

Moving into a land lease community

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 moving in.

Site agreement

When you buy a home in a land lease community you need to enter into a site agreement with the operator. There are two ways to enter into a site agreement – the previous home owner can assign (transfer) their agreement to you or you can enter into a new agreement.

If you are assigned a site agreement you take over that agreement on the same terms as the previous home owner, including the site fees.

In any new site agreement the site fees must not exceed fair market value. Fair market value is the higher of the following:

- the site fees currently payable by the home owner selling the home,
- the site fees currently payable for sites of a similar size and location in the community.

If you are unsure whether the site fees in the agreement are fair market value seek advice before you sign it.

A new site agreement must be a written agreement and the operator is required to provide you with a copy free of charge.

The agreement must be in the standard form but it can contain additional terms if they are permitted by law and are set out in a separate and clearly labelled part of the site agreement.

The operator, or a person acting on their behalf must not induce you to enter into a site agreement by giving you information or making a promise that is false, misleading or deceptive.

Your right to information

At least 14 days before entering into a new site agreement the operator must provide you with a

disclosure statement. It must be in the approved form and include the following information:

- details of the fees and charges payable under your proposed site agreement
- details of the current range of site fees paid in the community
- details of the services and facilities available in the community
- details of compliance with statutory requirements that apply to the community.

The disclosure statement must be signed and dated by the operator.

Before a site agreement is signed the operator must also provide you with:

- a site condition report
- a copy of the current community rules
- “Moving into a Land Lease Community?” brochure published by NSW Fair Trading.

You must acknowledge receipt of these documents in the site agreement and should not sign it unless they have been provided.

If the operator is your electricity supplier they must also provide you with information about the electricity supply, charges and payments as required by the (Retail) Exempt Selling Guideline.

Your right to seek legal advice

The operator must not restrict your right to seek independent legal advice before entering into a site agreement. A site agreement is a legally binding contract and it is a good idea to get advice before signing it. Free advice is available from your local Tenants Advice & Advocacy Service.

Fees and charges

The operator must not request or demand or receive any fee or charge before entering into a site agreement with you other than a deposit to build or provide a home.

You may be asked to pay the cost of registering the site agreement under the *Real Property Act 1900* if the fixed term exceeds three years.

You can be charged a refundable deposit to a maximum of \$25 for a key or opening device to access the community.

The operator cannot require you to pay your site fees more than two weeks in advance.

The operator is permitted to charge GST on your site fees. The rate they can charge for GST is a concessional rate of 5.5%.

Cooling off period

You have a 14 day cooling-off period from the date you enter into a site agreement if you are not yet living in the home on the site. During the cooling-off period you can cancel the site agreement by giving written notice to the operator. You do not have to pay compensation of any kind for cancelling the agreement.

If you cancel your site agreement and you are purchasing a home from the operator you can also cancel the contract for sale within the cooling off period. Again, you do not have to pay compensation for cancelling the contract.

Security of tenure

Land lease communities do not provide security of tenure. Any right to occupy a home on a residential site under a site agreement is a leasehold right only and the operator has the right to terminate your agreement in certain circumstances. For more information about termination see the termination factsheets on our website: thenoticeboard.org.au

Factsheet last updated September 2023

For free advice, call your local Tenants Advice & Advocacy Service:

SYDNEY:

• Eastern	9386 9147
• Inner	9698 5975
• Inner West	9559 2899
• Northern	9559 2899
• Southern	9787 4679
• South West	4628 1678
• Western	8833 0933

REGIONAL:

• Blue Mountains	4704 0201
• Central Coast	4353 5515
• Hunter	4969 7666
• Illawarra Sth Coast	4274 3475
• Mid Coast	6583 9866
• Northern Rivers	6621 1022
• Northwest NSW	1800 836 268
• Southwest NSW	1300 483 786

ABORIGINAL:

• Sydney	9833 3314
• West NSW	6881 5700
• South NSW	1800 672 185
• North NSW	1800 248 913

WEBSITE: tenants.org.au

NSW FAIR TRADING: 13 32 20

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