

Community rules

Residential (Land Lease) Communities Act 2013

As a home owner in a residential land lease community you have rights under the *Residential (Land Lease) Communities Act 2013* and *Residential (Land Lease) Communities Regulation 2015*. This factsheet explains the law in NSW regarding community rules.

What rules can be about

Community rules can be made about the use, enjoyment, control and management of a community. The community rules must be written, be fair and reasonable, and be clearly expressed (easy to understand).

If a community rule conflicts with a term of a site or tenancy agreement, the agreement prevails (the rule is invalid). A rule is also of no effect if it is inconsistent with the *Residential (Land Lease) Communities Act 2013* or any other Act or law.

A rule cannot invalidate anything that has already happened. For example, if a rule is introduced banning residents from creating gardens on their sites, an existing garden would not have to be removed.

Similarly, if a rule is introduced that prohibits pets in a community, it does not apply to a pet that is already living with a resident in the community when the rule is made.

Amendment of community rules

If an operator wants to amend the community rules they must provide each resident of the community with written notice of the proposed amendment.

If the community has a residents committee, the operator must advise and consult with the committee about the amendment before giving notice to residents.

The written notice must be given to residents at least 30 days before the day on which the amendment is to have effect.

The same process applies if the operator wants to introduce a new rule, replace an existing rule with a new one, or replace all the current rules with a new set of rules.

Compliance

The residents (tenants and home owners), owner and operator of the community must comply with the community rules.

Residents must try to ensure that their guests and any occupants who live with them also comply.

The operator must use reasonable endeavours to ensure compliance with the community rules by the following people:

- all residents and occupants, and
- any employees of the operator, and
- any other person the operator invites into the community

The community rules also apply to casual occupants where the site is occupied under an occupation agreement subject to the *Holiday Parks (Long-term Casual Occupation) Act 2002*.

Enforcement

The operator must ensure that the community rules are interpreted and enforced consistently and fairly.

If a resident breaches a community rule the operator can give the resident a written notice requiring them to remedy (fix) the breach within a specified period of at least 30 days. If the resident does not remedy the breach the operator can make an application to the NSW Civil and Administrative Tribunal (NCAT). The application must be made within a further 30 days.

NCAT can make an order requiring the resident to comply with the rule or, if it is justified, terminating the resident's agreement.

A resident can issue the operator with a written notice requiring the operator to take action for the remedy of a breach by any other person in the community within a specified period of at least 30 days. If the breach is not remedied within that period the resident can, within a further 30 days make an application to NCAT.

NCAT can make an order requiring compliance with the rule within a specified period.

Disputes about community rules

A resident can apply to NCAT about whether a community rule complies with the Act, or whether the procedure for making or amending a rule has been correctly followed. The application must be made within 28 days of receipt of the written notice of the new or amended rule.

FURTHER HELP

Tenants Advice and Advocacy Services

Sydney

South	9787 4679
South West	4628 1678
Inner West	9559 2899
North	9559 2899

Regional

Blue Mountains	4704 0201
Central Coast	4353 5515
Hunter	4969 7666
Illawarra & South Coast	4274 3475
Mid Coast	6583 9866
Northern Rivers	6621 1022
North West NSW	1800 836 268
South West NSW	1300 483 786

Aboriginal

Sydney	9833 3314
Northern NSW	1800 248 913
Southern NSW	1800 672 185
Western NSW	1800 810 233

Website	thenoticeboard.org.au
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NSW Fair Trading	13 32 20
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This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. The information applies to people who live in, or are affected by the law as it applies in New South Wales, Australia.

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