

Movable dwellings

A guide for residents,
owners and managers



New renting laws

In September 2018, the Victorian Government passed the *Residential Tenancies Amendment Act 2018*, which includes more than 130 changes to the *Residential Tenancies Act 1997*.

The new laws will come into effect progressively, and will all be in place by 1 July 2020.

To view all the changes, visit engage.vic.gov.au/fairersaferhousing.

For updates, visit consumer.vic.gov.au.

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Disclaimer

Because this publication avoids the use of legal language, information about the law may have been expressed in general statements. This guide should not be relied upon as a substitute for the *Residential Tenancies Act 1997* or professional legal advice.

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Movable dwellings: A guide for residents, owners and managers is the summary approved by the Director of Consumer Affairs Victoria of the rights and obligations surrounding site agreements between residents who own their movable dwelling but rent the underlying land and site owners (usually park owners) who rent out such sites. Site owners must give the resident this guide on or before the day they move in.

If you would like to receive this publication in an accessible format please visit consumer.vic.gov.au or ring 1300 55 81 81.

Additional copies

Additional copies of this guide are available from Consumer Affairs Victoria's website consumer.vic.gov.au/forms.

To order more than five copies download an order form from consumer.vic.gov.au/forms.

Information about renting is available in other languages at consumer.vic.gov.au/languages.

If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450 and ask to speak to Consumer Affairs Victoria on 1300 55 81 81.

Contents

Introduction	4	When a park is closing.....	22
About this guide	4	Confused about a 'Notice to Vacate'?.....	24
Definitions	5	Violent situations.....	24
Penalties.....	5	Reasons and minimum notice periods when an owner gives a 'Notice to Vacate'.....	25
Privacy.....	5	When a mortgagee wants a resident to leave.....	26
Checklist for residents.....	6	Reasons a resident can challenge a 'Notice to Vacate'.....	26
Checklist for owners.....	7	When a resident wants to leave	26
Part 1: Beginning a site agreement ...	8	Notice a resident must give	27
Site agreements	9	How a resident gives notice	27
Dwelling purchase agreements	10	Calculating minimum notice periods	28
Rent in advance	12	Eviction	28
Bonds and 'Condition Reports'	12	Part 4: When a resident leaves	30
Contact details	13	Final meter readings	31
Utilities.....	13	Goods left behind.....	31
Part 2: Living in a park	14	Part 5: Solving problems	34
Rent.....	15	What to do if there is a problem.....	35
The importance of communication.....	16	Consumer Affairs Victoria.....	35
Park rules.....	17	Dispute Settlement Centre of Victoria	35
Residents' committees	17	Victorian Civil and Administrative Tribunal	36
Repairs	17	Useful contacts	37
Entry rights.....	18		
If a person does the wrong thing	19		
Part 3: Ending a site agreement ...	20		
Ways to end a site agreement.....	21		
Agreement of all parties.....	21		
When an owner gives a 'Notice to Vacate'.....	21		

Introduction

About this guide

Part 4A of the *Residential Tenancies Act 1997* is the main piece of law that regulates site agreements between **residents** who own their movable dwelling but rent the underlying land and **site owners** (usually park owners) who rent out such sites.

Note: the law refers to a resident who owns their movable dwelling but rents the land it sits on as a **site tenant**.



This guide explains what residents and owners must do to follow Victoria's residential tenancy laws.

The purchase of a dwelling is a separate arrangement to the site agreement. This guide explains the rights and obligations surrounding site agreements. The purchase of a dwelling is regulated by other laws, including the Australian Consumer Law and *Fair Trading Act 2012*.

This guide covers instances where a dwelling is:

- fully or partially owned by a resident
- designed, built or manufactured to be transported for use as a residence (not including a typical caravan)
- the resident's main home (not a holiday home)
- in a park on a rented site (not in a park on Crown land).

The rights and duties of residents who **rent** a movable dwelling in a park are covered in *Caravan parks: A guide for residents, owners and managers*. Copies of this guide are available from Consumer Affairs Victoria:

consumer.vic.gov.au/forms



Definitions

Resident: someone living in a park who partly or fully owns their dwelling but rents the site (land) it is on. The law describes such residents as **site tenants**. A person is not a resident if they:

- rent both the dwelling and the site
- only use the site for holidays
- are renting the site under an employment agreement
- live in a park on Crown land.

Site owner or owner: someone who owns the site where a movable dwelling is located. Where this guide refers to site owners, it is also referring to site managers and agents acting for site owners. A site owner is usually the same person as the park owner. This guide uses the general term 'owner' to cover instances where the site owner and park owner is the same person. When referring **only** to a 'site owner' or 'park owner', these specific terms are used.

Movable dwelling or dwelling: a dwelling designed, built or manufactured to be transported from one place to another for use as a residence. In this guide, a movable dwelling does not include those that can be registered with VicRoads (such as traditional caravans).

Park: a park with sites (land) available for occupation by movable dwellings; this may be a caravan park, residential park or other type of park (not on Crown land).

Penalties

Consumer Affairs Victoria can take action against people who do not meet their legal obligations. This may include imposing a fine, taking people to court, or other action.

