



Residential Parks Q&A Fact Sheet

Information for park owners and residents

About residential parks

What is a residential park and when does the *Residential Parks Act 2007* apply?

A residential park is a complex of sites where a person either rents a site and owns the dwelling situated on the site, or rents both a site and dwelling from the park owner to use as their principal place of residence. The dwelling may be a manufactured home or moveable dwelling, such as a caravan.

In South Australia, a residential park can be a dedicated residential park or a mixed-use caravan park where a section of the park is used for residential sites and the remainder is used for tourist accommodation.

Mixed-use caravan parks may offer both long and short term accommodation to residents in a mixture of manufactured or transportable homes, or caravan sites.

The *Residential Parks Act 2007* (the Act) applies if there is anyone living in a park as their principal place of residence. The Act does not apply to agreements relating to properties used for holiday purposes.

Residential representation and safety

Does the park need to have a residents' committee and what is its role?

Residents of a residential park may elect residents from at least five different occupied sites in the park to form a residents' committee, to represent common interests as residents of the park.

If there are **more than 20 fixed term site agreements** in place at a park, the park owner is required to take reasonable steps to ensure residents form a residents' committee. This can be done by sending information to all residents seeking their interest to become committee members.

If an insufficient number of residents wish to volunteer to be part of a residents' committee in a park with more than 20 fixed term site agreements, then the park is not required to have one.

However, the park owner may be asked by Consumer and Business Services (CBS) for evidence of the steps taken to seek volunteers.

If there are **20 site agreements or less** in place, a residents' committee is still recommended, to work with the park owner to maintain and improve the lifestyle of residents.

In any residential park with a residents' committee, the park owner is required to provide a meeting place (preferably enclosed) for the residents' committee to meet. Any resident who is employed or engaged by the park owner to assist in the management of the park may not be a member of the committee.

The functions of the residents' committee are to represent the interests of residents and consult with residents and the park owner, in relation to:

- preparing and amending the park rules
- developing any guidelines for the standards of behaviour of park residents
- matters relating to residents' safety
- reviewing the safety evacuation plan each year
- making representations to the park owner about any matter that has been considered by the committee
- arranging meetings of all residents to consider and vote on any matter.

The park owner must consider any representations made by a residents' committee and provide a written response as soon as practicable. This must be within one month of receiving the representations or longer if agreed by the committee.

If a residents' committee is in place, the park owner must consult the committee and consider its collective views when changing park rules and reviewing the safety evacuation plan each year.

There are no requirements in the Act specifying how a residents' committee should operate. However, model rules for a residents' committee have been developed by CBS to assist and are available from www.sa.gov.au/residential-park-forms-and-factsheets under 'General information and responsibilities'.

There can only be one residents' committee for the park. If more than one group claims to be the residents' committee, the South Australian Civil and Administrative Tribunal (SACAT) can make a determination, so it is clear which group is the official residents' committee. However, there can be other groups or committees in addition to the residents' committee, such as a social committee or a sub-committee.

Does the park need to have a safety evacuation plan and where can it be found?

All park owners must ensure that the park has a written safety evacuation plan. A copy must be provided to all residents or displayed in a prominent position where all residents can view it.

The safety evacuation plan must be reviewed at least once a year and, if changed, an updated copy needs to be provided to residents. If the park has a residents' committee, the committee must be consulted on the safety evacuation plan.

Rent payments, fees and services

What fees can be charged by the park owner?

A resident of a residential park can only be charged fees for:

- a security bond
- rent
- statutory fees (these are electricity, gas and water)
- overnight accommodation provided to a guest or visitor of a resident.

The park owner cannot ask for more than the equivalent of 4 weeks' rent as a bond. Residents can be asked to pay the first 2 weeks' rent in advance. Subsequently rent can only be charged in intervals of up to 2 weeks. Besides a bond, 2 weeks' rent in advance and statutory fees, the park owner cannot ask a resident for any other money at the start or end of the agreement.

If there are to be recurring increases in rent, the method and frequency of the rent increases can be included as a term of the agreement, or park owners may advise residents by way of a notice (at least 60 days) before a rent increase. Rent cannot be increased within 12 months of a previous increase. SACAT may, on application made by a resident within 30 days of receipt of a notice of rent increase, declare that the proposed increased rent is excessive.

If a site does not have individual meters for utilities, then these costs will be included in the rent. However, if a site has individual meters for utilities, a resident can be charged for electricity, gas and water in addition to the cost of rent.

If electricity is supplied via an embedded network the park owner must provide residents with information listed in the disclosure statement, including:

- general information about the nature, benefits and potential consequences of participating (interruption, disconnection and reconnection notifications, safe use, life support or generator requirements and liability of the operator and customer)
- details of the embedded network retailer and costs of participating – e.g. metering arrangements, electricity tariffs, and the resident's portion of costs for bundled utilities.

There may also be services or activities available on a fee-for-service basis, such as garden maintenance or fitness classes.

Apart from the fees set out above, residential park owners cannot charge residents additional fees such as entry and exit fees, deferred fees or communal contribution fees.

Residents and residential park owners have the ability to negotiate late payments of rent. Late rental payments must be calculated with specific reference to the regular rent fee payable for occupation. For example, a residential park owner may agree to allow a resident to pay \$20 of the weekly rent of \$200 late such that \$180 is paid now and \$20 is paid after the due date.

How can rent payments be paid?

A park owner must not require that rent payments be made in person at the rented property unless some reasonable alternative method of payment that does not involve personal attendance at the rented property has been offered to the resident.

When can the amount of rent charged by park owners be varied?

Park owners may increase the rent payable under a residential park agreement by giving at least 60 days' written notice to the resident specifying the date from which the increase takes effect, unless the right to increase the rent is excluded or limited by the terms of the residential park agreement.

