

# Community rules



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.

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.

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 occurred. For example, if a rule is introduced that bans residents from creating gardens on their sites, this would not mean that any garden already created would 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 a community rule they must provide each resident of the community with written notice of the 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 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 or replace current rules with new ones.

## Disputes about community rules

A resident can apply to the NSW Civil and Administrative Tribunal (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.

## Compliance and enforcement

All residents plus the owner and operator of a community are required to comply with the community rules.

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

Operators must use reasonable endeavours to ensure compliance by:

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

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

## Breaches of rules

If a resident breaches a community rule the operator can give the resident a written notice 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 NCAT. This application must be made within a further 30 days.

NCAT can make orders 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 the timeframe 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.

## FURTHER HELP:

### Tenants Advice and Advocacy Services

#### Sydney

South	9787 4679
South West	4628 1678
West	8833 0933
Northern	8198 8650

#### 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
North NSW	1800 248 913
South NSW	1800 672 185
West NSW	6884 0969

<b>Website</b>	<a href="http://thenoticeboard.org.au">thenoticeboard.org.au</a>
----------------	--

<b>Law Access</b>	1300 888 529
-------------------	--------------

<b>Fair Trading</b>	13 32 20
---------------------	----------

<b>Find Legal Answers</b>	<a href="http://www.legalanswers.sl.nsw.gov.au">www.legalanswers.sl.nsw.gov.au</a>
---------------------------	--

This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or are affected by the law as it applies in New South Wales, Australia.

© Tenants' Union of NSW

Updated: November 2017

This publication has been produced with the financial assistance of the Law and Justice Foundation of NSW. The Foundation seeks to advance the fairness and equity of the justice system and to improve access to justice, especially for socially and economically disadvantaged people.  
<https://www.lawfoundation.net.au>

**Disclaimer:** any opinions expressed in this publication are those of the authors and do not necessarily reflect the views of the Law and Justice Foundation's Board of Governors.