Privacy

There are clear laws about when a site owner can enter a site. These are discussed under '[Entry rights](#)' on page 18.

If a resident gives personal information to a site owner (such as a phone number or date of birth), the owner may be bound by privacy laws restricting this information being passed on to third parties.

Residents who think their information is being misused should contact:



Consumer Affairs Victoria

1300 55 81 81

or

Office of the Australian Information Commissioner

oaic.gov.au

1300 363 992

Checklist for residents

Before signing a site agreement:

- never sign a blank form or site agreement
- make sure that all terms arranged with the owner are in the written site agreement
- check that the owner has given you a copy of the park rules
- read this guide. The owner must give you a copy before you sign a site agreement
- think about getting legal or financial advice so you understand the proposed arrangement and whether it is the right option for you
- remember that you have **20 days** to consider the agreement **before** you sign it
- make sure the owner has given you a plan of the park showing where your dwelling will be located
- check that the owner has given you information about your **cooling-off rights**; you have **five business days** to change your mind **after** you sign the agreement.

During a site agreement:

- use the site as a place to live
- use the site, park and facilities properly and ensure your visitors do the same
- do not use the site for any illegal purpose
- pay rent and other charges on time
- tell the park owner about any damage to park facilities
- make sure there are never more people living on the site than the site agreement allows
- follow the park rules
- remember you have a right to form and take part in a residents' committee
- the owner must give you at least **seven days'** written notice of any proposed changes to the park rules and give you **14 days** to respond
- speak with the owner first before trying to fix any problem.

At the end of a site agreement:

- take your belongings with you
- take your dwelling with you if you have not arranged to sell it.

Checklist for owners

Before a site agreement starts:

- give the resident:
 - a copy of this guide and the park rules
 - a copy of the proposed site agreement, which must be for a specified term and explain all rents, fees and charges
 - **20 days** to consider the agreement before they sign it
 - a notice explaining their **five-day cooling-off period**
 - a plan of the park showing where their dwelling will be located.

Note: Any new or renewed site agreements for dwellings located in new parks must be for a minimum of five years. A 'new' park is one that was registered on or after 1 September 2011.



When a site agreement starts:

- provide contact details for paying rent and requesting repairs
- pay the utilities you are responsible for.

During a site agreement:

- provide rent receipts
- let the resident use the park, site and all other facilities their agreement allows
- set reasonable hours for use of other facilities
- respect a resident's right to privacy, and peace and quiet
- keep the park clean and safe
- arrange regular garbage collection
- keep all park facilities in good repair
- make sure any repairs or renovations disturb residents as little as possible, and provide other facilities during this time
- give residents **seven days'** written notice of any proposed changes to the park rules, and give them **14 days** to respond
- try to solve problems with a resident first
- let residents take part in a residents' committee, should they wish
- allow the use of suitable communal park facilities for committee meetings.

At the end of a site agreement:

- know what to do if a resident leaves property behind (see ['Goods left behind'](#) on page 31 for details).

PART 1: Beginning a site agreement



Site agreements

Site agreements, also called leases, are legal contracts.

Site agreements **must** be in writing, but a resident still has legal protection if they do not have a written agreement.

Site owners must give prospective residents a copy of the site agreement and at least **20 days** to consider it before signing it.

Any new or renewed site agreements for dwellings located in new parks (that is, parks registered on or after 1 September 2011) must be for a minimum of **five years**. All other agreements are covered under previous laws.



A site owner must give a resident a 'Cooling Off' form. This form tells the resident they have **five business days** to change their mind after signing a site agreement. To cancel an agreement, the resident must tell the owner in writing. In such cases, the resident is allowed to get back any money they paid under the agreement, less \$100.

The above timeframes only apply to the site agreement, and not to any separate agreement to purchase a dwelling that is already, or will be, located on the site. If a person intends

to buy a dwelling, it is important they are satisfied with the site agreement before signing a separate purchase agreement.

Note: Since February 2013, in certain cases, a person can cancel a purchase agreement for a dwelling (see ['Dwelling purchase agreements'](#) on page 10 for details).



A site agreement should:

- include details of the rent, fees and all other charges to be paid
- include how payments are calculated, their purpose and how they may be changed or reviewed
- provide details of any commission an owner may charge for selling a dwelling.

Owners must not ask for payments that are not part of the agreement.

An agreement may include other relevant terms and conditions as long as they are lawful. These may include the length of time the resident will rent a site, and other conditions or rules. For instance, an owner may charge a reasonable one-off fee for giving a resident a key allowing vehicle access to the park.

See ['Ways to end a site agreement'](#) on page 21 for information on ending a site agreement.

What if a resident believes a term in an agreement is harsh or unfair?



Potential residents should carefully read and understand an agreement before they sign it, as it may be difficult to change the terms afterwards. If they have difficulty understanding an agreement, they should seek legal or other professional advice.

If a resident signs an agreement and believes it contains unfair terms, they should first speak with the owner to try to resolve the matter. If there is no resolution, the resident may:

- take the matter to the residents' committee (if one exists) for discussion or guidance
- contact Consumer Affairs Victoria for more information about their rights
- apply to the Victorian Civil and Administrative Tribunal (VCAT), which will hear the matter and make a ruling for the owner to amend or remove the term, or keep it as it is.

