

*I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,*

*Brisbane,*

*The Clerk of the Parliament.*

*6 June*

*2024*

*In the name and on behalf of the King, I assent to this Bill.*

*Government House,*

*Brisbane, 6th June*

*2024.*



Queensland

**No. 28 of 2024**

**A BILL for**

**An Act to amend the Manufactured Homes (Residential Parks) Act 2003 and  
the legislation mentioned in schedule 1 for particular purposes**





Queensland

# Manufactured Homes (Residential Parks) Amendment Bill 2024

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**2024**

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**A Bill**

for

**An Act to amend the *Manufactured Homes (Residential Parks) Act 2003* and the legislation mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Manufactured Homes (Residential Parks) Amendment Act 2024*.

### **2 Commencement**

- (1) Part 2, division 3 commences on the day that is 6 months after the date of assent.
- (2) The following provisions commence on a day to be fixed by proclamation—
  - (a) part 2, division 4;
  - (b) schedule 1.

## **Part 2 Amendment of Manufactured Homes (Residential Parks) Act 2003**

### **Division 1 Preliminary**

#### **3 Act amended**

This part amends the *Manufactured Homes (Residential Parks) Act 2003*.



[s 7]

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*compensation order* see section 39C(2).

*termination day* see section 39A(1).

*termination order* see sections 38(1) and 39(3).

## **7 Amendment of s 38 (Termination of site agreement by tribunal)**

(1) Section 38, heading, after ‘tribunal’—

*insert—*

**—conduct of home owner etc.**

(2) Section 38(1)(f)—

*omit.*

(3) Section 38(2)—

*omit.*

(4) Section 38(3)—

*renumber* as section 38(2).

## **8 Replacement of ss 39 and 40**

Sections 39 and 40—

*omit, insert—*

### **39 Termination of site agreement by tribunal—residential park land to be used for other purpose**

(1) The park owner for a residential park may apply to the tribunal to terminate a site agreement on the ground the park owner wishes to use the residential park land, or a part of the residential park in which the site is located, for another purpose stated in the application (the *stated purpose*).

(2) The application must be accompanied by a document certified by the local government for

the local government area in which the residential park is situated stating it is lawful for the residential park land, or a part of the residential park in which the site is located, to be used for the stated purpose.

- (3) On application by the park owner under this section, the tribunal may make an order (a ***termination order***) terminating the site agreement.

### **39A Termination day for termination order**

- (1) A termination order in relation to a site agreement must state the day (the ***termination day***) the termination of the site agreement is effective.
- (2) The termination day must be a day, not later than 1 year after the day the termination order is made, that the tribunal considers just and equitable in the circumstances.

*Examples of circumstances for subsection (2)—*

- the home owner's personal and financial circumstances, including the home owner's health, age and mobility
- the availability and location of alternative accommodation at a similar cost
- the financial effect on the park owner of deferring the termination day

### **39B Termination order must include order for vacant possession of site or transfer of manufactured home**

- (1) A termination order in relation to a site agreement under which a manufactured home is positioned on the site must include 1 of the following orders—

[s 8]

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- (a) an order requiring the home owner to give the park owner vacant possession of the site on or before the termination day;
- (b) an order requiring the home owner to do both of the following on or before the termination day—
  - (i) transfer ownership of the manufactured home to the park owner;
  - (ii) give vacant possession of the manufactured home to the park owner.
- (2) However, an order under subsection (1)(b) may be made only with the consent of the home owner.
- (3) In deciding whether to make an order under subsection (1)(a) or (b), the tribunal must consider the following matters—
  - (a) the cost and practicality of relocating the manufactured home to another location;
  - (b) submissions by the home owner about whether the home owner intends to relocate the manufactured home to another location;
  - (c) submissions by the park owner and the home owner about whether the manufactured home should be resold in the residential park;
  - (d) the availability of alternative locations to position the manufactured home within a reasonable distance from the residential park;
  - (e) the condition and saleability of the manufactured home, and the likelihood of the manufactured home being resold in the residential park;
  - (f) the amount paid by the home owner for the manufactured home, and the amount of any reduction in the value of the home if the



home owner is required to give vacant possession of the site;

- (g) what the tribunal considers to be fair and reasonable in the circumstances.
- (4) The tribunal may make any other order the tribunal considers appropriate.

### **39C Compensation order**

- (1) This section applies if the tribunal makes a termination order under section 38 or 39 in relation to a site agreement.
- (2) The tribunal may, as well as making the termination order, make an order (a *compensation order*) that the park owner pay the home owner compensation in relation to the termination of the site agreement.
- (3) The tribunal may have regard to the matters mentioned in subsection (4) or (5) in making the compensation order.
- (4) If the termination order includes an order under section 39B(1)(a), the matters are as follows—
  - (a) the estimated costs of dismantling the manufactured home from the site;
  - (b) the estimated costs of transporting the manufactured home and the home owner's personal effects to another location;
  - (c) the estimated costs of positioning the manufactured home at another location;
  - (d) the amount the home owner paid for the manufactured home;
  - (e) the difference between the market value of the manufactured home if sold on site and the market value of the home if sold separately from the site;

[s 8]

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- (f) whether the manufactured home was originally sold on site by the park owner, a former park owner or another entity involved in the development of the residential park;
  - (g) the amount of any arrears in site rent owed by the home owner under the site agreement;
  - (h) what the tribunal considers is otherwise fair and reasonable in the circumstances;
  - (i) anything else the tribunal considers relevant.
- (5) If the termination order includes an order under section 39B(1)(b), the matters are as follows—
- (a) the amount the home owner paid for the manufactured home;
  - (b) the market value of the manufactured home if it is sold on site and the residential park remains operational;
  - (c) whether the manufactured home was originally sold on site by the park owner, a former park owner or another entity involved in the development of the residential park;
  - (d) if the termination order is made under section 38—the likely time and expense for the park owner to resell the home;
  - (e) what the tribunal considers is otherwise fair and reasonable in the circumstances;
  - (f) anything else the tribunal considers relevant.
- (6) The maximum distance for which transport costs mentioned in subsection (4)(b) may be allowed in the compensation order is the lesser of—
- (a) the estimated distance of the transport; or
  - (b) 300km.

### **39D Compensation amount recoverable as debt**

The amount payable to a home owner under a compensation order is recoverable as a debt.

### **39E Appointment of valuer for making compensation order**

- (1) For the purposes of making a compensation order, the tribunal may appoint an appropriately qualified and independent registered valuer to assist the tribunal to decide the market value of a manufactured home positioned on a site in a residential park.
- (2) If the tribunal appoints a valuer under subsection (1), the park owner must pay the valuer's costs of assisting the tribunal, including—
  - (a) the costs of preparing any written valuation required by the tribunal; and
  - (b) the fees and allowances for giving evidence, if required, in a proceeding.
- (3) However, subsection (2) applies only if, before appointing the valuer, the tribunal—
  - (a) informs the park owner of the amount the park owner is likely to be required to pay under subsection (2); and
  - (b) gives the park owner the opportunity to be heard on the matter of appointing the valuer.

## **9 Amendment of s 40A (Other orders)**

- (1) Section 40A(1), from 'termination order'—

*omit, insert—*

termination order under section 39 in relation to a site agreement.

- (2) Section 40A(5), 'under section 40(2)'—

[s 10]

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*omit.*

## 10 Insertion of new s 40B

After section 40A—

*insert—*

### **40B Extension of period for complying with termination order**

- (1) This section applies if the tribunal has made a termination order in relation to a site agreement.
- (2) The home owner may apply to the tribunal, before the termination day, for an order extending—
  - (a) the period for complying with an order made under section 39B(1)(a) or (b); or
  - (b) the period for complying with another order made by the tribunal in the termination order.
- (3) On the making of an application under subsection (2), the termination order is suspended until the application is decided.
- (4) The tribunal may—
  - (a) extend the period mentioned in subsection (2)(a) or (b) by the period (the *extension period*) the tribunal considers reasonable; and
  - (b) make any other order the tribunal considers appropriate.
- (5) If the tribunal makes an order under subsection (4)(a), the termination day under the termination order is taken to be changed to the last day of the extension period.

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**11 Amendment of s 54 (Proceeds of sale)**

Section 54(2)(a) and (b)—

*omit, insert—*

- (a) first, if there is an amount owing to a person under a security interest registered for the home or personal effects under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
- (b) second, in payment of the reasonable costs of selling the home, or removing, storing and selling the personal effects;

**12 Insertion of new pt 9A**

After part 9—

*insert—*

**Part 9A Buyback and rent  
reduction scheme**

**Division 1 Preliminary**

**62A Purpose of part**

The purpose of this part is to establish a *buyback and rent reduction scheme* under which a park owner must, in particular circumstances—

- (a) buy an eligible home from an eligible home owner under a buyback agreement; and
- (b) reduce the site rent payable under the site agreement for the site on which an eligible home is positioned.

[s 12]

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## 62B Definitions for part

In this part—

*buyback agreement*, for an eligible home, see section 62D.

*buyback amount*, for an eligible home, see section 62I.

*buyback and rent reduction scheme* see section 62A.

*buyback period*, in relation to an eligible home, see section 62E.

*convicted* means found guilty, or having a plea of guilty accepted, by a court whether or not a conviction is recorded.

*eligible home* see section 62C.

*eligible home owner* means the home owner of a manufactured home that is an eligible home.

*notice of intention to sell* see section 62N(2).

*opt in notice* see section 62P(2).

*scheme* means the buyback and rent reduction scheme established under this part.

*seller services* see section 62O(a).

*sold* see section 62F.

## 62C Meaning of *eligible home*

A manufactured home is an *eligible home* if—

- (a) the manufactured home is positioned on a site in a residential park; and
- (b) the manufactured home was not brought onto the site, or another site in the residential park, by the home owner of the manufactured home or a former home owner of the manufactured home.

### **62D Meaning of *buyback agreement***

A *buyback agreement*, for an eligible home, is an agreement between the eligible home owner and the park owner that—

- (a) provides for the park owner to buy the eligible home from the eligible home owner—
  - (i) at the buyback amount for the eligible home; and
  - (ii) within the buyback period for the eligible home; and
- (b) is in writing; and
- (c) if there is an approved form—is in the approved form; and
- (d) complies with any other requirements prescribed by regulation.