If the residential park agreement is for a fixed term, the agreement is taken to exclude an increase in rent during the term unless the agreement specifically allows for an increase in rent.

The date fixed for an increase of rent must be at least 12 months after the date of the agreement or, if there has been a previous increase of rent under section 21 of the Act, the last increase.

The rent payable under a residential park agreement may be reduced by mutual agreement between the park owner and the resident.

What information must be provided to a resident in relation to the charging of electricity?

The Australian Energy Regulator sets out requirements for the charging of electricity to residents in caravan and residential parks. A park owner must provide a detailed account (at no cost) to the resident that sets out:

- how much the resident is being charged for the supply and use of the electricity
- how this amount has been calculated
- the period that the charges relate to
- if being charged for any other related matters (such as the supply fee), itemise those matters and specify the amount of the charge in relation to each item.

A resident is not required to pay the park owner any amount for the supply of electricity unless the park owner has provided the resident with this information or details of an embedded network if participating in one.

Agreements and termination

Agreements must comply with the Act

A residential park agreement must be in writing. If a resident rents only a site (rather than a site and a dwelling) a residential park site agreement will apply.

All agreements must be written in a clear and precise way and include the terms prescribed by the Act setting out the arrangements for living in the park. The park rules for a residential park will be taken to be terms of every residential park agreement and must be provided to the resident before signing the agreement.

Agreements may be either a fixed term agreement (set period of time such as 5 or 10 years), or a periodic agreement, with a set start date but no specified end date.

New residential park site agreements for a term of 5 years or more will afford residents increased protections by providing security of tenure from the start of their agreement.

When a fixed term agreement of 5 years or more ends, it will be taken to be reissued for the same term with the same terms of agreement, unless notice is given by the resident to end the agreement, or another agreement is entered into between the resident and park owner. This also applies for shorter fixed term agreements when the resident has held a right of occupancy within the residential park for a period of 5 years or more.

Site residents with periodic agreements in place prior to August 2021 who had lived in the park for 5 years or more, must have their agreements reviewed and replaced with a fixed term agreement, unless the resident specifically requests (in writing to the park owner) that they remain on a periodic agreement or the resident gives notice to terminate their agreement.

If remaining on a periodic agreement, the date (or approximate date) that the resident came to live in the park must be included on the agreement. A resident may, at any time, change their mind and request a fixed term agreement by notifying the park owner in writing.

What information must be given to a resident before signing an agreement?

Before a resident (or prospective resident) signs an agreement, whether it is new or being reviewed, the resident must be given:

- a copy of any park rules in force for the residential park
- a written notice stating any kind of charge payable by the resident, either statutory fees, or any services provided to residents by the park owner on a fee-for-service basis
- certain information detailed in the disclosure statement if electricity is being provided via an embedded network
- the park owner's full name and address, or if a company, the contact details for a person to contact on behalf of the park owner for the purpose of carrying out emergency repairs to the rented property or common area and facilities in the park
- a written notice about whether the resident is entitled to any payments (other than bond) when they leave the site, and if so, how the amount will be determined
- an information notice outlining the residents' rights and responsibilities
- in the case of a residential park site agreement:
 - a disclosure statement
 - a site condition report
 - the resident's rights to sell or relocate a dwelling on the site and what will happen if the resident is unable to sell the dwelling after a period of time.

In the case of a residential park site agreement, a resident must be given the disclosure statement, site condition report, park rules and the information notice at least 14 days before the resident is asked to sign an agreement.

This allows the resident time to seek advice and consider the terms of the agreement being offered.

These documents must be completed fully and accurately.

What happens to a resident's dwelling if they pass away?

When a resident who rents a site but owns their dwelling passes away, the dwelling passes on to the estate as an asset and can be sold if the beneficiary does not wish to live in the dwelling themselves.

If the dwelling is to be sold, the resident must first offer it to the park owner for a market value agreed between the person selling the dwelling and the park owner. If no agreement is reached within 28 days of communicating the intention to sell the dwelling in writing, the park owner's option to purchase it lapses and the person selling the dwelling has the right to sell it on the open market.

Can residents live in a residential park for a short term or a specified amount of time?

Yes. Park owners can negotiate an agreed term with a person seeking to rent a site to place their caravan and offer the resident a fixed term agreement for the agreed period, such as 1 or 2 years.

If the period of the agreement is for less than 5 years, the agreement will end at the end of the term and the resident will need to leave the park, unless another agreement is offered by the park owner.

What type of agreement must be used for people living in the park for a short term, or an agreed period?

Agreements that are used for holiday purposes cannot be used if a person is living in the park as their principal place of residence. A written residential park agreement must be in place.

Fixed term agreements can be offered for a period agreed between the park owner and resident.

Short fixed term agreements can apply for a period of 90 days or less, with the same rules that apply for a fixed term agreement.

More help and information

Who can help to resolve a dispute between a park owner and resident?

To understand your rights, first look at the information available on the Government of South Australia website at www.sa.gov.au/residentialparks

Separate guides have been developed in plain English for both residents and park owners available at www.sa.gov.au/residential-park-forms-and-factsheets

The Act can be found at www.legislation.sa.gov.au/lz?path=/c/a/residential%20parks%20act%202007

The South Australian Residential Parks Residents Association (SARPRA) may also be able to provide residents with guidance. Its website address is www.saresparkresassoc.asn.au/

SA Parks, the industry body for park owners, can assist its members and has information on its website www.sa-parks.com.au/

You can also talk to one of our CBS Advice Officers on 131 882.

If a dispute cannot be resolved, an application may be made to SACAT which can make an order to resolve the dispute. Details on how to make an application are available at www.sacat.sa.gov.au/applications-and-hearings/how-to-apply-to-sacat.