Dwelling purchase agreements

Since February 2013, purchasers of movable dwellings, in some cases, have the right to cancel purchase agreements for those dwellings.

This legal right applies where a person (or their agent) purchases the movable dwelling from a:

- site owner
- site owner acting on someone else's behalf
- site owner's agent, or
- party related to the site owner (such as a relative or related company).

If a person purchases a dwelling from one of the above, they can cancel the purchase agreement if the site owner gives them a **related site agreement**:

- to consider for 20 days, but they decide not to sign it, or
- which they sign but later decide to cancel using their cooling-off rights.

A **related site agreement** is an agreement for a site on which the dwelling purchased is currently located, or is intended to be located.

If a person is given a site agreement to consider for 20 days and decides not to sign it, they can also cancel the dwelling purchase agreement, **before the 20 days are over**.

If a person signs the site agreement and decides to cool off within the five business days after signing, they can cancel the purchase agreement **at the same time**.

To cancel a dwelling agreement, a person must give written notice to the person they bought the dwelling from.

Getting money back when cancelling a purchase agreement

If a person cancels the purchase agreement, they are treated as though they never signed it in the first place. The person gets back any money they paid for the movable dwelling, including the deposit.

If a person cannot negotiate the return of their money, they can apply to VCAT for an order to get it repaid. However, if they have damaged the dwelling, VCAT can order the person to pay compensation to the site owner or related party.

When a person cannot cancel a purchase agreement

The changes to the law only apply where a person contracts with a:

- site owner, their agent or a related party for a dwelling purchase agreement, and
- site owner for a site agreement.

The changes do not allow a person to cancel a dwelling purchase agreement where they have purchased the dwelling from a current or previous park resident (unless that resident is an agent for, or related to, the site owner).

If a person buys a dwelling from a current or previous resident, they should seek independent legal advice on whether they have any other rights relating to the purchase agreement if they do not want to proceed with it.

Rent in advance

Rent is the money charged for a site in a park.

A site owner cannot charge a resident more than one month's rent in advance.

The resident must continue to pay the rent when it is due. The person receiving the rent must give the resident a receipt. See ['Rent'](#) on page 15 for details.

Bonds and 'Condition Reports'



Unlike other tenancy situations, it is rare for a resident who owns their dwelling to be asked to pay a bond or complete a 'Condition Report'. However, if a bond is taken and/or a 'Condition Report' used, there are laws that must be followed. Consumer Affairs Victoria can provide more information:

consumer.vic.gov.au/renting

Contact details

Owner's contact details

Within **seven days** of a site agreement taking place, an owner (or their agent) must give a resident:

- their full name and address
- a telephone number (for urgent repairs).

If any contact details change during the period of the agreement, the owner must inform the resident in writing within **seven days**.

An agent must also advise the resident if the agent is authorised to carry out urgent repairs and, if so, the maximum amount the agent can authorise.

Resident's contact details

A resident should advise the owner immediately if their contact details change during the course of the agreement.

Utilities

Owners must pay the installation and initial connection costs to a site for electricity, gas, bottled gas or water.

If the site has separate meters, the resident must pay the supply and usage charges for electricity, gas, bottled gas and water. If the owner pays the bill and then charges the resident, they cannot charge more than what the utility supplier would have charged the resident.

If the services do not have separate meters, the owner must pay for the services.

PART 2:
Living in a park



Rent

Residents must pay the rent as agreed and by the due date.

In most cases, rent is paid in advance. If the first rent is not paid or is late, the resident is immediately behind.

A resident cannot stop paying rent because:

- they are waiting for repairs to be done
- they are in the last month of an agreement
- they have given notice that they intend to vacate, or have been given a 'Notice to Vacate'.

Note: It is against the law for a person to keep a resident's belongings to cover any rent owing.



If an owner stops providing a regular service to a resident, the rent must be reduced to an agreed amount. If agreement on this amount cannot be reached, either party may apply to the Victorian Civil and Administrative Tribunal (VCAT) to resolve the problem.

Receipts for rent

Residents are entitled to a receipt for rent paid.

The person who receives the rent must give the resident a:

- receipt **immediately** (if the rent is paid in person)
- receipt within **five business days** (if the rent is not paid in person but the resident requests a receipt)
- copy of the record within **five business days** (if the rent is paid and a receipt is not requested, the owner must keep a record of the payment for **12 months**).

A rent receipt must include:

- the signature of the person receiving the payment
- the resident's name
- the park's name
- the payment date
- what period the payment was for
- how much was paid
- a statement that it is a rent receipt.

Rent increases

Rent increases are generally covered in the site agreement (for instance, the date when a rent increase will occur, and the dollar amount or percentage of that increase).

For any rent increase, an owner must give a resident a 'Notice of Rent Increase to Site Tenant' and at least **60 days'** notice. The notice must tell residents about their rights and actions they may take if they think the increase is too high.

For example, if an agreement states that the rent is to increase on 1 June of each year, the owner must give the resident notice of this increase at least **60 days** before 1 June, using the form mentioned above.

