

OCCUPANCY AGREEMENT

HOLIDAY PARKS (LONG-TERM CASUAL OCCUPATION) ACT 2002 No 88

SCHEDULE 1

Terms that are taken to be in every occupation agreement (Sections 11, 14, 15 and 16)

PART 1

INTRODUCTION

1. Date of this agreement

(Fill in date on which both the park owner and the occupant signed the agreement, or, if one signed on one date and the other on a later date, fill in the later date).

...../...../.....

2. Who is making this agreement?

This agreement is made between: (a) the park owner, (fill in the name and address of the park owner),

<i>Park owner (name in block letters):</i>	<i>Address:</i> <i>Post code:</i>
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and (b) the occupant or each of the occupants, (fill in the name and address of the occupant or occupants)

<i>Name of occupant (name in block letters):</i>	<i>Address of occupant:</i> <i>Post code:</i>
<i>Name of occupant (name in block letters):</i>	<i>Address of occupant:</i> <i>Post code:</i>

3. Where is the site?

(1) This park owner gives the occupant the right to occupy site number (fill in the site number) at (fill in the name and address of the holiday park) and the following parking space and storeroom (fill in details of any parking space or storeroom)

<i>Site no:</i>	<i>Name of holiday park:</i> <i>Address of holiday park:</i> <i>Post code:</i>	<i>Parking:</i> <i>Storeroom:</i>
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(2) The size of the site is (fill in the dimensions of the site or its area in square metres)metres squared

4. Who can occupy the site?

No more than *(fill in number)*persons may ordinarily occupy the site at any one time.

5. How long does this agreement last?

The fixed term of this agreement is for *(fill in the length of time that this agreement is for)*, beginning on *(fill in start date)* and ending on *(fill in end date)*.

<i>Length of time:</i>	<i>Beginning on:...../...../.....</i>	<i>Ending on:...../...../.....</i>
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6. What happens when this agreement ends?

When the time for this agreement ends:

(a) the occupant can stay on the site at the same occupation fee (or at an increased fee if the fee is increased in accordance with this agreement) and otherwise under the same terms unless or until this agreement is ended in accordance with this agreement, or

(b) *(fill in what else is agreed will happen when the time for this agreement ends):*

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7. Agreement to comply with the terms of this agreement

The park owner and occupant agree to comply with the terms of this agreement.

PART 2
OCCUPATION FEES AND CHARGES

8. Amount of occupation fees

The occupation fees payable are *(fill in amount)* payable every *(specify whether the fees are payable every week, fortnight, month or quarter)* starting on *(fill in date)*.

Fill in the applicable row:

Amount payable: \$.....	Weekly starting:...../...../.....
Amount payable: \$.....	Fortnightly starting:...../...../.....
Amount payable: \$.....	Monthly starting:...../...../.....
Amount payable: \$.....	Quarterly starting:...../...../.....

9. Amount of other charges (such as water, electricity or gas charges)

The occupant agrees to pay, in connection with the site, for *(fill in the things that the occupant agrees to pay for, such as water charges, electricity charges, gas charges etc)*:

Charges

10. Payment of council rates and other charges by park owner

The park owner agrees to pay, in connection with the holiday park on which the site is situated, for:

- (a) council rates, and
- (b) land taxes, and
- (c) *(fill in the other things that the park owner agrees to pay for, such as water charges, electricity charges, gas charges etc)*.

Charges

11. Occupation fees are payable in advance and on time

(1) The occupant agrees to pay the occupation fees in advance on the *(fill in day or date)*..... of every *(specify whether the fees are payable every week, fortnight, month or quarter)*.....

(2) The occupant agrees to pay the occupation fees on time.

12. How to pay occupation fees

The occupation fees may be paid in the following ways *(fill in any way that occupation fees may be paid)*:

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These methods of paying may be changed during the term of this agreement if both the park owner and the occupant agree.

13. Manner of paying occupation fees

Occupation fees must be paid *(cross out whichever does not apply of (a), (b) or (c))*:

(a) to the park owner, or the park manager, at:

<i>Address:</i> <i>Post code:</i>

[fill in address of park owner or park manager], or

(b) at any other reasonable place the park owner names to the occupant in writing, or

(c) into the following account: *(fill in account details)*, or any other account nominated to the occupant by the park owner.

