from commencement day; and
- (b) section 57A does not apply to the written agreement.

*[Section 114 inserted: No. 28 of 2020 s. 84.]*

**115. Validation of voluntary sharing arrangements entered into before commencement day**

Despite section 13A, if a pre-commencement long-stay agreement includes a voluntary sharing arrangement, the arrangement continues to have effect even if the park operator, the long-stay agreement or the voluntary sharing arrangement fails to comply with the requirements of section 13A.

*[Section 115 inserted: No. 28 of 2020 s. 84.]*

**116. Transitional regulations**

- (1) Regulations (*transitional regulations*) may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with any issue or matter of a savings or transitional nature —
  - (a) that arise as a result of the amendment of this Act by the amending Act; and
  - (b) for which there is no sufficient provision in this Act or the amending Act.
- (2) Without limiting subsection (1), transitional regulations may provide to what extent sections 54A(2), 54B and 63B apply to park rules in force immediately before commencement day.
- (3) Transitional regulations may provide that a state of affairs specified in the regulations is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the transitional regulations come into operation but not earlier than the day on which the amending Act, or the relevant provision or provisions of that Act, came into operation.
- (4) If the transitional regulations contain a provision referred to in subsection (3), the provision does not operate so as to —
  - (a) affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the regulations commenced; or

- (b) impose liabilities on any person (other than the State) in respect of anything done or omitted to be done before the regulations commenced.

*[Section 116 inserted: No. 28 of 2020 s. 84.]*

*[Schedule 1 deleted: No. 28 of 2020 s. 85.]*

*[Schedule 2 omitted under the Reprints Act 1984 s. 7(4)(e).]*

*[Glossary deleted: No. 28 of 2020 s. 87.]*

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## Notes

This is a compilation of the *Residential Parks (Long-stay Tenants) Act 2006* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Residential Parks (Long-stay Tenants) Act 2006</i>	32 of 2006	4 Jul 2006	s. 1 and 2: 4 Jul 2006; Act other than s. 1 and 2: 3 Aug 2007 (see s. 2 and <i>Gazette</i> 1 Aug 2007 p. 3835)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Standardisation of Formatting Act 2010 s. 51</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Residential Tenancies Amendment Act 2011 Pt. 5 Div. 5</i>	60 of 2011	14 Dec 2011	1 Jul 2013 (see s. 2(b) and <i>Gazette</i> 3 May 2013 p. 1735)
<b>Reprint 1: The Residential Parks (Long-stay Tenants) Act 2006 as at 6 Sep 2013</b> (includes amendments listed above)			
<i>Water Services Legislation Amendment and Repeal Act 2012 s. 227</i>	25 of 2012	3 Sep 2012	1 Jul 2014 (see s. 2(b) and <i>Gazette</i> 14 Nov 2013 p. 5028)
<i>Consumer Protection Legislation Amendment Act 2014 Pt. 11</i>	23 of 2014	9 Oct 2014	19 Nov 2014 (see s. 2(b) and <i>Gazette</i> 18 Nov 2014 p. 4315)
<i>Residential Tenancies Legislation Amendment (Family Violence) Act 2019 Pt. 3</i>	3 of 2019	26 Feb 2019	15 Apr 2019 (see s. 2(b) and <i>Gazette</i> 9 Apr 2019 p. 1041-2)
<i>Residential Parks (Long-stay Tenants) Amendment Act 2020 Pt. 2</i>	28 of 2020	9 Jul 2020	s. 3 and 80: 10 Jul 2020 (see s. 2(1)(b)); s. 6, 81-83 and 86: 30 Sep 2020 (see s. 2(1)(c) and SL 2020/174 cl. 2); s. 4, 5, 7-79, 84 and 85: 31 Jan 2022 (see s. 2(1)(c) and SL 2021/195 cl. 2)

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
abandoned goods.....	3
ADI account.....	3
agreed premises.....	3
agreement.....	3
alter .....	54C(1)
amended.....	99
amending Act.....	99
application period .....	98(1)
approved form.....	3
auditor.....	103(1)
Australian Consumer Law (WA) .....	62B(1)
authorised deposit-taking institution.....	99
authorised financial institution.....	103(1)
bond administrator .....	3
buyer .....	3, 58(2)
caravan.....	98(1)
close associate.....	3
commencement day .....	98(1), 99
Commissioner .....	3
co-tenant .....	45B(1)
default day .....	39(1A), 40(2)
default notice.....	3
Department.....	3
disability .....	32I(1)
DVO.....	3
enter into .....	3
essential service .....	32M(1)
excluded tenant .....	74B(1)
executive officer .....	84(3)
existing fixed term long-stay agreement.....	6(7)
existing periodic long-stay agreement .....	6(7)
Family Court injunction.....	3
family violence .....	3
family violence order .....	74B(1)
former .....	99
incidental expenses .....	57A(1)
information.....	87(3)
itinerant worker.....	5(3)
key bond.....	100(1)
lawful owner .....	52A(1)

**Defined terms**

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long-stay agreement .....	3, 5(1)
long-stay site .....	3
long-stay tenant .....	3
material change .....	20A(1)
non-standard term .....	3, 10B(1)
notice of abandonment .....	44B(1)
notice of termination .....	3
on-site home .....	3
on-site home agreement .....	3
original party .....	78, 79(1)
park operator .....	3
park premises .....	3
park resident .....	61(3)
park rules .....	3, 54A(1)
period of notice .....	33(1A)
pet .....	21
pet bond .....	3
pre-commencement long-stay agreement .....	99
prescribed .....	3
prescribed alterations .....	32I(8)
protected tenant .....	74B(1)
real estate agent .....	3
reasonable grounds .....	3, 5A
reasonable time .....	32E(1)
relevant long-stay agreement .....	58(1)
relevant park operator .....	58(1)
relocatable home .....	3
rent .....	3
Rental Accommodation Account .....	3
rent-only agreement .....	13A(1)
required documents .....	11(1)
resident .....	63C(1)
residential park .....	3, 5B(1), 5B(2)
sale commission .....	57A(1)
sale contract .....	58(2)
sale trust account .....	57C(2)
security bond .....	3
seller .....	55A(1), 58(2)
selling agency agreement .....	3, 57(1)
selling agent .....	3
serious misconduct .....	71A(1)
shared premises .....	3
site .....	3
site-only agreement .....	3
specified day .....	39(2), 40(5), 41(2), 42(2), 44(2), 45(4)

standard-form agreement .....	10A(1)
storage period.....	48(1A), 52A(1)
successor in title .....	3
suitable repairer.....	32M(1)
tenancy .....	3
tenancy bond account.....	99
tenancy period.....	3
tenant.....	3
tenant's document .....	3
tenant's lawful enjoyment.....	32C(1)
terminating tenant .....	74A(1)
transitional regulations.....	116(1)
urgent repairs .....	32M(1)
voluntary sharing arrangement.....	3
working day .....	3