A site agreement may allow only one rent increase in any six-month period.

When a resident believes the rent is too high

Residents can contact Consumer Affairs Victoria for a rental assessment if the owner has given notice of an increase that the resident believes is excessive (after considering market rent).

The resident must request a rental assessment report in writing within **30 days** of receiving notice of a rent increase. After the resident has received the rent assessment report from Consumer Affairs Victoria, they have **30 days** to apply to VCAT for a hearing. VCAT may set a maximum rent, which then stays in force for six months.

The importance of communication



Residents and owners need to contact each other for issues such as rent increases, damage to property and ending an agreement. Matters such as these should always be detailed in writing. Written communication should be clear, signed, and include all relevant details; all parties should keep copies. You can communicate (including sending official notices and documents) with the resident or owner/manager via email, if they agree. Make sure that consent to electronic communication is in writing. Consumer Affairs Victoria has forms available for a wide range of scenarios:

consumer.vic.gov.au/forms

Park rules

An owner may make rules relating to the use, enjoyment, control and management of the park. These rules must be provided to the resident before they enter an agreement.

Park rules may include things such as:

- noise levels
- the keeping of pets
- the use and operation of communal facilities
- car parking.

If an owner decides to change the rules, they must give residents:

- at least **seven days'** written notice before they come into effect
- **14 days** to respond in writing to the proposed changes.

The owner must reply in writing to any written responses received from residents.

Residents who believe a rule is unreasonable may apply to VCAT to hear the matter. VCAT may decide that the rule is unfair and ask the owner to amend or remove it, or find that the rule is reasonable. In this case, the rule will stay in force. An owner must ensure that the park rules are applied fairly and consistently.

Residents' committees



An owner must allow residents (if they choose) to form and take part in residents' committees. The owner must also provide use of suitable park facilities for committee meetings. A toolkit on residents' committees is available from Consumer Affairs Victoria and Housing for the Aged Action Group. The Victorian Caravan Parks Association can also provide more information. See page 37 for [contact details](#).

Repairs

Generally, all repairs for a **dwelling** are the resident's responsibility. Any problems with the **site** or **communal park facilities** are the owner's responsibility.

Residents must continue to pay rent while waiting for repairs to be done.

It is important to communicate all information regarding repairs in writing and that copies of all letters, forms and reports are kept for future reference.

If a site tenant or their visitor causes damage to any communal park facility or to a site, the site tenant must either repair the damage or notify the owner and pay compensation for the damage.

Site tenants can use Consumer Affairs Victoria's 'Notice to part 4A site owner' form to notify the owner when:

- there is damage to or a breakdown of communal facilities in the park
- the site tenant or their visitor has caused damage to a site or facility in the park.

Questions about repairs?

A site agreement should have information about who is responsible for repairs.

Residents should read their site agreements carefully. If residents or owners have any doubt about who is responsible for repairs, they may contact Consumer Affairs Victoria for more information:

consumer.vic.gov.au/contact

Entry rights

Entry without notice

An owner (or manager or agent acting on their behalf) may only enter a **site** or **dwelling** without notice:

- if the resident agrees at the time
- in an emergency to save life or valuable property
- if VCAT has made an order stating that the resident has abandoned the site.

Entry with 24 hours' notice

The owner can enter a **site** for other reasons if they first give the resident at least **24 hours'** written notice stating the reason. This notice can be given to the resident by post, by email or in person between 8am and 6pm.

Note: if you choose to communicate electronically (for example, by email), you must have the consent of the resident to do so. Make sure that consent to electronic communication is in writing.

An owner may only enter between 8am and 6pm and not on public holidays.

An owner may enter with 24 hours' notice to:

- show the site to potential new occupants if the resident has already given notice, or has been given written notice to move out
- make a general inspection, once in any six-month period
- carry out any lawful duty
- check a reasonable belief that the resident has not met their legal duties
- show people who are interested in buying the site or lending the owner money on it.

Note: If an owner has served a valid notice, the resident must let them enter the site.



If a person does the wrong thing

Residents and owners can give a 'Breach of Duty' notice to the other person if that person has not met certain duties under the *Residential Tenancies Act 1997*. Once a 'Breach of Duty' has been given, the person who received it must fix the situation. Residents and owners should contact Consumer Affairs Victoria for information about how to issue 'Breach of Duty' notices.

What an owner cannot do

When visiting, the owner cannot:

- behave unreasonably
- stay any longer than necessary to achieve the purpose of their stay, unless the resident agrees.

PART 3: Ending a site agreement



Ways to end a site agreement

There are four main ways for legally ending a site agreement:

- All parties agree to end it
- The tenancy right is being transferred
- The owner gives a 'Notice to Vacate' to the resident
- The resident gives notice to the owner of their intention to vacate.

We recommend using the official forms available from [consumer.vic.gov.au/forms](https://www.consumer.vic.gov.au/forms) to give notice. Please follow the 'How to serve this notice' instructions on the relevant form.

If a fixed-term site agreement ends and the resident wants to remain on the site, a periodic tenancy automatically arises. This means that the resident is on a monthly agreement until another one is signed; this is unless the original agreement was for less than one month, in which case the new agreement will be for that shorter period.