<i>Bank:</i>	<i>Account name:</i>
<i>Branch:</i>	<i>Account number:</i>

14. Receipts for occupation fees or other charges

- (1) The park owner agrees to provide a receipt for any occupation fees or other charges under this agreement paid to the park owner or to make sure that the park manager provides a receipt for the occupation fees or charges paid to the park manager. If the occupation fees or charges are not paid in person, the park owner agrees only to make the receipt available for collection by the occupant or to post it to the occupant.
- (2) The park owner agrees that any receipt for occupation fees or charges must include the following particulars:
 - (a) the name and address of the holiday park, and the number of the site,
 - (b) the period for which the fees or charges are paid,
 - (c) the date on which the fees or charges are received,
 - (d) the amount of fees or charges paid.
- (3) The park owner is not required to provide or make available a receipt if occupation fees or other charges are paid, in accordance with an agreement between the park owner and the occupant, into an account at an authorised deposit-taking institution (such as a bank, building society or credit union) nominated by the park owner.

15. Fee increases

- (1) The park owner cannot increase the occupation fees during the fixed term of this agreement unless: *[fill in any circumstances in which the occupation fees can be increased]*

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- (2) The occupant must be given 30 days' notice in writing if the park owner wants to increase the occupation fees, if an increase is permitted by subclause (1). This applies even when this agreement provides for, or permits, an occupation fee increase. Where a notice of an increase has been given and the park owner and occupant subsequently agree to a lesser increase than that set out in the notice, the park owner does not need to give a further 30 days' notice.

16. Refund of occupation fees

The park owner agrees to refund any fees paid in advance if the occupancy is ended by the park owner before the end of the fixed term agreement.

PART 3

RIGHTS AND OBLIGATIONS

DIVISION 1

OBLIGATIONS OF THE OCCUPANT

17. Offensive behaviour

The occupant agrees not to interfere with or cause or permit interference with, or allow any person that the occupant invites into the holiday park to interfere with:

- (a) the reasonable peace, comfort or privacy of any neighbour of the occupant or any other person lawfully in the holiday park, or
- (b) the proper use and enjoyment of the holiday park by the other occupants or residents of the holiday park.

18. Use of the site

The occupant agrees:

- (a) not to use the site, or cause or permit the site to be used, for any illegal purpose, and
- (b) not to cause or permit a nuisance.

19. Cleanliness of and damage to the site

The occupant agrees:

- (a) to keep the site reasonably clean, and
- (b) to notify the park owner as soon as practicable of any damage to the site, and
- (c) not to intentionally or negligently cause or permit any damage to the site or any other part of the holiday park, and
- (d) when this agreement ends, to leave the site as nearly as possible in the same condition (fair wear and tear excepted) as when this agreement started.

20. Alterations and additions to the site

The occupant agrees not to attach any fixture or renovate, alter or add to the moveable dwelling or the site without the park owner's prior written permission.

21. Occupant's responsibility for the actions of others

The occupant agrees to be responsible to the park owner for any act or omission by any person the occupant allows on the site, or elsewhere in the holiday park, who breaks any of the terms of this agreement (including any park rules for casual occupants that are terms of this agreement).

22. Keys and opening devices

The occupant agrees to return any key or other opening device provided to the occupant, when this agreement is terminated.

23. Selling the moveable dwelling

The occupant agrees not to sell the occupant's moveable dwelling while it is on the site without the prior written permission of the park owner or a Consumer, Trader and Tenancy Tribunal order.

24. Agreement not to transfer without consent

(1) The occupant agrees not to transfer the whole or part of the occupant's interest under this agreement without the park owner's prior written permission.

(2) The occupant agrees that the park owner may require a new occupation agreement to be entered into.

25. Moveable dwellings must comply with law

The occupant agrees to make sure that the moveable dwelling complies with any regulations under the Local Government Act 1993 with which it is required to comply.

26. Condition of moveable dwelling and other structures

The occupant agrees to make sure that the moveable dwelling and any other structure that the occupant is permitted to erect is kept in a condition allowing it to be moved.

DIVISION 2

OBLIGATIONS OF THE PARK OWNER

27. Possession of the site

The park owner agrees:

(a) to make sure the site is vacant so the occupant can move in on the date agreed, and

(b) that there is no legal reason that the park owner knows about, or should know about when signing this agreement, why the site cannot be used as the site of a residence for the term of this agreement.