### **62E Meaning of *buyback period***

The *buyback period*, in relation to an eligible home, is the period—

- (a) starting on the day the eligible home owner gives the park owner an opt-in notice in relation to the eligible home; and
- (b) ending on the latest of the following days—
  - (i) the day that is 12 months after the day the eligible home owner gives the park owner the opt in notice in relation to the eligible home;
  - (ii) if the eligible home owner has died—the day that is 14 days after the park owner is shown the probate of the eligible home owner’s will or letters of administration of the eligible home owner’s estate;

[s 12]

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- (iii) a day stated in an order made by the court under section 62Y;
- (iv) a day fixed by the tribunal under section 62ZC or 62ZD as the day by which the park owner must comply with section 62T(1).

### **62F Meaning of *sold***

An eligible home is *sold* only if the sale of the home has been completed.

### **62G References to eligible home owner, park owner and parties**

In a provision of this part about an eligible home—

- (a) a reference to the eligible home owner is a reference to the eligible home owner of the eligible home; and
- (b) a reference to the park owner is a reference to the park owner of the residential park containing the site on which the eligible home is positioned; and
- (c) a reference to the parties is a reference to the eligible home owner and the park owner.

## **Division 2            Working out buyback                                  amount for eligible home**

### **62H Application of division**

This division applies if the eligible home owner of an eligible home gives the park owner an opt in notice in relation to the eligible home.



## **62I Meaning of *buyback amount***

The *buyback amount* for the eligible home is the amount of the resale value of the eligible home under the latest of the following to happen—

- (a) the agreement by the parties of the resale value of the eligible home under section 62J(1), 62K(2) or 62L(2);
- (b) the valuation of the resale value of the eligible home by a registered valuer appointed under section 62J(2), 62K(3), 62L(3) or 62M(5).

*Note—*

See division 8 in relation to how a valuer appointed under this division is to conduct a valuation of the resale value of the eligible home.

## **62J Requirement to agree resale value or appoint registered valuer—initial requirements**

- (1) The parties must, within 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.
- (2) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (1), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.
- (3) Subsection (2) applies subject to section 62M.

## **62K Requirement to agree resale value or appoint registered valuer—requirements after 6 months**

- (1) This section applies if, within 6 months after the start of the buyback period—

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- (a) the park owner has not entered into a buyback agreement for the eligible home; and
  - (b) the eligible home has not otherwise been sold to another person.
- (2) The parties must, within 6 months and 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.
- (3) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (2), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.
- (4) Subsection (3) applies subject to section 62M.

**62L Requirement to agree resale value or appoint registered valuer—requirements after 9 months**

- (1) This section applies if, within 9 months after the start of the buyback period—
- (a) the park owner has not entered into a buyback agreement for the eligible home; and
  - (b) the eligible home has not otherwise been sold to another person.
- (2) The parties must, within 9 months and 14 days after the start of the buyback period, agree in writing on the resale value of the eligible home.
- (3) However, if the parties can not agree on the resale value of the eligible home within the period mentioned in subsection (2), the parties must, within a further 7 days, jointly appoint a registered valuer to value the resale value of the eligible home.

- (4) Subsection (3) applies subject to section 62M.

**62M Appointment of registered valuer if parties can not agree**

- (1) This section applies if—
- (a) the parties are required to appoint a registered valuer under section 62J(2), 62K(3) or 62L(3); and
  - (b) the parties can not agree on the appointment of a registered valuer within the period mentioned in the section (the *relevant disagreement*).
- (2) The park owner must immediately give the chief executive notice, in the approved form, of the relevant disagreement.
- (3) However, if the eligible home owner has reason to believe the park owner has not complied with subsection (2), the eligible home owner may give the chief executive notice, in the approved form, of the relevant disagreement.
- (4) The chief executive must, within 14 days after being given notice of the relevant disagreement under subsection (2) or (3), give the parties a notice stating the details of a registered valuer nominated by the chief executive for the purpose of valuing the resale value of the eligible home.
- (5) The parties must jointly appoint the registered valuer nominated by the chief executive to value the resale value of the eligible home.

**Division 3 Giving notice of intention to sell eligible home and related matters**

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### **62N Eligible home owner to give notice of intention to sell eligible home**

- (1) This section applies if an eligible home owner proposes to join the scheme in relation to an eligible home.
- (2) The eligible home owner must give the park owner notice of the home owner's intention to sell the eligible home (a *notice of intention to sell*).
- (3) If there is an approved form for the notice, the notice must be in the approved form.

### **62O Park owner to give eligible home owner particular information**

If the eligible home owner gives the park owner a notice of intention to sell in relation to the eligible home, the park owner must, within 7 days after being given the notice, give the eligible home owner a notice stating—

- (a) whether the park owner offers services for the sale of manufactured homes in the residential park (*seller services*); and
- (b) the site rent that will be payable by a new home owner under a site agreement for the site on which the eligible home is positioned.

*Note—*

Under section 62P, it is a condition of joining the scheme in relation to the eligible home that, if the notice given under this section states that the park owner offers seller services, the eligible home owner has appointed the park owner under a selling authority as mentioned in section 62P(1)(c).

## **Division 4      Joining scheme**

## 62P Joining scheme

- (1) This section applies if the eligible home owner of an eligible home—
  - (a) has given the park owner a notice of intention to sell in relation to the eligible home; and
  - (b) has ceased to reside in, access or otherwise use the eligible home; and
  - (c) if the notice given to the eligible home owner under section 62O states that the park owner offers seller services—has appointed the park owner as the eligible home owner's sole agent under a selling authority for the eligible home.
- (2) The eligible home owner may, by notice given to the park owner under this section (an *opt in notice*), join the scheme in relation to the eligible home.
- (3) The opt in notice may be given to the park owner not earlier than—
  - (a) if the notice given to the eligible home owner under section 62O states that the park owner offers seller services—6 months after the eligible home owner appoints the park owner under a selling authority for the eligible home; or
  - (b) otherwise—6 months after the eligible home owner gives the park owner a notice of intention to sell in relation to the eligible home.
- (4) If there is an approved form for the opt in notice, the notice must be in the approved form.
- (5) To remove any doubt, it is declared that joining the scheme in relation to the eligible home does not affect the eligible home owner's obligation to

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pay site rent under the site agreement.

### **62Q When eligible home owner must appoint park owner under selling authority for eligible home**

- (1) This section applies if—
  - (a) an eligible home owner joins the scheme in relation to an eligible home; and
  - (b) the park owner does not offer seller services.
- (2) The park owner may, by notice given to the eligible home owner, ask the eligible home owner to appoint the park owner under a selling authority for the eligible home.
- (3) If the park owner makes a request under subsection (2), the home owner must appoint the park owner as the home owner's sole agent under a selling authority for the eligible home within 7 days after the park owner gives the home owner the notice.
- (4) If the eligible home owner fails to comply with subsection (3), the eligible home owner is taken not to have joined the scheme in relation to the eligible home.

## **Division 5            Obligations under scheme**

### **62R Application of division**

This division applies if an eligible home owner has joined the scheme in relation to an eligible home.

### **62S When eligible home owner must accept offer for purchase of eligible home**

- (1) This section applies if the park owner—

- (a) is appointed by the eligible home owner under a selling authority for the eligible home; and
  - (b) receives an offer for the purchase of the eligible home that is at least the buyback amount for the home.
- (2) The eligible home owner must accept the offer.

### **62T Park owner must enter into and complete buyback agreement**

- (1) The park owner must, unless the park owner has a reasonable excuse, enter into a buyback agreement for the eligible home and complete the purchase of the eligible home under the buyback agreement within the buyback period.

Maximum penalty—540 penalty units.

- (2) Subsection (1) does not apply to the park owner if the eligible home is sold to another person within the buyback period.
- (3) Without limiting what may be a reasonable excuse for subsection (1), the park owner has a reasonable excuse if—
- (a) the park owner has taken all reasonable steps to enter into a buyback agreement for the eligible home and complete the purchase of the eligible home under the agreement; but
  - (b) an act done, or an omission made, by the eligible home owner has prevented the park owner from entering into a buyback agreement or, if a buyback agreement has been entered into, completing the purchase of the eligible home under the agreement.

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*Note—*

See section 62Y in relation to the orders the court may make if the park owner is convicted of an offence against subsection (1).

### **62U Notice about noncompliance with scheme may be given to eligible home owner**

- (1) This section applies if the park owner is unable, because of an act done, or an omission made, by the eligible home owner—
  - (a) to enter into a buyback agreement for the eligible home; or
  - (b) to complete the purchase of the eligible home under a buyback agreement.
- (2) The park owner may give the eligible home owner a notice stating—
  - (a) the steps the eligible home owner must take to enable the park owner to—
    - (i) enter into a buyback agreement for the eligible home; or
    - (ii) complete the purchase of the eligible home under a buyback agreement; and
  - (b) that the home owner must take the stated steps within 28 days after being given the notice; and
  - (c) that if the eligible home owner does not take the stated steps within 28 days after being given the notice, the park owner may apply to the tribunal to have the eligible home removed from the scheme.

*Note—*

See section 62ZB in relation to the tribunal's power to order that the eligible home be removed from the scheme.



## **62V Park owner must reduce site rent in particular circumstances**

- (1) This section applies if, within 6 months after the start of the buyback period for the eligible home, the eligible home has not been sold—
  - (a) to the park owner under a buyback agreement; or
  - (b) to another person.
- (2) The park owner must, unless the park owner has a reasonable excuse, reduce by 25% the site rent payable under the site agreement for the site on which the eligible home is positioned.

Maximum penalty—540 penalty units.

*Note—*

See section 62ZA in relation to the orders the tribunal may make if the park owner refuses or fails to comply with this section, whether or not the park owner is convicted of an offence against subsection (2).

## **62W Reduction in site rent not required to be disclosed or applied to prospective home owner**

If the park owner is required under section 62V to reduce the site rent payable under the site agreement for the site on which the eligible home is positioned—

- (a) the park owner is not required to include details of the reduction in the site rent in the disclosure documents required to be given to a prospective home owner for the site; and
- (b) the reduction in the site rent does not apply in relation to any new site agreement entered into in relation to the site between the park owner and a prospective home owner.

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### **62X Application of proceeds from sale or buyback of eligible home**

- (1) This section applies if the park owner—
  - (a) acting under a selling authority, sells the eligible home to another person; or
  - (b) completes the purchase of the eligible home under a buyback agreement.
- (2) The park owner must apply the proceeds from the sale, or the amount payable under the buyback agreement, as follows—
  - (a) first, if an amount is owing to a person under a security interest registered for the eligible home under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
  - (b) second, if the park owner has, under section 62ZK(1), paid the valuer’s costs of conducting a valuation of the resale value of the eligible home—in reimbursing themselves for half of the valuer’s costs;
  - (c) third, in payment of the reasonable costs of selling the eligible home, including any fees payable under part 9, division 2;
  - (d) fourth, in payment of any balance to the eligible home owner.