Agreement of all parties

The decision to end a site agreement early should be put in writing in case of a later dispute. It should include any agreed terms and conditions and the date the agreement will end.

When an owner gives a 'Notice to Vacate'

An owner must give the resident the proper amount of time to vacate – this will depend on the reason for giving the notice (see ['Reasons and minimum notice periods when an owner gives a Notice to Vacate'](#) on page 25 for details).

A 'Notice to Vacate' must:

- be written on a valid 'Notice to Vacate' form
- be addressed to the resident
- give a reason or state that no reason is specified
- be signed by the owner
- be given in the correct amount of time
- give the date for the resident to leave
- be sent by registered post, by electronic communication (for example, by email) or given in person. However, if you give notice electronically, you must have the prior consent of the other party to receive notices and other documents in this way. Make sure that consent to electronic communication is in writing.

When a park is closing

Before issuing a 'Notice to Vacate'

A site owner must give written notice that the park is closing to the local council of the municipality the park is in, at least **14 days** before giving residents a 'Notice to Vacate'. This allows the council to contact agencies that may be able to arrange new accommodation and other support for residents. To find local council contact details, visit the knowyourcouncil.vic.gov.au.

If the owner does not notify council, a 'Notice to Vacate' will still be valid, but the owner may be penalised for breaching the *Residential Tenancies Act 1997*.

How to notify residents

If there are residents living in the park, a site owner must:

- issue a 'Notice to Vacate' to each resident with an end date that is at least **365 days** after the date the notice is served
- state that the park is being closed when giving the reason in a 'Notice to Vacate'
- put an end date on a 'Notice to Vacate' that occurs after the end of any fixed-term site agreement with that resident.

Compensation for eligible residents

When closing a park, a site owner may be liable to compensate eligible residents. The only exception to this is if the site owner does not own the land that the park is located on, and the park is closing because a head lease of the land is expiring.

An owner who has to compensate eligible residents must apply to VCAT within **30 days** of issuing a 'Notice to Vacate' so that VCAT can determine the amount residents should be compensated. If the owner does not do this, the **'Notice to Vacate' will become void**.

A resident is eligible for compensation if they own their movable dwelling.

When working out how much a resident should be compensated, VCAT will consider if the dwelling will or will not be relocated.

If a dwelling is to be relocated

If a resident's dwelling will be relocated, VCAT will review the likely cost of:

- disconnecting services from the dwelling
- removing the dwelling from the site
- transferring the dwelling to a new site
- installing the dwelling at the new site (but not for landscaping)
- anything else VCAT considers relevant.

A resident can apply to VCAT to recover costs from the site owner for:

- damage to the dwelling because of the relocation
- any other reasonable costs to do with relocating the dwelling.

The site owner does not have to pay compensation for damage caused by people that the resident asked to move the dwelling.

If a dwelling will not be relocated

If a resident's dwelling will not be relocated, VCAT will work out how much the resident should be compensated by deciding on:

- a reasonable amount for the tenant losing their residency taking into account the:
 - dwelling's original purchase price
 - dwelling's current onsite market value if the park was not closing
 - rent and fees paid for the site
- the likely cost of the resident having to move elsewhere that takes into account:
 - removing the resident's contents from the dwelling and relocating the resident
 - how long the resident has lived on the site
 - the inconvenience of finding somewhere new to live
 - anything else VCAT considers relevant.

When compensation should be paid by

Once VCAT has decided how much compensation a site owner must pay, they will issue an order with a date that the amount must be paid by. The date on the order must be at least 30 days before the end date on the 'Notice to Vacate'.

A site owner must pay compensation even when a resident's dwelling is relocated before the resident is due to receive the compensation.

Confused about a 'Notice to Vacate'?



If a resident receives a 'Notice to Vacate' and does not know what to do, they should contact Consumer Affairs Victoria:

consumer.vic.gov.au/contact

1300 55 81 81

During the suspension period, the owner may decide to apply to the Victorian Civil and Administrative Tribunal (VCAT) to evict the resident. This extends the suspension period until VCAT deals with the application. The resident has the right to attend the VCAT hearing and tell their side. It is important that residents keep in contact with the tribunal so they can be told the date and time of the hearing.

The resident can return to the site at the end of the suspension period if the owner does not apply to VCAT during this time.

The resident must pay rent for the days they are suspended, unless VCAT decides otherwise.

Violent situations

If a resident or visitor is being violent or putting anyone in the park in danger, the owner can use one of two official notices – a 'Notice to Leave' or a 'Notice to Vacate'.

'Notice to Leave'

If the owner wants the person to leave immediately, they can give them the official 'Notice to Leave to Resident/s of Managed Premises or Resident's Visitor' form. The notice must be given as soon as it is safe to do so.

The person must then leave the park immediately and is suspended from coming back for **two business days**.

'Notice to Vacate'

A 'Notice to Vacate' given for reasons relating to danger can tell the resident to move out on the day it is given, or a later date.

If the resident does not vacate by the date in the notice, they cannot be forced to leave unless VCAT has made an order telling them to do so. The owner must apply to VCAT within **30 days** of the date they asked the resident to vacate.