28. Occupant's right to no interruption

The park owner agrees that the occupant will have use of the site without undue interruption by the park owner.

29. Cleanliness

The park owner agrees to make sure the site, everything provided with the site for use by the occupant, and the common areas of the holiday park, are reasonably clean and fit to occupy or use.

30. Tradespeople allowed to come in

The park owner and occupant agree that any tradespeople that the occupant reasonably requests should be allowed into the holiday park will be allowed in without unreasonable interference.

31. Permitting family members of occupant and others to temporarily occupy a site

(1)The park owner agrees to allow any family member of the occupant or any other person to temporarily occupy the site if he or she has the prior permission of the occupant and the park owner.

(2)The park owner and occupant agree that the park owner may demand proof that the family member of the occupant or any other person has the permission of the occupant to occupy the site. That proof may be given in person, in writing or over the telephone.

**PART 4
AGREEMENT TO MINIMISE LOSS**

32. Parties to minimise loss from breach of agreement

The park owner and the occupant agree that the rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of this agreement. (For example, if the occupant breaches this agreement the park owner will not be able to claim damages for loss that could have been avoided by reasonable effort by the park owner.)

**PART 5
WHEN CAN SOMEONE ELSE COME ONTO THE SITE?**

33. Park owner’s access to the site

The park owner agrees that the park owner, the park manager or any person authorised in writing by the park owner, during the currency of this agreement, may enter the site only in the following circumstances:

- (a) in an emergency (including entry for the purpose of carrying out urgent repairs),
- (b) if the Consumer, Trader and Tenancy Tribunal so orders,
- (c) if there is good reason for the park owner to believe the site is abandoned,
- (d) if electricity, water or gas is supplied to the occupant by the park owner, to inspect and read an electricity, water or gas meter situated on the site,
- (e) to carry out regular maintenance and caretaking of the site, such as by mowing the lawn,
- (f) to carry out functions required under any legislation,
- (g) if the occupant agrees,
- (h) [*fill in any additional circumstances*].....

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PART 6

OBLIGATIONS OF THE PARK OWNER RELATING TO PARK RULES FOR CASUAL OCCUPANTS

34. Park rules for casual occupants

The park owner agrees to give the occupant a copy of any park rules for casual occupants that are in force for the holiday park, before or at the time they enter into this agreement.

35. Obligation to promote compliance with park rules for casual occupants

The park owner agrees to take all reasonable steps to make sure that the park owner's other occupants do not contravene any park rules for casual occupants for the holiday park.

PART 7

ENDING THIS AGREEMENT

DIVISION 1

WHEN CAN THIS AGREEMENT BE ENDED?

36. Ending this agreement

The park owner and the occupant agree that this agreement can be terminated in one or more of the following circumstances:

- (a) if the park owner or the occupant gives notice of termination under this Part,
- (b) if the Consumer, Trader and Tenancy Tribunal makes an order terminating this agreement,
- (c) if a person having superior title to that of the park owner becomes entitled to possession of the site,
- (d) if a person succeeding to the title of the park owner (for example, a purchaser) becomes entitled to possession of the site to the exclusion of the occupant,
- (e) if a mortgagee in respect of the site becomes entitled to possession of the site to the exclusion of the occupant,
- (f) if the occupant abandons the site,
- (g) if the occupant delivers up vacant possession of the site with the prior permission of the park owner, whether or not that permission is subsequently withdrawn,
- (h) by merger (that is, where the interests of the park owner and the occupant become vested in the one person),
- (i) by disclaimer (for example, on repudiation by the occupant accepted by the park owner),
- (j) if the fixed term ends, there is no provision for a continuing agreement and the park owner or the occupant has terminated the agreement after the expiry of the next period for which the occupation fee was payable.

DIVISION 2

WHEN CAN THE OCCUPANT END THIS AGREEMENT?

37. Termination by occupant on breach of agreement

- (1) The park owner and the occupant agree that the occupant may give the park owner a notice of termination of this agreement if the park owner has breached a term of this agreement.
- (2) The park owner and the occupant agree that a notice of termination given under this clause must give at least 7 days' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (3) If this agreement creates an occupancy for a fixed term, the park owner and the occupant agree that a notice of termination given under this clause is not ineffective merely because the day specified as the day on which vacant possession of the site will be delivered up to the park owner is earlier than the day the term ends.

