

## OUR NEW ACT

The state Government has advised Amendments to the Act

The *Housing Legislation (Building Better Futures) Amendment Act 2017* was passed by Parliament on 25 October 2017 and assented to on 10 November 2017, and amends the *Manufactured Homes (Residential Parks) Act 2003*.

The changes will increase transparency in relationships between park owners and home owners, and increase security and confidence for home owners.

What will change

Residential parks will have:

- new behavioural standards that guide how park owners, their staff and home owners interact with each other. These standards will ensure respect for the rights and obligations of all parties and the quality of life of home owners.

The following changes will be implemented at a later date, to be advised. These changes will support home owners and prospective home owners.

- A new dispute resolution process will be implemented that aims to resolve disputes prior to a Queensland Civil Administration Tribunal hearing.
- A new pre-contractual disclosure process will introduce a 21-day waiting period to ensure prospective home owners have time to consider information provided by park owners. Prospective home owners will:
  - ◊ receive documents in stages
  - ◊ have time to shop around and seek expert legal and financial advice before they sign their contract
  - ◊ sign a site agreement that contains a no-fault cooling-off period that may be used to terminate the agreement.
- The changes will allow one site rent increase per year.
- If there is to be an increase based on market review, a registered valuer must be used and home owners must be consulted.

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- Site rent Increases outside the terms of the site agreement will also be limited to:
  - ◊ situations where there is a threat to park viability
  - ◊ funding for new facilities if supported by 75% of home owners.
- Park owners will be prevented from charging home owners administrative or meter reading fees.

### **Implementation**

We will continue to work with park owners as these changes are implemented.

Advocacy groups will be consulted during the implementation.

(Source:- <http://www.hpw.qld.gov.au/Housing/IndustryRegulation/ManufacturedHomes/Pages/2017AmendmentsToTheAct.aspx>)



### **ARPO'S ROLE IN THE GOVERNMENT'S BUILDING CONSUMER CONFIDENCE PROGRAM**

In a newspaper article titled 'New Laws to protect Seniors' published in the Sunday Mail on 9 July last year, the Minister stated 'about \$1 million would be spent over two years to boost the resources of groups such as resident groups to ensure **seniors** have a voice'. The new laws referred to were passed by parliament in late October through the Housing Legislation Amendment (Building Better Futures) Act which among other things amended the *Manufactured Homes (Residential Parks) Act 2003*.

Part of the amendments 'commenced' into law on 10 November 2017, although most still await commencement by the Governor's proclamation. We are informed that this is expected to happen in stages over the coming months.

In the meantime, the Queensland Government has gone ahead with its funding initiative and created

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the 'Building Consumer Confidence Program'.

Five organisations, ARQRV (Association of Residents in Queensland Retirement Villages), COTA (Council of the Ageing), National Seniors Australia, Tenants Queensland and ARPQ have been offered funding under the program. They will be supported by PAVIL (Park and Village Information Link – separately funded) and the Department of Housing and Public Works.

The program covers all residential arrangements for seniors.

After deliberation, your committee at ARPQ have accepted the Government offer to join this program, believing that its aims and our own as outlined in our Constitution and Operating Rules are fully compatible.

ARPQ's activities will be limited to assisting Home Owners living in Residential Parks in Queensland, helping them understand the amendments to the *Manufactured Homes (Residential Parks) Act 2003*; and help them build their capacity to

represent their interests to Park Owners and Park Managers.

We also see advantages in working closely with the other organisations, as well as the Department. Also, the recognition gained through our participation in this program will go a long way to building our membership base.

As this program evolves, it is our intention to not only provide information and support to you, our members, but also to all Home Owners in Residential Parks and to any other seniors who may be considering this type of accommodation; in the hope that they will be better informed of their rights under law, then becoming members themselves which will help further fund this important work.

The program is currently in the planning phase, with an extensive range of Information Dissemination and Community Education activities starting in around three months time.

We will provide regular reports on the program progress.

## THE ACT AND REGULATION(S)

An **ACT** is legislation passed by the Parliament.

Acts can only be amended by another Act of Parliament and set out the broad legal/policy principles.

**REGULATIONS** are commonly known as "subsidiary legislation" and **only require publishing in the *Government Gazette* to become legal.**

These are the guidelines that dictate how the provisions of the Act are applied.  
(They may also contain *pro forma* official forms that are required under the Act.)