Reasons and minimum notice periods when an owner gives a 'Notice to Vacate'

The table below shows how much notice an owner must give a resident to vacate a site.

Reason an owner can give a 'Notice to Vacate'	Minimum notice period (Allow extra time whether mailing, sending by email/other electronic communication, or delivering by hand. For more information see 'Calculating minimum notice periods' on page 28.)
Intentionally or recklessly causing or allowing serious damage in the park, its facilities, or a hired site	Immediately
Putting people or property in the park in danger	Immediately
Serious disruption of peaceful and quiet enjoyment of the park by occupant's visitors	Immediately
Site is being used for illegal purposes	14 days
Breach of VCAT compliance order or compensation order	14 days
Assignment or sub-letting without consent	14 days
End of fixed-term or periodic site agreement	365 days
The park is closing – for all requirements, including compensation for eligible residents , see 'When a park is closing' on page 22.	365 days If the site agreement has a fixed term, the end date for a notice given for this reason cannot be before the end of the fixed term. The owner must not issue a 'Notice to Vacate' for this reason before notifying in writing the local council where the park is located.

When a mortgagee wants a resident to leave

If a park owner has put up a park or site as security for a loan, the lender may have the right to take possession if loan repayments are not kept up.

In this case, the lender (mortgagee) is allowed to give the resident a 'Notice to Vacate'.

If a mortgage over the park was given before an agreement started, the resident must be given at least **90 days'** notice, unless a longer period is set out in the mortgage agreement.

For a park mortgage given after the site agreement started, at least **365 days'** notice must be given – and where there is a fixed-term agreement, it cannot be before the end of the term.

Reasons a resident can challenge a 'Notice to Vacate'

Generally, residents can challenge a 'Notice to Vacate' if:

- they believe it was not given properly
- they do not agree with the reason given
- they believe that they could not move out without an extension of time.

Note: An owner cannot give notice if a resident is using their legal rights, or saying they will do so. If a resident is given notice for this reason, they may apply to VCAT within **60 days**.



When a resident wants to leave

Selling a dwelling and assigning the agreement

If a resident sells their dwelling, their site agreement can be assigned to the buyer, as long as the site owner provides their written consent. We recommend people use an 'Assignment of a Part 4A site agreement' form, available from consumer.vic.gov.au/forms.

Note: Prospective buyers are advised to confirm that the seller has the site owner's permission to assign the site agreement before buying the dwelling.



When arranging the sale, the resident may use a sales agent. A site owner cannot ask a resident to hire a particular sales agent. If the site owner is the agent, they may only receive a commission if the terms and amount are in the site agreement.

A site owner must not:

- charge a fee for agreeing to a transfer of a site agreement
- interfere with the sale of a dwelling.

If the site owner refuses permission for the transfer and the resident believes this is unreasonable, they can apply to VCAT to hear the matter.

Notice a resident must give

A resident must give the owner a notice stating that they wish to leave. The notice must be in writing and signed by the resident (or their representative).

Residents may use Consumer Affairs Victoria's 'Notice to Part 4A Site Owner' form to give notice.

A resident must give the owner at least **28 days'** notice that they intend to vacate the site. However, this cannot be before the end of a fixed-term agreement and there are some exceptions.

A resident may give **14 days'** notice if they:

- have been offered public housing from the Director of Housing
- must vacate the site to:
 - live in temporary crisis accommodation
 - receive special or personal care.

When leaving, a resident must pay the rent and any other charges up to the last day.

How a resident gives notice

A resident may deliver their notice by hand, by electronic communication (for example, by email) or by post. If you give notice electronically, you must have the prior consent of the other party to receive notices and other documents in this way. Make sure that consent to electronic communication is in writing.

If a resident decides to post their notice, they may wish to use registered post so there is proof of when and where the notice was sent.



Giving notice but not leaving

If a resident gives notice but does not leave, the owner can apply to VCAT for an order for them to move out.

Calculating minimum notice periods

When giving a notice with a minimum notice period, it is important to also factor in the delivery time it will take to reach the person, either by post, by registered post, by hand or by electronic communication (for example, email). Extra days should be also added for weekends and public holidays that fall within the delivery time.

When calculating when the notice will take effect, the total number of days to be allowed is the sum of the delivery time for that type of delivery, the minimum notice period, and one extra day (which is the day that the notice takes effect).

Note: You can send a notice by email or other electronic communication if both parties have agreed to do so. Make sure that consent to electronic communication is in writing.

More detail can be found on the Consumer Affairs Victoria website at consumer.vic.gov.au.

Eviction

To evict a resident, an owner must apply to VCAT for a warrant of possession.

VCAT deals with applications for such warrants if:

- the notice period given by the resident, a mortgagee, or the owner has run out and the resident is still there
- the owner has given the resident a 'Notice to Leave'.

A resident has the right to attend the hearing and give evidence.

If a resident has been suspended and is therefore not at the park, VCAT may not know where to send information regarding the hearing. Residents should contact VCAT to find out if the owner has applied to evict them and, if so, the time and date of the hearing.

VCAT may find that:

- it was appropriate to suspend the resident and order termination of the site agreement, or
- the suspension was not appropriate and allow the resident to resume their agreement (in such cases, the owner can be ordered to refund the rent paid for the days the resident was suspended).