38. Notice of termination by occupant without any reason (but not for a fixed term agreement that has not finished)

- (1) The park owner and the occupant agree that the occupant may give notice of termination of this agreement without having to give any reason.
- (2) The park owner and the occupant agree that a notice of termination given under this clause must give at least 30 days' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (3) This clause does not apply if the agreement creates an occupancy for a fixed term and that term has not finished.

DIVISION 3

WHEN CAN THE PARK OWNER END THIS AGREEMENT?

39. Termination on breach of agreement

- (1) The park owner and the occupant agree that the park owner may give notice of termination of this agreement to the occupant if the occupant has breached a term of this agreement.
- (2) The park owner and the occupant agree that a notice of termination given under this clause must not specify a day earlier than 7 days after the day on which the notice is given as the day on which vacant possession of the site is to be or will be delivered up to the park owner.
- (3) The park owner and the occupant agree that a notice of termination given by a park owner on the ground of a breach of the agreement to pay occupation fees has no effect unless the fees have remained unpaid in breach of this agreement for not less than 14 days before the notice is given.
- (4) The park owner and the occupant agree that a notice of termination given by a park owner on the ground of a breach of the agreement to pay occupation fees is not ineffective merely because of any failure of the park owner or the park manager to make a prior formal demand for payment of the fees.
- (5) If this agreement creates an occupancy for a fixed term, the park owner and the occupant agree that a notice of termination given under this clause is not ineffective because the day specified as the day on which vacant possession of the site is to be or will be delivered up to the park owner is earlier than the day the term ends.

40. Notice of termination by park owner without any reason (but not for a fixed term agreement that has not finished)

- (1) The park owner and the occupant agree that the park owner may give notice of termination of this agreement without having to give any reason.
- (2) The park owner and the occupant agree that a notice of termination given under this clause must give at least 3 months' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (3) This clause does not apply if the agreement creates an occupancy for a fixed term and the notice of termination specifies that it takes effect before that term finishes.

DIVISION 4

NOTICES OF TERMINATION

41. Notices of termination

The park owner and the occupant agree that a notice of termination must:

- (a) be in writing, and
- (b) state the address and site number of the site, and
- (c) be signed by the person giving it, and
- (d) be dated, and
- (e) allow the required period of time, and
- (f) give the date the occupant intends to, or is required to, give vacant possession, and
- (g) give the reasons for ending this agreement (if any), and
- (h) be properly given.

42. How notices are properly given

- (1) The park owner and the occupant agree that a notice of termination given to the occupant may be:
 - (a) posted to the occupant's site and to the occupant's principal place of residence, or
 - (b) given to the occupant personally, or
 - (c) given to a person aged over 16 who normally pays the occupation fees, or
 - (d) given to a person aged over 16 who occupies the site to pass on to the occupant.
- (2) The park owner and the occupant agree that a notice of termination given to a park owner may be:
 - (a) posted to the park owner's residence, or
 - (b) given to the park owner or to the park manager personally, or
 - (c) posted or faxed to the park owner's, or park manager's, place of business, or
 - (d) given to a person aged over 16 who normally collects the occupation fees.

**DIVISION 5
MISCELLANEOUS**

43. Apportionment and recovery of occupation fees on termination

The park owner and the occupant agree that the occupation fees payable under this agreement accrue from day to day and on termination any outstanding occupation fee is payable.

44. Breach or notice of termination not waived by acceptance of occupation fees

The park owner and the occupant agree that a demand for, any proceedings for the recovery of, or acceptance of, occupation fees payable under this agreement by the park owner:

(a) does not operate as a waiver of:

- (i) any breach of this agreement, or
- (ii) any notice of termination on the ground of breach of this agreement given by the park owner, and

(b) is not evidence of the creation of a new occupancy.

45. Signatures to this agreement

Signed by the occupant:.....Date:.....

Signed by the occupant:.....Date:.....

Signed by the occupant:.....Date:.....

Signed by the occupant:.....Date:.....

Signed by the park owner:.....Date:.....