## **Division 6            Court powers in relation to scheme**

### **62Y Court may order park owner to enter into buyback agreement**

- (1) This section applies if a park owner is convicted of an offence against section 62T(1) in relation to

an eligible home.

- (2) The court before which the park owner is convicted may make an order requiring the park owner to take stated steps to—
  - (a) enter into a buyback agreement for the eligible home; and
  - (b) complete the purchase of the eligible home under the buyback agreement by a stated day.
- (3) The court may make an order under subsection (2) even if the buyback period that would otherwise apply in relation to the eligible home has ended.

## **Division 7      Tribunal powers in relation to scheme**

### **62Z Decision about whether manufactured home is eligible home**

- (1) The tribunal may, on application by a home owner, make an order declaring whether the home owner's manufactured home is an eligible home.
- (2) Subsection (3) applies if—
  - (a) the tribunal makes an order declaring that the home owner's manufactured home is an eligible home; and
  - (b) the tribunal's order is made after the end of the buyback period.
- (3) The tribunal must make a further order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section 62T(1).

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### **62ZA Failure by park owner to reduce site rent**

- (1) This section applies if a park owner refuses or fails to comply with section 62V(2) in relation to the site rent payable by an eligible home owner.
- (2) The eligible home owner may apply to the tribunal for an order that the park owner refund to the eligible home owner any overpayment of site rent arising from the park owner's refusal or failure.
- (3) The tribunal may make the order if satisfied the park owner has refused or failed to comply with section 62V(2) in relation to the site rent payable by the eligible home owner.
- (4) Subsection (3) applies whether or not the park owner has been convicted of an offence against section 62V(2) in relation to the refusal or failure.

### **62ZB Noncompliance with scheme by eligible home owner**

- (1) A park owner may apply to the tribunal for an order that an eligible home be removed from the scheme if—
  - (a) the park owner has given the eligible home owner a notice under section 62U; and
  - (b) the eligible home owner has not, within 28 days after being given the notice, taken the steps stated in the notice.
- (2) On hearing the application, the tribunal may—
  - (a) order that the eligible home be removed from the scheme; and
  - (b) make any other orders the tribunal considers necessary.
- (3) Without limiting subsection (2)(b), if the park owner has, under section 62ZK(1), paid the costs

of a valuer for conducting a valuation in relation to the eligible home, the tribunal may, if it considers it reasonable in the circumstances, order that the eligible home owner pay an amount to the park owner as reimbursement of all or part of the valuer's costs.

- (4) If an order is made under subsection (2)(a) removing the eligible home from the scheme, the eligible home owner can not rejoin the scheme in relation to the eligible home.

### **62ZC Park owner may apply for extension of period for complying with s 62T—financial hardship**

- (1) A park owner may apply to the tribunal for an order extending the period for complying with section 62T(1).
- (2) The tribunal may make an order fixing a later day by which the park owner must comply with section 62T(1) if the tribunal is satisfied—
  - (a) the park owner is likely to suffer undue financial hardship if the order is not made; and
  - (b) the order would not be unfair to the eligible home owner, having regard to any submissions made by the eligible home owner about hardship the eligible home owner is likely to suffer if the order is made.
- (3) Subsection (4) applies if—
  - (a) the tribunal refuses an application made under subsection (1); and
  - (b) the tribunal's order is made after the end of the buyback period.
- (4) The tribunal must make an order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section

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62T(1).

**62ZD Park owner may apply for extension of period for complying with s 62T—other circumstances**

- (1) A park owner may apply to the tribunal for an order extending the period for complying with section 62T(1) by a period of not more than 6 months.
- (2) The tribunal may make an order fixing a day that is not more than 6 months after the day the park owner would otherwise be required to comply with section 62T(1) as the day the park owner must comply with that section.
- (3) An order may be made under subsection (2) only if the tribunal is satisfied—
  - (a) the park owner is unlikely to complete the sale of the eligible home within the buyback period if the order is not made; and
  - (b) the park owner has taken all reasonable steps to sell the eligible home in a timely way; and
  - (c) the order would not be unfair to the eligible home owner, considering the effect, including the financial effect, on both the home owner and the park owner.
- (4) The tribunal may make an order extending the period for complying with section 62T(1) only once under subsection (2).
- (5) Subsection (6) applies if—
  - (a) the tribunal refuses an application made under subsection (1); and
  - (b) the tribunal’s decision is made after the end of the buyback period.

- (6) The tribunal must make an order fixing the day, not later than 30 days after the order is made, by which the park owner must comply with section 62T(1).

### **62ZE Effect of tribunal proceedings on purchase of home under buyback agreement**

A park owner does not commit an offence against section 62T(1) by failing to enter into a buyback agreement for an eligible home, or complete the purchase of an eligible home under a buyback agreement, within the buyback period if—

- (a) the home owner has made an application to the tribunal under section 62Z about whether the home owner's manufactured home is an eligible home and the application has not been decided; or
- (b) the park owner has made an application to the tribunal under section 62ZB, 62ZC or 62ZD and the application has not been decided.

## **Division 8 Valuing resale value of eligible homes**

### **62ZF Application of division**

This division applies if a valuer is appointed under section 62J(2), 62K(3), 62L(3) or 62M(5) to value the resale value of an eligible home.

### **62ZG Submissions to valuer**

- (1) The valuer must give the parties a notice stating that each party—

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- (a) may make a written submission to the valuer, within a stated reasonable period (the *submission period*), about the valuation of the resale value of the eligible home; and
  - (b) must, within the submission period, give the other party a copy of any submission made to the valuer as mentioned in paragraph (a); and
  - (c) may make a written submission to the valuer, within a stated reasonable period (the *response period*), to any submission given to the party as mentioned in paragraph (b).
- (2) Each party—
- (a) may make a written submission to the valuer, within the submission period, about the valuation of the resale value of the eligible home; and
  - (b) must, within the submission period, give the other party a copy of any submission made to the valuer under paragraph (a); and
  - (c) may make a written submission to the valuer, within the response period, about any submission given to the party by the other party under paragraph (b).

### **62ZH How valuation is to be conducted**

- (1) The valuer must comply with this section in conducting the valuation of the resale value of the eligible home.
- (2) The valuer must conduct the valuation on the basis that—
  - (a) the eligible home will continue to be positioned on the site in the residential park on which it is currently positioned; and



- (b) the residential park is operating normally and will continue to operate normally.
- (3) Also, the valuer must consider—
  - (a) the following matters in relation to the eligible home—
    - (i) the condition, quality and presentation of the home;
    - (ii) the location within the residential park of the site on which the home is positioned;
    - (iii) the site rent payable for the site on which the home is positioned in the residential park; and
  - (b) the communal facilities, services and amenities provided in the residential park; and
  - (c) previous sales of manufactured homes in the residential park and in comparable residential parks; and
  - (d) any other matters the valuer considers relevant.
- (4) Further, the valuer must have regard to any submissions made by the parties to the valuer during the submission period, or the response period, under section 62ZG about the resale value of the eligible home.

### **62ZI Valuer may require information from park owner**

- (1) The valuer may, by notice given to the park owner, require the park owner to give the valuer stated information about any of the following matters the valuer reasonably needs to conduct the valuation—

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- (a) the residential park;
  - (b) the eligible home;
  - (c) the site on which the eligible home is positioned;
  - (d) the site agreement for the site on which the eligible home is positioned;
  - (e) previous sales by the park owner of manufactured homes in the residential park;
  - (f) the price of new manufactured homes positioned on a site in the residential park.
- (2) The park owner must give the valuer the information required by the valuer within 7 days after the notice is given to the park owner, unless the park owner has a reasonable excuse.

*Example of a reasonable excuse—*

The park owner does not have, and can not reasonably obtain, the information required by the valuer.

Maximum penalty—10 penalty units.

### **62ZZ Valuer's independence**

The valuer must state in the report for the valuation of the resale value of the eligible home any connection to, or agreement with, the park owner that may call into question the independence of the valuation.

### **62ZK Costs of conducting valuation**

- (1) The valuer's costs of conducting the valuation must be paid by the park owner.
- (2) This section applies subject to section 62X.

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**13 Insertion of new s 69AA**

After section 69—

*insert—*

**69AA References in site agreements to particular consumer price indexes**

- (1) This section applies if a site agreement provides a basis for increasing the site rent by reference to an increase in—
  - (a) the consumer price index generally; or
  - (b) a stated consumer price index other than the Eight Capital Cities CPI.
- (2) The reference to the consumer price index is taken to be a reference to the Eight Capital Cities CPI.
- (3) Subsection (2) applies despite the terms of the site agreement.
- (4) In this section—

*Eight Capital Cities CPI* means the Consumer Price Index: All Groups Index Numbers—Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics.

**14 Amendment of s 69A (Basis for site rent increase must be stated in site agreement)**

Section 69A, example—

*omit, insert—*

*Example of a basis for increasing site rent that may be stated in a site agreement—*

a percentage of the site rent worked out by reference to the CPI number for a stated period

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**15 Amendment of s 69B (Restrictions on increasing site rent under site agreement)**

(1) Section 69B(1), example—

*omit.*

(2) Section 69B—

*insert—*

(1A) Despite any basis stated in the site agreement for increasing the site rent, the park owner must not increase the site rent by more than the greater of the following percentages—

(a) the CPI increase;

(b) 3.5%.

Maximum penalty—100 penalty units.

(1B) A site rent increase that is greater than the increase permitted under subsection (2) is of no effect to the extent it exceeds the permitted increase.

(3) Section 69B(3) and (4), ‘subsection (2)’—

*omit, insert—*

subsection (4)

(4) Section 69B—

*insert—*

(5) In this section—

***CPI increase*** means the percentage increase in the CPI between—

(a) the last quarter, ending before the relevant day, for which the CPI is published; and

(b) the corresponding quarter of the previous year.

***relevant day*** means the latest day on which a general increase notice may be given under

section 69E for the next general increase day.

- (5) Section 69B(1A) to (5)—  
*renumber* as section 69B(2) to (7).

**16 Omission of s 69D (Consulting with interested entities for preparing market valuation)**

Section 69D—  
*omit.*

**17 Amendment of s 69E (Notice of general increase in site rent)**

- (1) Section 69E(2)—  
*omit.*
- (2) Section 69E(3) and (4)—  
*renumber* as section 69E(2) and (3).