**Important notice
for owners:**



You cannot use force,
or any other method,
to evict a resident.

Only the police can carry
out an eviction, and only when
they are acting on a warrant
of possession from VCAT.

Facing eviction?



If you are a resident
facing eviction and
you do not know what
to do, contact Consumer Affairs
Victoria immediately. Consumer
Affairs Victoria can provide
information, or direct you to
other organisations that can
help:

1300 55 81 81

PART 4:
When a resident leaves



Final meter readings

Residents who have separate utility meters should let the providers know in advance when they will be moving out. Otherwise, they may be charged for services in the next billing period.

Goods left behind

Before leaving the site, residents should leave their contact details with the owner, in case the owner needs to contact them about any goods left behind.

If a resident leaves goods or personal documents behind, they should arrange with the owner to collect them as soon as possible. An owner cannot refuse to return belongings, even if the resident owes rent.

A resident may apply to the Victorian Civil and Administrative Tribunal (VCAT) for compensation if they suffered a loss because an owner did not comply with the law.

An owner who incurs costs for removing, storing and auctioning goods left behind may also apply to VCAT for compensation.

Goods that can be disposed of

An owner can get rid of:

- perishable foods
- dangerous goods
- goods of no monetary value.

Owners can assess whether, under the *Residential Tenancies Act 1997*, the goods can be disposed of or must be stored; or, they can ask Consumer Affairs Victoria to inspect the goods and make a formal assessment.

A 'Request for Inspection of Goods Left Behind' form is available from Consumer Affairs Victoria:



consumer.vic.gov.au/forms

If VCAT declares a dwelling to be abandoned or if a possession order has been granted in relation to it, the owner may deal with the dwelling as they would any other 'stored good'.

Goods that must be stored

If a resident leaves goods behind that are not allowed to be disposed of, the owner must:

- take reasonable care of the goods
- store them for **28 days**
- take reasonable steps to notify the resident when and from where the goods can be collected
- let the resident reclaim the goods (after the resident has paid back any reasonable costs the owner incurred in storing them).

Personal documents

These are documents that it would be reasonable to expect a person to keep. Examples include:

- marriage and divorce certificates
- educational certificates
- birth certificates
- passports
- medical records
- computer hard-drives
- contents of USB memory sticks
- CDs and DVDs
- contents of still and movie cameras
- contents of electronic data storage devices
- photographs
- personal memorabilia.

When personal documents are left behind the owner must:

- take reasonable care of them for at least **90 days**
- let the resident reclaim the documents after paying back any money the owner had to spend to store them.

If an owner complies with the law and the resident does not claim the documents, the owner can dispose of them (although there may be some restrictions on the disposal of documents such as passports – contact Consumer Affairs Victoria for more information). The owner can then apply to VCAT to be compensated for the cost of looking after and removing the documents.

An owner may face penalties for not letting a resident reclaim goods or personal documents if the resident was willing to pay a reasonable amount to cover those costs.



PART 5:
Solving problems



What to do if there is a problem

Ideally, residents and owners should solve any problems by coming to an agreement. This should be in writing and signed by all relevant parties.

If the park has a residents' committee, the committee may also be able to help solve a problem.

If a party wants to enforce their legal rights, they usually have to give a formal notice explaining the issue to the other person. The relevant notices are available from Consumer Affairs Victoria.

A notice must state what the resident or owner wants done and by when it must be done. The amount of time to comply with the notice varies and depends on the type of problem.

Consumer Affairs Victoria

If a problem cannot be solved individually between a resident and an owner, the parties may contact Consumer Affairs Victoria.

Consumer Affairs Victoria can give advice on a range of issues including:

- site agreements
- repairs and maintenance
- rent increases
- rights and obligations of owners and residents
- notice periods
- goods left behind.

Consumer Affairs Victoria can attempt to conciliate a dispute, but cannot force somebody to resolve an issue. The conciliation service is free.

Dispute Settlement Centre of Victoria

The Dispute Settlement Centre of Victoria (DSCV) can help resolve a wide range of issues without the parties involved having to go to court. The service is free.

The DSCV also provides information and training in resolving disputes.

[DSCV's contact details](#) are on page 39.

Organisations such as Tenants Victoria, Housing for the Aged Action Group (HAAG) and Peninsula Community Legal Centre (PCLC) can also help residents who are in a dispute. See the '[Useful contacts](#)' section on page 37 for details.

Victorian Civil and Administrative Tribunal

The Victorian Civil and Administrative Tribunal (VCAT) is usually less formal than a court. It hears a range of disputes, including those between owners and residents. A person does not need legal representation to appear at VCAT.

Application forms are available from VCAT. When VCAT receives an application, it will advise the relevant parties of the date, time and place of the hearing. Hearings take place in the city, suburbs and country Victoria.

Usually, the only cost involved in the hearing is the application fee. This fee may be waived in rare cases, depending on set criteria regarding an applicant's income and social security status. Contact VCAT for more information.

It is important to be prepared for a hearing. The VCAT member will hear and consider all the evidence presented from both sides. This might include listening to evidence from witnesses or looking at photographs and other documents brought to the hearing.