The Manufactured Homes (Residential Parks) Regulation 2017, section 3 commenced operation on 1 October 2017.

These regulations **prohibit** particular types of special terms **in Site Agreements**; These are:-

- To calculate site rent increases in a misleading way. *e.g. a rental increase is calculated in accordance with CPI but includes additional charges* or
- Require a home owner to pay other charges but does not fully explain the charges, or
- Requiring a home owner to gain consent of park owner before complying with a requirement under law, or
- State that if the seller assigns the seller's interest in a site agreement to a buyer, the site agreement between the seller and the park owner does not end until the buyer enters into a site agreement with the park owner, or
- Require the home owner to give a current building inspection certificate to the park owner, or
- Restrict or prohibit an alteration to the home that is not visible from the outside, or
- Allow the park owner to consent to an alteration or addition that is contrary to section 98, or
- Require the home owner to indemnify the park owner, employees, contractors or agents for loss that was not caused by the home owner, guests, contractors or agents.
- Give the park owner either of the following rights [1] to buy the home before another person, [2] a right to make a final offer after all other offers, or
- To state that site rent will not be reduced if there is a decrease or reduction in standards, amenities or community facilities, been withdrawn or not provided, or
- To state that the park owner does not warrant that the site is suitable for use as the site of a manufactured home, or
- To state that the park owner may exclude a person from the park without reasonable grounds, or
- To appoint the park owner as an attorney for the home owner, or
- To state that the seller is liable for the actions of a buyer after the seller assigns his interest to the buyer, or
- To state that referring to the site agreement is a sufficient way to explain how an increase in site rent is calculated for the Act, or

## PHOTOELECTRIC SMOKE ALARMS COMPULSORY

Changes will be phased in over 10 years from 1<sup>st</sup> January 2017. Ultimately all dwellings in Queensland will have Photoelectric Smoke Alarms, in each bedroom as well as hallways that service the bedrooms; they must be interconnected (hard wired).

### From 1st January 2017

- ALL dwellings (new and substantial alterations) MUST install 240v Hard Wired and interconnected Photoelectric Smoke alarms.
- If an existing alarm is faulty, damaged, fails to sound when tested or expired<sup>\*\*\*</sup>, it must be replaced with a Photoelectric Smoke alarm. If existing smoke alarms are hard wired, the replacement alarm needs to be hard wired.
- In other cases, replacement Photoelectric Smoke Alarms may be powered by a 10-year tamper proof battery.

### From 1st January 2022

ALL dwellings that are sold or leased will need to comply at the time of contract or sale.

### From 1st January 2027

ALL DWELLINGS must comply.

**\*\*\* Smoke alarms only have a 10 (ten) year lifespan FROM DATE OF MANUFACTURE, not date of installation or date of you occupying a dwelling.**

**If your alarms are over 10 years old (from date of manufacture), they MUST be replaced.**

It is also recommended you review the Product Disclosure Statement of your House and Contents insurance Policy, it will read something like:-

“When you renew (or alter) your policy your duty is to disclose BEFORE renewal every matter you know is relevant to whether the insurance company will accept the risk”

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- Purports to exclude legislation from affecting the site agreement, or
- Impose a monetary penalty on a home owner if there is a breach in the site agreement, or
- Remove a park owner's liability for negligence or a breach of a contractual duty of care if the negligence or breach is caused by an act or omission of the park owner, or employees, contractors or agents, or
- Prohibit or prevent the park owner from reducing the site rent for any reason.

### PHOTOELECTRIC SMOKE ALARMS COMPULSORY (cont.)

It will also state that you have a duty to comply with legislation and Australian Standards.

It is doubtful your insurance company will offer insurance if it is aware that you are not compliant with the legislation etc.

Also, a problem arises that *in the event of a fire destroying your dwelling*, the insurance company will probably ask you to prove compliance with smoke alarm legislation.

This can be practically an impossible situation and may hold up settlement.

It is recommended that you keep an off-site record of compliance (e.g. copy of invoices). This can be with relatives, e.g. son, daughter, etc.

Another way is to engage the services of Smoke Alarm Service organisation. A competent organisation will keep a record of smoke alarm installation and/or changeover and regular maintenance.