**18 Insertion of new s 69F**

After section 69E—  
*insert—*

**69F Market review terms of no effect**

A term of a site agreement that states the basis for working out the amount of an increase in the site rent as a market review of site rent is of no effect.

**19 Omission of s 70A (Tribunal may appoint independent valuer for market review of site rent)**

Section 70A—  
*omit.*

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## **20 Amendment of s 71 (Application of division)**

(1) Section 71(1)(c)—

*omit, insert—*

- (c) the proposed increase in site rent is not based wholly or partly on a basis provided for in the site agreement on which the site rent may be increased under division 2.

(2) Section 71—

*insert—*

(1A) To remove any doubt, it is declared that neither of the following amounts in relation to the buyback and rent reduction scheme established under part 9A is a special cost—

- (a) an amount payable by the park owner under the scheme;
- (b) an amount by which site rent must be reduced under the scheme.

(3) Section 71(1A) to (3)—

*renumber* as section 71(2) to (4).

## **21 Amendment of s 95 (Fraudulent or misleading conduct)**

Section 95, example, paragraph (a), ‘consumer price index’—

*omit, insert—*

CPI

## **22 Amendment of s 116 (Requirements for application)**

Section 116(5), definition *exempt provision*—

*omit, insert—*

*exempt provision* means section 38(1), 39(1), 40B(2), 52(3), 53(5), 55(2), 62Z, 62ZB, 62ZC, 62ZD or 94(4).

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**23 Replacement of s 145 (Review of Act)**

Section 145—

*omit, insert—*

**145 Review of operation of particular provisions of Act**

- (1) The Minister must, within 3 years after the commencement of this section, start a review of the effect of the amendments made by the *Manufactured Homes (Residential Parks) Amendment Act 2024*.
- (2) The object of the review is to consider—
  - (a) whether the amendments made by the *Manufactured Homes (Residential Parks) Amendment Act 2024* have achieved an appropriate balance between industry viability and consumer protection; and
  - (b) whether any amendments of this Act are required to achieve an appropriate balance between industry viability and consumer protection.

**24 Insertion of new pt 21, div 5**

Part 21—

*insert—*

**Division 5 Transitional provisions for  
Manufactured Homes  
(Residential Parks)  
Amendment Act 2024**

**Subdivision 1 Preliminary**

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## **186 Definitions for division**

In this division—

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement of the provision in which the term is used.

*new*, for a provision of this Act, means the provision as in force from the commencement of the provision in which the term is used.

*variation order* see section 194(3).

## **Subdivision 2 Provisions for amendments commencing on assent**

### **187 Existing applications for termination orders**

- (1) This section applies if—
  - (a) before the commencement, an application was made under former section 38 for a termination order; and
  - (b) immediately before the commencement, the application had not been decided by the tribunal.
- (2) New part 6, division 3 applies in relation to the application as if—
  - (a) for an application made on a ground mentioned in former section 38(1)(a) to (e)—the application had been made under new section 38; or
  - (b) for an application made on the ground mentioned in former section 38(1)(f)—the application had been made under new section 39.



- (3) Without limiting subsection (2), the subsection applies—
  - (a) for the purpose of deciding the application; and
  - (b) for the purpose of making a compensation order under new section 39C if a termination order is made on the application.

**188 Application of buyback and rent reduction scheme to manufactured home for sale before commencement**

- (1) This section applies if—
  - (a) before the commencement, the home owner of a manufactured home appointed the park owner under a selling authority for the manufactured home; and
  - (b) immediately before the commencement, the selling authority was still in effect; and
  - (c) on the commencement, the manufactured home is an eligible home and the home owner is an eligible home owner under part 9A.
- (2) Section 62P applies in relation to the eligible home as if—
  - (a) section 62P(1) did not include section 62P(1)(a); and
  - (b) section 62P(1)(c) provided that the eligible home owner, if requested by the park owner, has appointed the park owner as the sole agent under a selling authority for the eligible home; and
  - (c) section 62P(3) provided that the opt in notice may be given to the park owner not

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earlier than 6 months after the commencement.

### **189 Application of s 69AA to site agreements entered into before commencement**

Section 69AA applies in relation to a site agreement whether entered into before or after the commencement.

### **190 Application of s 69F to site agreements entered into before commencement**

Except as provided under section 191, section 69F applies in relation to a site agreement whether entered into before or after the commencement.

### **191 Market review of site rent started before commencement**

- (1) This section applies if—
  - (a) before the commencement, a general increase notice was given to a home owner; and
  - (b) the general increase notice was accompanied by a market valuation for the market review of site rent; and
  - (c) the general increase day stated in the general increase notice is a day after the commencement.
- (2) This Act, as in force immediately before the commencement, continues to apply for the purpose of working out the increase in site rent payable from the next general increase day.
- (3) However—
  - (a) the amount by which the site rent is increased under this section must not exceed

the percentage increase in site rent permitted under section 69B(2); and

- (b) section 69B(3) applies to an increase in site rent under this section.

### **192 Increasing site rent—using alternative basis to market review**

- (1) This section applies if a site agreement that was in force immediately before the commencement provided for—
  - (a) a market review of site rent as a basis for increasing the site rent; and
  - (b) 1 or more other bases for increasing the site rent (each an *alternative basis*).

*Example of a site agreement providing for more than 1 basis for increasing site rent—*

a site agreement providing for a triennial market review of site rent and a 3% increase for the intervening years

- (2) Despite the terms of the site agreement, the park owner may use an alternative basis for increasing the site rent for any period for which a market review of site rent would, but for section 69F, have been the basis for increasing the site rent.

### **193 Increasing site rent—no alternative basis to market review**

- (1) This section applies if a site agreement that was in force immediately before the commencement provided for a market review of site rent as the only basis for increasing the site rent.
- (2) The park owner may, as the basis for working out the amount of the increase in the site rent, multiply the site rent by the CPI increase.
- (2A) The park owner may increase the site rent using the basis provided under subsection (2) once each

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year, but not within 1 year after the day the site rent was last increased under this section or, for the first increase under this section, the site agreement.

(2B) Subsection (2A) applies despite any term of the site agreement providing for the intervals at which the site rent may be increased.

(3) In this section—

*CPI increase* see section 69B(7).

#### **194 Application to tribunal to vary site agreements providing for market review**

(1) This section applies if—

(a) a site agreement that was in force immediately before the commencement provided for a market review of site rent as a basis for increasing site rent payable under the site agreement; and

(b) the park owner considers that, because of section 69F, the operation of the residential park will not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17.

(2) However, this section does not apply if—

(a) the site agreement provides for 1 or more alternative bases for increasing the site rent; and

(b) the alternative basis, or 1 of the alternative bases, provides for the increase in the site rent by reference to a CPI number.

(3) The park owner may apply to the tribunal, within 2 years after the commencement, for an order to vary the site agreement to provide for another basis for increasing the site rent (a *variation*

*order*).

- (4) The application—
  - (a) must state the terms of the variation order sought by the park owner, which must be a basis the park owner considers provides for a fair and reasonable increase in the site rent in the residential park; and
  - (b) may relate to 1 or more site agreements for the residential park.
- (5) In this section—

*alternative basis* see section 192(1)(b).

### **195 Tribunal may appoint independent expert for application for variation order**

- (1) The tribunal may appoint an appropriately qualified and independent expert to assist the tribunal in relation to an application for a variation order.
- (2) If the tribunal appoints an expert under subsection (1), the park owner must pay the expert's costs of assisting the tribunal, including—
  - (a) the costs of preparing any advice or reports, if required, for a proceeding; and
  - (b) the fees and allowances for giving evidence, if required, in a proceeding.
- (3) However, subsection (2) applies only if, before appointing the expert, the tribunal—
  - (a) informs the park owner of the amount the park owner is likely to be required to pay under subsection (2); and
  - (b) gives the park owner the opportunity to be heard on the matter of appointing the expert.

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### **196 Making of variation order by tribunal**

- (1) The tribunal may make a variation order in relation to a site agreement only if satisfied that—
  - (a) because of section 69F, a term of the site agreement providing for market review of site rent is of no effect; and
  - (b) if a variation order were not made, the operation of the residential park would not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17.
- (2) In deciding the application, the tribunal may have regard to the following matters—
  - (a) the expenses and financial circumstances of operating the residential park;
  - (b) the communal facilities, services and amenities included in the site rent for the residential park;
  - (c) the frequency, and amount, of past increases in the site rent payable under the site agreement;
  - (d) how the site rent would differ from past increases in the site rent if a variation order were not made;
  - (e) whether, if a variation order were not made, the park owner would be likely to meet the park owner's obligations under the Act while obtaining a reasonable profit;
  - (f) the bases for working out the amount of an increase in site rent for other sites in the residential park, or common bases used in comparable residential parks;
  - (g) how the site rent payable under site agreements for sites in the residential park

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and the bases for working out the site rent in the residential park compare to similar residential parks;

- (h) any written advice, reports or evidence of an expert appointed under section 195;
- (i) any submissions received from interested parties, including the home owners committee for the residential park or home owners residing in manufactured homes positioned on sites in the residential park;
- (j) anything else the tribunal considers relevant.

## 25 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *CPI*, *market valuation* and *termination order*—  
*omit.*
- (2) Schedule 2—  
*insert—*

***buyback agreement***, for an eligible home, for part 9A, see section 62D.

***buyback amount***, for an eligible home, for part 9A, see section 62I.

***buyback and rent reduction scheme***, for part 9A, see section 62A.

***buyback period***, in relation to an eligible home, for part 9A, see section 62E.

***compensation order***, for part 6, division 3, see section 39C(2).

***convicted***, for part 9A, see section 62B.

***CPI*** means Consumer Price Index: All Groups Index Numbers—Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics.

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*eligible home*, for part 9A, see section 62C.

*eligible home owner*, for part 9A, see section 62B.

*notice of intention to sell*, for part 9A, see section 62N(2).

*opt in notice*, for part 9A, see section 62P(2).

*scheme*, for part 9A, see section 62B.

*seller services*, for part 9A, see section 62O(a).

*sold*, for part 9A, see section 62F.

*termination day*, for part 6, division 3, see section 39A(1).

*termination order*, for part 6, division 3, see sections 38(1) and 39(3).

## **Division 3                      Amendments commencing 6 months after assent**

### **26            Amendment of s 14A (What is a residential park dispute)**

(1) Section 14A(1)(c)—

*insert—*

(ia) without limiting subparagraph (i), how site rent is to be paid; or

(2) Section 14A(1)(c)(ia) and (ii)—

*renumber* as section 14A(1)(c)(ii) and (iii).