VCAT's decisions are usually made on the day of the hearing and must be obeyed by both parties. An order to enforce a monetary order must be made with the Magistrates' Court.

VCAT will also consider urgent hearings in cases of extreme hardship. To request one, an applicant must provide a letter outlining the reasons why the matter is urgent when they lodge the application.

Interpreters at VCAT

VCAT can provide interpreters for parties directly involved in a dispute. If an owner or resident needs an interpreter, VCAT must be told at the time of the application. VCAT will then arrange for an interpreter free of charge. Friends or relatives are generally not allowed to interpret.

[VCAT's contact details](#) are on page 37.

Useful contacts

Victorian Civil and Administrative Tribunal (VCAT)

VCAT operates like a court but is not as formal, and deals with a wide range of issues, including disputes arising from the *Residential Tenancies Act 1997*.

vcat.vic.gov.au

renting@vcat.vic.gov.au

Phone 1300 01 8228

55 King Street
Melbourne VIC 3000

Tenants Victoria

Tenants Victoria provides information, advice and advocacy services for Victorian tenants and residents.

tuv.org.au

Phone 03 9416 2577

Fax 03 9416 0513

PO Box 234
Fitzroy VIC 3065

Victorian Caravan Parks Association

The Victorian Caravan Parks Association can provide information to park owners and managers about issues affecting caravan parks.

vicparks.com.au

admin@vicparks.com.au

Phone 03 9372 3420

Fax 03 9376 9794

Unit 8, 88 Dynon Road
West Melbourne VIC 3003

Residential Tenancies Bond Authority (RTBA)

The RTBA holds all residential tenancy bonds. It can only repay bonds if all parties to a bond agree, or as directed by VCAT or a court.

rtba.vic.gov.au

RTBA Online: rentalbonds.vic.gov.au

rtba@justice.vic.gov.au

Phone 1300 13 71 64
(local call charge)

Locked Bag 007
Wendouree VIC 3355

Building Unit – Department of Environment, Land, Water and Planning (DELWP)

The Building Unit, DELWP administers legislation dealing with registration and standards of caravan parks and movable dwellings.

planning.vic.gov.au/building-policy/caravan-parks-and-movable-dwellings

Phone 03 9094 8484

Level 18, 1 Spring Street
Melbourne VIC 3000

GPO Box 2392
Melbourne VIC 3001

Department of Health and Human Services

The Department of Health and Human Services provides housing help to eligible Victorians. Their housing website provides information about housing in Victoria and includes a Housing Options Finder tool to help people understand the services and supports they might benefit from.

housing.vic.gov.au

Phone 1300 650 172 (local call charge, except mobile phones)

TTY 13 36 77 then
ask for 1300 650 172

Speak and listen users

Phone 1300 555 727 then
ask for 1300 650 172

Housing for the Aged Action Group (HAAG)

HAAG offers information, advocacy and access to accommodation services for older renters.

oldertenants.org.au

haag@oldertenants.org.au

Phone 1300 765 178
03 9654 7389

Fax 03 9654 3407

1st Floor Ross House
247–251 Flinders Lane
Melbourne VIC 3000

Peninsula Community Legal Centre Inc (PCLC)

PCLC's services include information for park residents, as well as negotiations and representation at VCAT. The service caters for residents in Melbourne's south and south-eastern suburbs.

pclc.org.au

pclc@pclc.org.au

Phone 03 9783 3600
1800 064 784
(country callers)

441 Nepean Highway
Frankston VIC 3199

Victorian Equal Opportunity and Human Rights Commission (VEOHRC)

VEOHRC provides information about equal opportunity rights and responsibilities and helps people resolve complaints of discrimination or harassment through its free conciliation service.

humanrightscommission.vic.gov.au
information@veohrc.vic.gov.au or
complaints@veohrc.vic.gov.au

Phone 1300 891 848

Fax 1300 891 858

TTY 1300 289 621

Level 3, 204 Lygon Street
Carlton VIC 3053

Dispute Settlement Centre of Victoria (DSCV)

The DSCV can help resolve a wide range of issues, without the parties having to resort to legal action.

The service is free.

To find your nearest office,
visit the DSCV website.

disputes.vic.gov.au
dscv@justice.vic.gov.au

Phone 1300 372 888

Fax 03 8684 1311

Level 4, 456 Lonsdale Street
Melbourne VIC 3000

1800RESPECT

1800RESPECT provides a counselling helpline, information and support for people experiencing sexual assault or domestic and family violence. The service is available 24 hours a day, seven days a week.

1800respect.org.au

Phone 1800 737 732

consumer.vic.gov.au

1300 55 81 81 (local call charge)



Services from Consumer Affairs Victoria are available at Ballarat, Bendigo, Box Hill, Dandenong, Geelong, Mildura, Morwell, Reservoir, Wangaratta, Warrnambool and Werribee. Our mobile service regularly visits rural communities.

May 2019

TIS

Translating and Interpreting Service **131 450**

TTY

Textphone or modem users only, ring the National Relay Service (NRS) on **133 677**, then quote **1300 55 81 81**.

Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.