

CE301\*

Residential Tenancies Act 1987

## **Residential Tenancies Amendment Regulations 2004**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Residential Tenancies Amendment Regulations 2004*.

### **2. The regulations amended**

The amendments in these regulations are to the *Residential Tenancies Regulations 1989*\*.

[\* *Reprint 2 as at 19 September 2003.*]

### **3. Regulation 2A inserted**

After regulation 2 the following regulation is inserted —

“

#### **2A. Definitions**

In these regulations, unless the contrary intention appears —

“**park operator**”, in relation to a site-only agreement, means the grantor to the tenant of the rights under the agreement, or the grantor’s successor where the succession is subject to the interest of the tenant;

“**relocatable home**” means a vehicle or building that is fitted or designed for use as a place of 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 caravan park;

**“residential park”** means —

- (a) a caravan park that is operated or required to be operated under a licence issued under the *Caravan Parks and Camping Grounds Act 1995*;
- (b) a caravan park operated by a local government under the *Caravan Parks and Camping Grounds Act 1995*; or
- (c) a caravan park that is operated by a public sector body;

**“site”** means an area of land in a residential park that is set aside for the use of one relocatable home, except such an area that is a lot in relation to a survey-strata scheme under the *Strata Titles Act 1985*;

**“site-only agreement”** means a residential tenancy agreement under which a park operator grants to the tenant the rights to occupy a site and to keep on the site a relocatable home that is provided by the tenant.

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**4. Regulation 5E inserted**

After regulation 5D the following regulation is inserted —

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**5E. More notice required to terminate certain tenancies**

- (1) The modifications set out in subsections (2) and (3) are prescribed for the purposes of section 6(a) and (b) of the Act.
- (2) Section 63 applies to a site-only agreement for a periodic tenancy that has continued for 3 months or longer as if —
  - (a) a reference to an owner were a reference to the park operator;
  - (b) a reference to an agreement were a reference to the site-only agreement;
  - (c) the reference to a contract for sale of the premises were a reference to a contract for sale of the residential park, or for sale of a part of the residential park that includes the site that the tenant is entitled to occupy under the site-only agreement;
  - (d) the reference to vacant possession of the premises were a reference to vacant possession of the site that the tenant is entitled to occupy under the site-only agreement; and

- (e) the reference in section 63(2) to 30 days were a reference to 60 days.
  - (3) Section 64 applies to a site-only agreement for a periodic tenancy that has continued for 3 months or longer as if —
    - (a) a reference to an owner were a reference to the park operator;
    - (b) a reference to an agreement were a reference to the site-only agreement; and
    - (c) the reference in section 64(2) to 60 days were a reference to 120 days.
- ”.

## 5. **Schedule 2 amended**

Schedule 2 clause 18 is amended as follows:

- (a) in paragraph (c) by deleting “If an owner” and inserting instead —

“  
Except where paragraph (ca) applies, if an owner

”;
- (b) after paragraph (c) by inserting the following paragraph —

“

  - (ca) If the operator of a residential park sells park premises that include a site occupied by a tenant under a site-only agreement for a periodic tenancy that has continued for 3 months or longer, the park operator may give notice to the tenant ending the tenancy, but must not require the tenant to give vacant possession of the site sooner than 60 days after the notice is given.

”;
- (c) in paragraph (d) by deleting “An owner” and inserting instead —

“  
Except where paragraph (da) applies, an owner

”;
- (d) after paragraph (d) by inserting the following paragraph —

“

  - (da) Where a tenant occupies a site in a residential park under a site-only agreement for a periodic tenancy that has continued for 3 months or longer, the operator of the residential park may, without giving any reason, give notice to the tenant ending the tenancy, but must not require the tenant to give vacant possession of the site sooner than 120 days after the notice is given.

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**6. Schedule 4 amended**

Schedule 4 Form 1C is amended as follows:

- (a) by deleting “**DELETE THE OTHER THREE**” and inserting instead —  
“ **DELETE THE OTHER FIVE** ”;
- (b) in item “B” by inserting before “This” the subitem designation “(1)”;
- (c) by deleting the note at the end of item B and inserting instead —

“

*(Notes:*

- 1. *This notice cannot be given during the term of a fixed term residential tenancy agreement.*
- 2. *This notice cannot be given to a tenant who occupies a site in a residential park under a site-only agreement for a periodic tenancy that has continued for 3 months or longer.)*
- (2) This notice of NOT LESS THAN 60 DAYS is given to you on the ground that the park operator has entered into a contract for sale of residential park premises and under the contract the park operator is required to give vacant possession of the premises. (See section 63 of the *Residential Tenancies Act 1987* as modified by regulation 5E(2) of the *Residential Tenancies Regulations 1989*.)

*(Note: This notice can be given to a tenant who occupies a site in a residential park under a site-only agreement for a periodic tenancy that has continued for 3 months or longer.)*

”;

- (d) in item “C” by inserting before “This” the subitem designation “(1)”;
- (e) by deleting the note at the end of item C and inserting instead —

“

*(Notes:*

- 1. *This notice cannot be given during the term of a fixed term residential tenancy agreement.*
- 2. *This notice cannot be given to a tenant who occupies a site in a residential park under a site-only agreement for a periodic tenancy that has continued for 3 months or longer.)*
- (2) This notice of NOT LESS THAN 120 DAYS is given to you in exercise of the park operator’s right to give notice without specifying any ground for doing so. (See section 64 of the *Residential Tenancies Act 1987* as modified by regulation 5E(3) of the *Residential Tenancies Regulations 1989*.)

*(Note: This notice can be given to a tenant who occupies a site in a residential park under a site-only agreement for a periodic tenancy that has continued for 3 months or longer.)*

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By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

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