### **27            Replacement of s 63 (How site rent to be paid)**

Section 63—

*omit, insert—*



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### **63 Meaning of *approved way***

Each of the following is an *approved way* for a home owner to pay site rent under a site agreement to a park owner—

- (a) cash;
- (b) cheque;
- (c) payment to a financial institution account nominated by the park owner, including, for example, payment by direct debit;
- (d) credit card;
- (e) an EFTPOS system;
- (f) deduction from pay, pension or other benefit payable to the home owner;
- (g) another way prescribed by regulation.

### **63A How site rent to be paid**

- (1) A park owner must—
  - (a) nominate in a site agreement at least 3 approved ways for the home owner to pay site rent under the agreement (each a *nominated way*); and
  - (b) ensure at least 1 of the nominated ways is a way that does not incur an additional cost to the home owner.

Maximum penalty—10 penalty units.

- (2) A park owner must permit the home owner to pay the site rent in a nominated way.

Maximum penalty—10 penalty units.

- (3) In this section—

*additional cost*, to a home owner, means a cost other than bank fees, or other account fees, that are usually payable for the home owner's

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transactions.

### **63B Changing way of paying site rent generally**

- (1) This section applies if a home owner wishes to change the way the home owner pays site rent under a site agreement—
  - (a) from a nominated way to another nominated way; or
  - (b) from an agreed way to a nominated way.
- (2) The home owner may give the park owner a notice stating the nominated way proposed by the home owner.
- (3) The park owner must, within 10 days after being given a notice under subsection (2), give the home owner a notice stating the day, not more than 20 days after the home owner's notice is given, from which the nominated way proposed by the home owner is to be used for paying the site rent.

Maximum penalty—10 penalty units.

- (4) In this section—

*agreed way*, for a home owner to pay site rent under a site agreement, means a way agreed by the home owner and the park owner under section 63C(3).

### **63C Changing way of paying site rent by agreement**

- (1) This section applies if a home owner, or the park owner, wishes to have payments of site rent under a site agreement made in a way that—
  - (a) is an approved way; but
  - (b) is not 1 of the nominated ways stated in the site agreement.

- (2) The home owner or the park owner may give the other party a notice stating a way mentioned in subsection (1) for paying the site rent.
- (3) If the other party agrees in writing to payments of site rent being made in the stated way, the home owner must pay the site rent in the stated way while the agreement remains in effect.
- (4) Subsection (3) applies subject to section 63B.

## 28 Insertion of new pt 21, div 5, sdiv 3

Part 21, division 5, as inserted by this Act—

*insert—*

### **Subdivision 3 Provision for amendments commencing 6 months after assent**

#### **197 Changes to way site rent to be paid**

- (1) This section applies in relation to a site agreement that was in force immediately before the commencement if, on the commencement, the site agreement does not provide—
  - (a) at least 3 approved ways for the home owner to pay site rent under the site agreement; or
  - (b) at least 1 way for the home owner to pay site rent under the site agreement that does not incur an additional cost to the home owner.
- (2) The park owner must, within 12 months after the commencement, give the home owner a notice that—
  - (a) nominates at least 3 approved ways (each a *nominated way*) for the payment of site rent under the site agreement, at least 1 of which

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is a way that does not incur an additional cost to the home owner; and

- (b) states that the home owner may choose to change the existing way the site rent is paid under the site agreement to a nominated way by giving notice to the park owner.

Maximum penalty—100 penalty units.

- (3) The home owner may—
  - (a) by notice given to the park owner, change the existing way the site rent is paid under the site agreement to 1 of the nominated ways; or
  - (b) continue to pay the site rent in the existing way.
- (4) For sections 63A and 63B—
  - (a) a nominated way under this section is taken to be a way nominated in the site agreement for the payment of site rent under the site agreement; and
  - (b) if the home owner continues to pay the site rent in the existing way—the existing way of paying the site rent is also taken to be a nominated way under the site agreement.
- (5) In this section—

*additional cost*, to a home owner, see section 63A(3).

## 29 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert*—

*approved way* see section 63.

*nominated way* see section 63A(1)(a).

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## **Division 4                      Amendments commencing by proclamation**

### **30            Amendment of s 14A (What is a *residential park dispute*)**

(1) Section 14A(1)(b)—

*omit, insert—*

(b) a dispute between an assignor and a park owner about the park owner's failure or refusal to consent to the assignment of the assignor's interest in a site agreement to an assignee; or

(2) Section 14A(1)(f)—

*omit, insert—*

(f) a dispute, other than a dispute mentioned in paragraph (b), between 2 or more of an assignor, assignee and park owner about the assignor's, assignee's or park owner's rights or obligations under this Act relating to an assignment or proposed assignment of the assignor's interest in a site agreement to the assignee; or

(3) Section 14A(1)(i) and (j)—

*omit.*

(4) Section 14A(1)(k) and (l), as inserted by this Act—

*renumber* as section 14A(1)(i) and (j).

### **31            Insertion of new pt 4**

After part 3—

*insert—*

## **Part 4                              Residential parks**

## **Division 1      Preliminary**

### **18 Definitions for part**

In this part—

*information* includes a document.

*registered*, in relation to a residential park, means registered under division 2.

*residential park register* see section 18C(1).

*unregistered residential park* means a residential park that is not registered.

## **Division 2      Registration**

### **18A Application for registration of residential park**

- (1) The park owner for a residential park may apply to the chief executive to register the residential park.
- (2) The application must—
  - (a) if there is an approved form for the application—be in the approved form; and
  - (b) be accompanied by the fee prescribed by regulation.
- (3) Also, the application must include or be accompanied by the following information for the residential park—
  - (a) the name of the park;
  - (b) the address of the park;
  - (c) the name of the park owner;
  - (d) contact details for the park owner;

- (e) details of the land on which the sites in the park will be located;
  - (f) details of the communal facilities, services and amenities available to home owners and other residents of the park;
  - (g) a list of all proposed bases on which site rent may be increased under a site agreement for a manufactured home positioned on a site in the park;
  - (h) a copy of the emergency plan for the park;
  - (i) a copy of the park rules;
  - (j) any other information prescribed by regulation.
- (4) The chief executive may, by notice given to the applicant, ask the applicant for further information the chief executive reasonably requires to decide the application.

### **18B Registration of residential park**

- (1) The chief executive must consider the application and decide to—
  - (a) register the residential park; or
  - (b) refuse to register the residential park.
- (2) The chief executive's decision must be made within 90 days after the later of the following days—
  - (a) the day the application is received;
  - (b) if the chief executive asks for further information under section 18A(4)—the day the applicant gives the chief executive the further information.
- (3) The chief executive may register the residential park only if the chief executive is satisfied—

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- (a) the application complies with section 18A; and
  - (b) if the chief executive has asked for further information under section 18A(4)—the applicant has given the chief executive the further information.
- (4) The chief executive must, after deciding the application, promptly give the applicant notice of the decision.
- (5) If the decision is to refuse to register the residential park, the notice must be an information notice for the decision.

*Note—*

See sections 18P and 18Q for offences in relation to operating, and engaging in other conduct in relation to, an unregistered residential park.

- (6) If the chief executive fails to decide the application within the period required under subsection (2), the chief executive is taken to have refused the application.
- (7) If the application is taken to be refused under subsection (6), the applicant is entitled to be given an information notice by the chief executive for the decision.

## **Division 3      Residential park register**

### **18C Residential park register**

- (1) The chief executive must keep a register of residential parks that are registered (the *residential park register*).
- (2) The residential park register may include the following information for each residential park that is registered—



- (a) the name of the park;
  - (b) the address of the park;
  - (c) the postal address of the park;
  - (d) the name of the park owner;
  - (e) contact details for the park owner;
  - (f) the number of manufactured homes positioned on sites in the park;
  - (g) details of the land on which the sites in the park are located;
  - (h) details of the communal facilities, services and amenities available to home owners and other residents of the park;
  - (i) details of all bases on which site rent may be increased under a site agreement for a manufactured home positioned on a site in the park;
  - (j) a copy of the emergency plan for the park;
  - (k) a copy of the park rules;
  - (l) any other information prescribed by regulation.
- (3) The register may be kept in the way the chief executive considers appropriate, including in electronic form.
  - (4) The chief executive may publish information included in the residential park register at the times, and in the way, decided by the chief executive.

### **18D Inspecting and obtaining information about residential park**

- (1) A person may, on payment of the fee prescribed by regulation, inspect or obtain a copy of information included in the residential park

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register for a residential park.

- (2) The information may be inspected, or a copy of the information may be obtained—
  - (a) at a place decided by the chief executive; or
  - (b) if the register is kept in electronic form—electronically.

### **18E Changes in information for residential park**

- (1) This section applies if there is a material change in any of the information for a residential park that may be included in the residential park register.
- (2) The park owner for the residential park must, within 28 days after becoming aware of the material change, give the chief executive notice, in the approved form, of the change unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

### **18F Chief executive may require information**

- (1) The chief executive may, by notice given to the park owner for a residential park, require the park owner, within a stated period of at least 30 days after the notice is given, to give the chief executive stated information about any information for the park that may be included in the residential park register.
- (2) The park owner must comply with the requirement unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

## **Division 4      Park website and comparison document**

### **18G Residential park website**

- (1) The park owner for a residential park must maintain a website for the park.

Maximum penalty—50 penalty units.

- (2) A website maintained under subsection (1) may relate to more than 1 residential park.
- (3) A regulation may exempt a residential park, or residential parks of a class, in stated circumstances from the requirement under subsection (1).

### **18H Meaning of *comparison document***

A *comparison document*, for a residential park, is a document in the approved form that—

- (a) includes a declaration about site rent under section 70B; and
- (b) contains details of the following information for the residential park—
  - (i) the communal facilities, services and amenities available in the park;
  - (ii) the frequency of site rent increases in the park;
  - (iii) the bases for increasing site rent in the park;
  - (iv) the services and utilities included in the site rent;
  - (v) any other details prescribed by regulation; and
- (c) is formatted in the way prescribed by regulation.

### **18I Requirement to prepare comparison document**

The park owner for a residential park must prepare a comparison document for the residential park.

Maximum penalty—200 penalty units.

### **18J Requirement to publish comparison document**

If a park owner is required under section 18G to maintain a website for a residential park (the *park website*), the park owner must—

- (a) publish the comparison document for the residential park on the park website; and
- (b) ensure the comparison document for the residential park, or a link to the comparison document, appears prominently on the park website; and
- (c) ensure any advertisement on the park website for the sale of a manufactured home in the residential park—
  - (i) states that the manufactured home is a manufactured home regulated under the *Manufactured Homes (Residential Parks) Act 2003*; and
  - (ii) includes a link to the comparison document for the residential park.