The annual premium is reasonable and can be considered as part of your annual insurance costs.

You can then rest assured that you are complying with the legislation and have a record of same.

Thanks to Logan House Fire Support Network for information and support—visit [LHFSN.org](http://LHFSN.org)

### ATTENTION: ARPQ members who use **GAS WATER HEATERS.**

A member recently received an excessive gas account and subsequently found it was the result of the **faulty water pressure reducing valve** in the **gas water heater**. He was responsible for the account!

If the **water pressure** to the instantaneous gas hot water system is **low**, the gas **will not light** when the water is passing through the heater. It does release gas into the boiler section but, by not lighting, it effectively becomes a leak into the atmosphere.

When using a gas water heater, the hot water tap needs to be turned on fully and the temperature adjusted by the cold tap. The Gas water heater should be serviced every couple of years and the water pressure reducing valve checked to remain effective—Greg (Advocacy)

## **NEW SECTIONS IN OUR ACT**

Manufactured Homes (Residential Parks) Act 2003

(Reprint current from 10 November 2017)

From 10 November 2017, certain parts of our Act have been amended.

New Sections 104 and 105 are included for the first time, and are reprinted here for your information.

### **104 Park owner to respect rights of home owners and other residents**

- (1) The park owner for a residential park must respect the rights of home owners and other residents of the park.
- (2) Without limiting subsection (1), the park owner—
  - (a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of a home owner or other resident; and
  - (b) must take reasonable steps to ensure a home owner or other resident, or the guest of a home owner or other resident, does not interfere with the reasonable peace, comfort or privacy of another home owner or resident; and
  - (c) must use the park owner's best endeavours to ensure each home owner or other resident lives in an environment free from harassment and intimidation; and
  - (d) must not unreasonably restrict the right of a home owner or other resident to autonomy over their personal, financial or other matters or possessions; and
  - (e) must not unreasonably restrict a home owner or other resident from exercising self-reliance in matters relating to their personal, domestic or financial affairs; and
  - (f) must, within 21 days after receiving relevant correspondence from the home owner or other resident, or a representative of a home owner or other resident (each a **correspondent**), give the correspondent a complete response to the relevant correspondence.
- (3) However, if under subsection (2)(f), the park owner gives a correspondent a complete response to relevant correspondence (the **previous response**), the park owner is not required to give the correspondent another complete response addressing the same, or substantially the same, complaint, proposal or question addressed in the previous response.
- (4) In this section—  
**complete response**, to relevant correspondence, means a written response

#### **Many thanks to Logan Council's Bethania Community Centre**

For use of a meeting room during the year and the main Auditorium for our AGM.

Bethania Community Centre has rooms for hire, just contact Chris on (07) 3805 2687



## **STOP PRESS**

### **Please Note**

Our 2018 AGM will be on Tuesday, 23rd October, venue and time to be advised.

Please note in your diary.

addressing each complaint, proposal and question in the relevant correspondence.

**relevant correspondence** means a written complaint, proposal or question about the operation of the park.

**representative**, of a home owner or other resident, means an entity—

(a) established to represent the interests of the home owner, resident or home owners and residents generally; and

(b) that is authorised by the home owner or resident to give relevant correspondence to the park owner.

### **105 Home owners to respect rights of others**

- (1) A home owner for a residential park must respect the rights of other residents of the park and other persons in the park.
- (2) Without limiting subsection (1), a home owner—
  - (a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of another resident; and
  - (b) must respect the right of the park owner, park manager or a representative of the park owner or park manager to work in an environment free from harassment and intimidation; and
  - (c) must not act in a way that adversely affects the occupational health and safety of a person working in the residential park.
- (3) A home owner for a residential park must also ensure, as far as reasonably practicable, the home owner's tenant or guest complies with subsection (2)(a) to (c).
- (4) In this section—  
**representative**, of a park owner or park manager, means—
  - (a) if the park owner or park manager is a corporation—an executive officer, employee or agent of the corporation; or
  - (b) if the park owner or park manager is an individual—an employee or agent of the individual.

If you are interested in helping us to help you more, or in growing our organisation to what it can and should be, please contact one of the Management Committee (refer our 'Contacts' webpage). **Please do not be backward in coming forward.**