Maximum penalty—20 penalty units.

### **18K Park owner or sales person to give copy of comparison document on request**

- (1) This section applies if a person asks either of the following persons, in writing, for a copy of the comparison document for a residential park—
  - (a) the park owner for the residential park;

- (b) a person engaged in the sale or marketing of manufactured homes in the residential park.
- (2) The park owner, or other person, of whom a request is made under subsection (1)—
  - (a) must, within 7 days after the request is made, give the home owner a copy of the comparison document; and
  - (b) must not charge a fee for the comparison document that is more than the amount prescribed by regulation.

Maximum penalty—10 penalty units.

### **18L Changes to comparison document**

- (1) The park owner for a residential park must, immediately after becoming aware of a material change in any of the information in the comparison document for the residential park, amend the comparison document to include the correct information.

Maximum penalty—50 penalty units.

- (2) Within 28 days after amending a comparison document under subsection (1), or updating a comparison document to include a declaration about site rent under section 70B, the park owner must give the chief executive—
  - (a) notice of the amendment or declaration; and
  - (b) a copy of the amended or updated comparison document.

Maximum penalty—200 penalty units.

## **Division 5      Cancelling registration**

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### **18M Cancelling registration at request of park owner**

- (1) The park owner for a residential park may ask the chief executive, in writing, to cancel the registration of the residential park if the park owner—
  - (a) has stopped operating the park; or
  - (b) proposes to stop operating the park.
- (2) The chief executive may cancel the registration of the residential park if the chief executive is satisfied that cancelling the registration of the park is appropriate.

### **18N Cancelling registration on chief executive's own initiative**

- (1) The chief executive may, by notice given under this section to the park owner for a residential park, cancel the registration of the residential park if the chief executive is satisfied the park owner—
  - (a) has stopped operating the park; or
  - (b) proposes to stop operating the park.
- (2) The chief executive must, before cancelling the registration of the residential park under this section, give the park owner a notice stating—
  - (a) that the chief executive proposes to cancel the registration of the residential park under this section; and
  - (b) the day (the *proposed cancellation day*), at least 30 days after the day the notice is given, on which the chief executive proposes to cancel the registration of the residential park; and
  - (c) that the park owner may provide evidence to the chief executive, within the stated period

ending not earlier than 14 days after the day the notice is given (the *submission period*), that the park owner is continuing to operate the residential park.

- (3) The chief executive must consider any evidence provided by the park owner within the submission period and decide to—
  - (a) cancel the registration of the residential park; or
  - (b) not cancel the registration of the residential park.
- (4) If the decision is to cancel the registration of the residential park, the chief executive must promptly give the park owner an information notice for the decision that states the day the registration of the residential park is cancelled.
- (5) For subsection (4), the stated day must be a day that is not earlier than—
  - (a) the day the information notice is given to the park owner; or
  - (b) the proposed cancellation day.
- (6) If the decision is not to cancel the registration of the residential park, the chief executive must give the park owner notice of the decision.

### **18O Updating residential park register on cancellation of registration of residential park**

If the registration of a residential park is cancelled under section 18M or 18N, the chief executive may record in the residential park register—

- (a) that the registration of the residential park has been cancelled; and
- (b) the date the registration was cancelled; and

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- (c) whether the registration was cancelled at the request of the park owner or on the chief executive's initiative.

## **Division 6            Offences relating to unregistered residential parks**

### **18P Offence to operate unregistered residential park**

A person must not operate a residential park that is an unregistered residential park.

Maximum penalty—540 penalty units.

### **18Q Offence to induce or invite person to reside in, purchase or rent in unregistered residential park**

- (1) A person must not, in relation to a residential park the person knows, or ought reasonably to know, is an unregistered residential park—
  - (a) induce or invite another person to do any of the following things—
    - (i) reside in a manufactured home positioned on a site in the park;
    - (ii) purchase a manufactured home positioned on a site in the park;
    - (iii) enter into a site agreement in relation to land in the park;
    - (iv) pay site rent under a site agreement in relation to land in the park; or
  - (b) use a document, or publish an advertisement, to induce or invite another



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person to do a thing mentioned in paragraph (a).

Maximum penalty—540 penalty units.

(2) However, a person does not contravene subsection (1) if the person, or the document or advertisement, only invites expressions of interest in the residential park.

(3) In this section—

*advertisement* includes an advertisement made by publishing a statement or claim—

(a) in a document, including a newspaper or magazine; or

(b) by broadcast, electronic communication, telecommunication, video or film.

*induce* includes attempt to induce.

### **18R Order to stop contravention of s 18P or 18Q**

(1) This section applies if the chief executive considers, on reasonable grounds, that a person is contravening section 18P or 18Q.

(2) The chief executive may apply to the District Court for an order requiring the person to stop contravening the section.

(3) The court may make any order, including an interim order, it considers appropriate.

## **32 Amendment of s 25 (Written agreement)**

(1) Section 25, heading—

*omit, insert—*

### **25 Requirements for site agreement**

(2) Section 25(1)—

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*omit, insert—*

(1) The park owner for a residential park must ensure a site agreement—

(a) is written to the extent, and in the way, required by this section; and

(b) is in the approved form.

Maximum penalty—200 penalty units.

### **33 Replacement of pt 5, div 2 (Entering into site agreements)**

Part 5, division 2—

*omit, insert—*

#### **Division 2 Entering into site agreements**

##### **29 Disclosure documents to be given to prospective home owner**

(1) The park owner for a residential park must not enter into a site agreement with a prospective home owner for a site in the park unless the park owner has complied with subsections (2) and (3).

Maximum penalty—200 penalty units.

*Note—*

For another possible consequence of not complying with this section, see section 33.

(2) The park owner must give the prospective home owner the following documents (the ***disclosure documents***) as provided under subsection (3)—

(a) the comparison document for the residential park;

(b) a document containing the information mentioned in schedule 1 for the residential park;

- (c) a copy of the proposed site agreement.
- (3) The disclosure documents must be given—
  - (a) if paragraph (b) does not apply—at least 21 days before entering into the site agreement; or
  - (b) if, under section 30, the prospective home owner waives the right to be given the disclosure documents as required under paragraph (a)—at least 7 days before entering into the site agreement.

**30 Waiver of right to be given disclosure documents at least 21 days before entering into site agreement**

- (1) A prospective home owner for a site agreement may, by notice given to the park owner, waive the right under section 29(3)(a) to be given the disclosure documents for the site agreement at least 21 days before entering into the site agreement.
- (2) The notice must—
  - (a) if there is an approved form for the notice—be in the approved form; and
  - (b) state that the prospective home owner—
    - (i) has obtained independent legal advice from a Queensland lawyer about entering into the site agreement; and
    - (ii) agrees to being given the disclosure documents less than 21 days, but at least 7 days, before entering into the site agreement; and
  - (c) be signed by the lawyer and include the lawyer's name and contact details and the date the legal advice was given.

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### **31 Refusal to enter into site agreement**

- (1) The park owner for a residential park must not unreasonably refuse to enter into a site agreement with a prospective home owner.
- (2) A prospective home owner who considers the park owner has unreasonably refused to enter into a site agreement may, subject to section 116, apply to the tribunal for an order under subsection (3).
- (3) The tribunal may, on application made by the prospective home owner, make an order requiring the park owner to enter into a site agreement if the tribunal is satisfied the park owner has unreasonably refused to enter into the site agreement.

### **31A Obtaining independent legal advice about site agreement**

The park owner for a residential park must not, at any time, restrict a person's right to obtain independent legal advice about a site agreement, including independent legal advice mentioned in section 30(2)(b)(i).

Maximum penalty—100 penalty units.

### **31B Home owner's copy of site agreement**

- (1) This section applies if the park owner for a residential park—
  - (a) receives a copy of a proposed site agreement for a site, signed by a prospective home owner for the site; and
  - (b) signs the proposed site agreement.
- (2) The park owner must, within 10 days after signing the site agreement, give the prospective home

owner a copy of the signed agreement.

Maximum penalty—100 penalty units.

## **Division 3      Terms of site agreements**

### **31C Application of division**

This division applies if—

- (a) the home owner (the *seller*) of a manufactured home located on a site in a residential park enters into an agreement to sell the home to another person (the *buyer*); and
- (b) after the sale, the manufactured home will continue to be located on the site in the residential park.

### **31D Definitions for division**

In this division—

*buyer* see section 31C(a).

*seller* see section 31C(a).

### **31E Park owner must ensure particular terms included in site agreement with buyer**

- (1) The park owner must ensure the terms of a site agreement entered into between the buyer and the park owner include the same terms as applied under the site agreement between the seller and the park owner (the *earlier site agreement*), before the sale of the manufactured home, in relation to the following matters (each a *relevant matter*)—

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- (a) the utilities included in the site rent payable for the site;
- (b) the communal facilities, services and other amenities included in the site rent payable for the site;
- (c) a matter prescribed by regulation.

Maximum penalty—100 penalty units.

- (2) For subsection (1), if a term of the earlier site agreement in relation to a relevant matter has, before the sale of the manufactured home, been modified by this Act, the term as modified is taken to be the term that applied under the earlier site agreement, before the sale of the manufactured home, in relation to the relevant matter.

*Example of the modification by this Act of a term of a site agreement in relation to a relevant matter—*

a reduction under section 73 in the utility cost included in the site rent payable for the site

### **31F Variation in terms of agreement**

- (1) Despite section 31E, the buyer and the park owner may agree to vary the terms of the site agreement.
- (2) The terms may be varied by notice signed by both the buyer and the park owner.
- (3) The notice must—
  - (a) include the terms of the site agreement proposed to be varied and the new terms; and
  - (b) if there is an approved form for the notice—be in the approved form; and
  - (c) include any other information prescribed by regulation.

### **31G Park owner must not require variation of terms**

- (1) The park owner must not require the buyer to vary the terms of the site agreement that apply under section 31E.

Maximum penalty—100 penalty units.

- (2) The park owner contravenes subsection (1) if the park owner makes entering into the site agreement with the park owner conditional on the buyer agreeing to vary the terms of the site agreement that apply under section 31E.

### **31H Maximum site rent payable**

The site rent payable under the site agreement by the buyer must not exceed the amount of site rent, or an amount within the range of site rent, declared under section 70B.

## **Division 4            Assignment of home owner's interest in site agreement**

### **31I Definition for division**

In this division—

*form of assignment* see section 31K(1).

### **31J Assignment of site agreement**

- (1) A home owner may assign the home owner's interest in a site agreement to another person only if—
  - (a) the other person is a relative of the home owner; and
  - (b) the park owner consents to the assignment.

[s 33]

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(2) In this section—

*relative*, of a home owner, means the home owner's—

- (a) spouse; or
- (b) child or stepchild; or
- (c) parent or step-parent; or
- (d) sibling, step-sibling or half-sibling.

### **31K Form of assignment**

- (1) The assignment of the assignor's interest in the site agreement must be in the approved form (the *form of assignment*).
- (2) The assignor and assignee must each sign 2 copies of the form of assignment.

### **31L Consent to assignment of site agreement**

- (1) After the assignor and assignee sign the form of assignment, the assignor must give the park owner a notice asking the park owner to consent to the assignment of the assignor's interest in the site agreement to the assignee.
- (2) The request must be accompanied by 2 signed copies of the form of assignment.
- (3) The assignment of the assignor's interest in the site agreement has effect only if the park owner consents to the assignment.
- (4) The park owner must not unreasonably refuse to consent to the assignment.
- (5) If the park owner consents to the assignment, the park owner must sign both copies of the form of assignment and give them to the assignor.
- (6) If the park owner refuses to consent to the



assignment, the park owner must—

- (a) return both copies of the form of assignment to the assignor; and
  - (b) give the assignor notice of the decision and the reasons for it.
- (7) If, within 28 days after receiving the request, the park owner does not consent to the assignment, the park owner is taken to have refused to consent to the assignment.

### **31M Dispute resolution and application to tribunal about refusal to consent to assignment**

- (1) This section applies if the park owner refuses to consent to the proposed assignment of the assignor's interest in the site agreement under section 31L.
- (2) The assignor may, subject to section 116, apply to the tribunal for an order (an *assignment order*) that the park owner consent to the assignment of the assignor's interest in the site agreement to the assignee on or before the day (the *consent day*) stated in the order.
- (3) The tribunal may make an assignment order if satisfied the park owner has unreasonably refused to consent to the assignment.
- (4) If the tribunal makes an assignment order, the park owner must, on or before the consent day, sign both copies of the form of assignment and return them to the assignor.  
Maximum penalty—20 penalty units.
- (5) If the park owner fails to comply with subsection (4), the park owner is taken to have consented to the assignment on the consent day.

[s 33A]

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**33A Amendment of s 34 (Automatic ending of sale agreement)**

(1) Section 34(1)(a)—

*omit, insert—*

- (a) in conjunction with the site agreement, a prospective home owner and the seller of a manufactured home positioned on a site in the residential park enter into an agreement (the *sale agreement*) for the sale of the manufactured home to the home owner; and

(2) Section 34(3), (4B), (5) and (5A), ‘park owner’—

*omit, insert—*

seller

(3) Section 34(7), definition *refundable amount*, paragraph (a), ‘park owner, or at the park owner’s’—

*omit, insert—*

seller, or at the seller’s

(4) Section 34(7), definition *refundable amount*, paragraph (b), after ‘if the’—

*insert—*

seller is the park owner and the

(5) Section 34(7), definition *refund period*, paragraph (a)(i), ‘park owner’—

*omit, insert—*

seller

**34 Omission of pt 7 (Assignment of home owner’s interest in site agreement)**

Part 7—

*omit.*

---

**35 Insertion of new s 55A**

Before section 56—

*insert—*

**55A Definitions for division**

In this division—

***buyer*** means a person to whom a seller proposes to sell a manufactured home.

***seller*** means—

- (a) a home owner who owns a manufactured home that is positioned on a site in a residential park and who proposes to sell the home; or
- (b) the park owner for a residential park who owns a manufactured home that is positioned on a site in the residential park and who proposes to sell the home.

**36 Insertion of new ss 56A–56C**

After section 56—

*insert—*

**56A Giving notice of intention to sell manufactured home**

- (1) A home owner who owns a manufactured home positioned on a site in a residential park and who proposes to sell the home must give the park owner notice of the home owner's intention to sell the home (***a notice of intention to sell***).
- (2) If there is an approved form for the notice of intention to sell, the notice must be in the approved form.
- (3) A park owner who is given a notice of intention to sell in relation to a manufactured home must, within 7 days after being given the notice, give the

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home owner a notice stating—

- (a) whether the park owner offers services for the sale of manufactured homes in the residential park (*seller services*); and
- (b) the site rent that will be payable by a new home owner under a site agreement for the site on which the manufactured home is positioned.

*Note—*

Under section 62P, it is a condition of joining the buyback and rent reduction scheme in relation to an eligible home that, if the notice given under this subsection states that the park owner offers seller services, the eligible home owner has appointed the park owner under a selling authority as mentioned in section 62P(1)(c).

### **56B Requirements for sale agreement**

- (1) A seller must ensure an agreement for the sale to the buyer of a manufactured home positioned on a site in a residential park (a *sale agreement*)—
  - (a) is in the approved form; and
  - (b) includes the information prescribed by regulation.

Maximum penalty—5 penalty units.

- (2) A seller must not complete a sale agreement for a manufactured home unless—
  - (a) the park owner and the buyer have entered into a site agreement for the site on which the manufactured home is positioned; and
  - (b) the buyer has been given the disclosure documents for the site as required under section 29.

Maximum penalty—5 penalty units.

---

### **56C Sale of manufactured home by home owner**

- (1) This section applies if—
  - (a) a seller and a buyer enter into an agreement for the sale to the buyer of a manufactured home positioned on a site in a residential park; and
  - (b) the seller is not the park owner.
- (2) The seller must give the park owner a notice stating the following details of the buyer—
  - (a) the buyer's name;
  - (b) the buyer's contact details.
- (3) If there is an approved form for the notice, the notice must be in the approved form.
- (4) The park owner must, within 7 days after being given the notice, give the buyer the disclosure documents mentioned in section 29(2) unless the park owner has a reasonable excuse.

Maximum penalty—20 penalty units.
- (5) The park owner may charge the seller a fee for giving the buyer the disclosure documents.
- (6) The park owner must not charge a fee under subsection (5) that is more than the amount, if any, prescribed by regulation.

Maximum penalty—5 penalty units.

### **37 Amendment of s 58 (Park owner not to interfere with sale)**

Section 58(3), 'part 7'—

*omit, insert—*

part 5, division 4

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**38 Amendment of s 62B (Definitions for part)**

Section 62B, as inserted by this Act, definitions *notice of intention to sell* and *seller services*—

*omit.*

**39 Amendment of s 62N (Eligible home owner to give notice of intention to sell eligible home)**

Section 62N(2) and (3), as inserted by this Act—

*omit, insert—*

- (2) The eligible home owner must give the park owner a notice of intention to sell in relation to the eligible home.

**40 Omission of s 62O (Park owner to give eligible home owner particular information)**

Section 62O, as inserted by this Act—

*omit.*

**41 Amendment of s 62P (Joining scheme)**

Section 62P(1)(c) and (3)(a), as inserted by this Act, ‘section 62O’—

*omit, insert—*

section 56A(3)

**42 Amendment of s 62ZI (Valuer may require information from park owner)**

Section 62ZI(1), as inserted by this Act—

*insert—*

- (g) a copy of the maintenance and capital replacement plan for the residential park.

---

**43 Replacement of s 69A (Basis for site rent increase must be stated in site agreement)**

Section 69A—

*omit, insert—*

**69A Basis for site rent increase to be stated in site agreement**

- (1) The park owner must ensure that—
  - (a) the site agreement states the basis for working out the amount of an increase in the site rent; and
  - (b) the basis stated under paragraph (a) is a basis prescribed by regulation for that purpose.
- (2) A site agreement is of no effect to the extent a basis stated in the site agreement for working out the amount of an increase in site rent is not a basis prescribed by regulation for that purpose.

**44 Insertion of new pt 11, div 2A**

Part 11—

*insert—*

**Division 2A Site rent for new home owners entering site agreements**

**70B Declaration of site rents payable by new home owners entering site agreements**

- (1) The park owner for a residential park must, before each general increase day, declare in the comparison document for the residential park the site rent, or the range of site rent, that is payable from the general increase day for a site agreement entered into by a new home owner.

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- (2) The park owner may only declare the site rent under this section once every 12 months.

**45 Amendment of s 71C (Dispute resolution and application to tribunal about special increase in site rent)**

- (1) Section 71C(4), before paragraph (a)—

*insert—*

- (aa) whether the special cost to which the special increase notice relates has been incurred as a result of a failure of the park owner to meet the park owner's obligations in relation to the maintenance and capital replacement plan for the residential park; and

- (2) Section 71C(4)(aa) to (b)—

*renumber* as section 71C(4)(a) to (c).

**46 Insertion of new ss 86B–86E**

After section 86A—

*insert—*

**86B Preparing and keeping maintenance and capital replacement plan**

- (1) The park owner for a residential park must ensure a maintenance and capital replacement plan for the residential park is prepared and kept in accordance with subsection (2).

Maximum penalty—20 penalty units.

- (2) The maintenance and capital replacement plan must—
- (a) if there is an approved form for the plan—be in the approved form; and
- (b) include the information and comply with the procedures and other requirements prescribed by regulation; and



- (c) be revised at the intervals prescribed by regulation.
- (3) The park owner must give the chief executive a copy of the maintenance and capital replacement plan for the residential park—
  - (a) if there is a material change to the plan—within 28 days after the material change is made to the plan; and
  - (b) otherwise—at the intervals prescribed by regulation.

Maximum penalty—20 penalty units.

### **86C Complying with maintenance and capital replacement plan**

- (1) The park owner for a residential park must take reasonable steps to comply with the maintenance and capital replacement plan for the park.

Maximum penalty—20 penalty units.

- (2) A regulation may prescribe particular steps that are reasonable steps for complying with a maintenance and capital replacement plan for a residential park.

### **86D Park owner to give copy of maintenance and capital replacement plan to home owners committee**

- (1) The park owner for a residential park must, within 28 days after revising the maintenance and capital replacement plan for the residential park under section 86B(2)(c), give the home owners committee for the park a copy of the revised plan.

Maximum penalty—20 penalty units.

- (2) If a home owner asks the park owner, in writing, for a copy of the maintenance and capital

[s 47]

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replacement plan for the residential park, the park owner—

- (a) must, within 7 days after the request is made, give the home owner a copy of the plan; and
- (b) must not charge a fee for the plan that is more than the amount prescribed by regulation for giving the copy.

Maximum penalty—20 penalty units.

### **86E Exemption from requirement to prepare and keep maintenance and capital replacement plan**

The park owner for a residential park is exempt from the requirement under section 86B to prepare and keep a maintenance and capital replacement plan if the park satisfies the criteria prescribed by regulation.

## **47 Insertion of new pt 17A**

After part 17—

*insert—*

### **Part 17A Review of decisions**

#### **Division 1 Preliminary**

#### **118 Definitions for part**

In this part—

*affected person*, in relation to a decision, means—

- (a) if the decision is an original decision—a person who must be given, or is entitled to

be given, an information notice for the decision; or

- (b) if the decision is an internal review decision—the person who applied for the internal review.

**information notice**, for an original decision, means a notice stating the following information—

- (a) the decision;
- (b) the reasons for the decision;

*Note—*

See the *Acts Interpretation Act 1954*, section 27B for matters that must be included with the reasons.

- (c) that the person to whom the notice is given may ask for a review of the decision under this Act;
- (d) how, and the period within which, the review may be started.

**internal review**, of an original decision, see section 120(1).

**internal review decision** means a decision made, or taken to have been made, under section 122 on an application for internal review of an original decision.

**original decision** means a decision for which an information notice must be given, or a decision for which a person is entitled to be given an information notice, under this Act.

**QCAT information notice**, for an internal review decision, means a notice complying with the QCAT Act, section 157(2).

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## Division 2      Internal review

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### **119 Review process must start with internal review**

An affected person for an original decision may apply to the tribunal for a review of the decision only if a decision on an application for internal review of the decision has been made, or taken to have been made, under this division.

### **120 Who may apply for internal review**

- (1) An affected person for an original decision may apply to the chief executive for a review of the decision under this division (an *internal review*).
- (2) If the affected person has not been given an information notice for the original decision, the affected person may ask the chief executive for an information notice for the decision.
- (3) A failure by the chief executive to give the affected person an information notice for the original decision does not limit or otherwise affect the person's right to apply for an internal review of the decision.

### **121 Requirements for application**

- (1) An application for internal review of an original decision must—
  - (a) be written; and
  - (b) for a person who has been given an information notice for the decision—include enough information to enable the chief executive to decide the application; and
  - (c) be made to the chief executive within—
    - (i) for a person who has been given an information notice for the decision—28 days after the day the person is given the notice; or

- (ii) for a person who has not been given an information notice for the decision—28 days after the day the person becomes aware of the decision.
- (2) The chief executive may, at any time, extend the period within which the application may be made.
- (3) The application does not affect the operation of the original decision or prevent the decision being implemented.

## **122 Internal review**

- (1) The chief executive must, within 20 days after receiving an application for internal review of an original decision—
  - (a) review the original decision; and
  - (b) decide to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision; and
  - (c) give the affected person for the original decision a QCAT information notice for the chief executive’s decision under paragraph (b).
- (2) The chief executive and the affected person may, before the period stated in subsection (1) ends, agree to a longer period for the chief executive to comply with the subsection.
- (3) The application may be dealt with only by a person who—
  - (a) did not make the original decision; and
  - (b) holds a more senior office than the person who made the original decision.

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- (4) Subsection (3) does not apply to an original decision made by the chief executive personally.
- (5) If the chief executive does not give the affected person a QCAT information notice within the period required under subsection (1) or a longer period agreed under subsection (2), the chief executive is taken to confirm the original decision.

## **Division 3      External review**

### **123 Applying for external review**

- (1) This section applies to a person who must be given a QCAT information notice for an internal review decision.
- (2) The person may apply to the tribunal, as provided under the QCAT Act, for a review of the internal review decision.

*Note—*

The QCAT Act, section 22(3) enables the tribunal to stay the operation of the internal review decision, either on application by a person or on its own initiative.

### **48      Omission of pt 19A (Record of residential parks)**

Part 19A—

*omit.*

### **49      Insertion of new pt 21, div 5, sdiv 4**

Part 21, division 5, as inserted by this Act—

*insert—*

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## **Subdivision 4 Provisions for amendments commencing by proclamation**

### **198 Particular residential parks taken to be registered**

- (1) This section applies in relation to a residential park if, immediately before the commencement, the chief executive kept a record for the residential park under former section 139A.
- (2) From the commencement—
  - (a) the residential park is taken to have been registered by the chief executive under section 18B; and
  - (b) the record kept for the residential park under former section 139A is taken to be information about the residential park included in the residential park register under section 18C.
- (3) The chief executive may, by notice given to the park owner for the residential park, require the park owner, within a stated period of at least 30 days after the notice is given, to give the chief executive information mentioned in section 18C(2) for the residential park.
- (4) The park owner must comply with the requirement unless the park owner has a reasonable excuse.

Maximum penalty—100 penalty units.

### **199 Requirement for site agreement to be in approved form**

New section 25(1) applies only in relation to a site agreement entered into after the commencement.

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## **200 Assignment of home owner's interest in site agreement started before commencement**

- (1) This section applies if—
  - (a) before the commencement—
    - (i) a seller proposed, as mentioned in former section 42, to sell a manufactured home to a buyer and assign the seller's interest in the site agreement to the buyer; and
    - (ii) the seller gave the park owner notice under former section 45 of the proposed assignment of the seller's interest in the site agreement; and
  - (b) immediately before the commencement, the assignment of the seller's interest had not become effective under former section 48.
- (2) This Act as in force immediately before the commencement continues to apply in relation to the assignment of the seller's interest in the site agreement, and the sale of the manufactured home, to the buyer.

## **201 Application of s 62P to particular notices given before commencement**

From the commencement, section 62P applies as if—

- (a) the reference in section 62P(1)(a) and (3)(b) to a notice of intention to sell included a reference to a notice of intention to sell given under section 62N before the commencement; and
- (b) the reference in section 62P(1)(c) and (3)(a) to the notice given to the eligible home owner under section 56A(3) included a reference to a notice given to the eligible



home owner under section 62O before the commencement.

## **202 Basis for increasing site rent under existing site agreement**

- (1) This section applies if—
  - (a) a site agreement entered into before the commencement states a basis for working out the amount of an increase in the site rent; and
  - (b) the basis stated in the site agreement—
    - (i) is a basis other than a basis prescribed by regulation under new section 69A(1)(b); but
    - (ii) is not a market review of the site rent.
- (2) Despite new section 69A, the basis stated in the site agreement continues to have effect.

## **203 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force before its amendment by the amendment Act to the operation of this Act as in force from the commencement; and
  - (b) this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a

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transitional regulation.

(4) This section and any transitional regulation expire on the day that is 2 years after the day this section commences.

(5) In this section—

*amendment Act* means the *Manufactured Homes (Residential Parks) Amendment Act 2024*.

## 50 Replacement of sch 1 (Disclosure documents for a site)

Schedule 1—

*omit, insert—*

### **Schedule 1 Required information about residential park for disclosure documents**

section 29(2)(b)

- 1 the address and real property description of the residential park in which the site is located
- 2 the name and business address of the park owner for the residential park
- 3 the name and business address of the park manager of the residential park
- 4 details of the communal facilities, services and amenities provided in the residential park
- 5 details of any authority, however described, issued under a law of the State necessary for the operation of the residential park

- 
- 6 the rights of a home owner to terminate a site agreement within the cooling-off period under section 33
  - 7 the basic responsibilities of park owners and home owners under part 3, and the obligations of park owners and home owners under part 16
  - 8 how site rent may be varied under part 11
  - 9 how a residential park dispute may be resolved under part 17
  - 10 how a home owner's interest in a site agreement may be assigned under part 5, division 4
  - 11 the rights of a park owner or home owner to terminate a site agreement under part 6, division 3
  - 12 a recommendation that a person seek independent legal advice before—
    - (a) entering into a site agreement; or
    - (b) agreeing to an assignment of a home owner's interest in a site agreement to the person
  - 13 any other information prescribed by regulation

## 51 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *assignment agreement, buyer, default notice period, disclosure documents, form of assignment, initial disclosure documents, notice of intention to sell, sale agreement, seller, seller services, seller's interest* and *supplementary disclosure documents*—  
*omit.*
- (2) Schedule 2—

[s 51]

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*insert—*

***affected person***, in relation to a decision, for part 17A, see section 118.

***assignee*** means a person to whom an interest in a site agreement is being assigned.

***assignor*** means a person assigning the person's interest in a site agreement.

***buyer—***

(a) for part 5, division 3—see section 31C(a); or

(b) for part 9, division 1—see section 55A.

***comparison document***, for a residential park, see section 18H.

***disclosure documents*** see section 29(2).

***emergency plan*** means an emergency plan prepared under section 86A.

***form of assignment***, for part 5, division 4, see section 31K(1).

***information***, for part 4, see section 18.

***information notice***, for an original decision, see section 118.

***internal review***, of an original decision, for part 17A, see section 118.

***internal review decision***, for part 17A, see section 118.

***maintenance and capital replacement plan*** means a maintenance and capital replacement plan prepared and kept under section 86B.

***notice of intention to sell*** see section 56A(1).

***original decision***, for part 17A, see section 118.

***QCAT information notice***, for part 17A, see section 118.

*registered*, in relation to a residential park, for part 4, see section 18.

*residential park register*, for part 4, see section 18C(1).

*seller*—

(a) for part 5, division 3—see section 31C(a); or

(b) for part 9, division 1—see section 55A.

*seller services* see section 56A(3)(a).

*unregistered residential park*, for part 4, see section 18.

## **Part 3                      Other amendments**

### **52      Legislation amended**

Schedule 1 amends the legislation it mentions.

## Schedule 1      Other amendments

section 52

### Fire and Emergency Services Act 1990

#### 1      Section 104RM(1) to (3)—

*omit, insert—*

- (1) This section applies if the home owner for a site in a residential park on which a manufactured home is positioned proposes to—
  - (a) sell the home to another person (the *buyer*); or
  - (b) assign the home owner's interest in the site agreement for the site to another person (the *assignee*).
- (2) The home owner must give the other person notice, in the following document, of whether smoke alarms complying with this division are installed in the manufactured home—
  - (a) for the buyer—the sale agreement for the sale; or
  - (b) for the assignee—the form of assignment for the assignment.

Maximum penalty—5 penalty units.

#### 2      Section 104RM(5), definition *form of assignment*, 'section 47(1)'—

*omit, insert—*

section 31K(1)

**3 Section 104RM(5)—**

*insert—*

*sale agreement* see the *Manufactured Homes (Residential Parks) Act 2003*, section 56B(1).

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