

# Housing Legislation (Building Better Futures) Amendment Bill 2017

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Housing and Public Works and Minister  
for Sport

## 1 Clause 2 (Commencement)

Page 14, after line 22—

*insert—*

- section 147A;

## 2 Clause 19 (Replacement of s 29 (Park owner to give disclosure documents to prospective home owner))

Page 22, lines 24 to 31 and page 23, lines 1 to 10—

*omit, insert—*

- (2) Subject to subsection (3), the park owner must give the prospective home owner—
  - (a) the documents mentioned in schedule 1, part 1 (the *initial disclosure documents*) for the site at least 21 days before entering into the site agreement (the *default notice period*); and
  - (b) the following documents (the *supplementary disclosure documents*) for the site at least 14 days before entering into the site agreement (also the *default notice period*)—
    - (i) the documents mentioned in schedule 1, part 2;
    - (ii) 2 copies of a proposed site agreement.
- (3) If, under section 29A, the prospective home owner waives the right to be given the initial disclosure documents and the right to be given the supplementary disclosure documents for the site in the default notice period, the park owner must give the prospective home owner the documents

at least 7 days before entering into the site agreement.

**3 Clause 19 (Replacement of s 29 (Park owner to give disclosure documents to prospective home owner))**

Page 23, line 11, ‘initial disclosure’—

*omit.*

**4 Clause 19 (Replacement of s 29 (Park owner to give disclosure documents to prospective home owner))**

Page 23, line 16, after ‘documents’—

*insert—*

and the right under section 29(2)(b) to be given the supplementary disclosure documents

**5 Clause 19 (Replacement of s 29 (Park owner to give disclosure documents to prospective home owner))**

Page 23, lines 25 to 28—

*omit, insert—*

(ii) agrees to receive the initial disclosure documents less than 21 days but at least 7 days, and the supplementary disclosure documents less than 14 days but at least 7 days, before entering into the site agreement; and

**6 Clause 20 (Amendment of s 30 (Obtaining independent legal advice about site agreement))**

Page 24, line 3, “agreement”—

*omit, insert—*

‘a site agreement’

**7 Clause 20 (Amendment of s 30 (Obtaining independent legal advice about site agreement))**

Page 24, line 5, before ‘agreement’—

*insert—*

a site

**8 Clause 22 (Amendment of s 33 (Cooling-off period))**

Page 24, lines 19 to 21—

*omit, insert—*

(2) The home owner may, within the cooling-off period, terminate the site agreement by giving a signed notice of the termination to—

(a) the park owner; and

(b) if the home owner has granted a person a security interest in the manufactured home positioned on the site—that person.

**9 Clause 23 (Amendment of s 34 (Automatic ending of sale agreement))**

Page 25, after line 4—

*insert—*

(1) Section 34—

*insert—*

(4A) Subsection (4B) applies if the home owner has granted a person (a *financier*) a security interest in the home and the financier has been given notice of the termination of the site agreement under section 33(2) or otherwise knows about the termination.

(4B) The financier must, within 7 days after the ending of the sale agreement under subsection (2), give the park owner a notice stating the amount owing under the security

interest.

- (2) Section 34(5), from ‘14 days’ to ‘subsection (2)’—

*omit, insert—*

the refund period

**10 Clause 23 (Amendment of s 34 (Automatic ending of sale agreement))**

Page 25, line 5, before ‘Section’—

*insert—*

- (3)

**11 Clause 23 (Amendment of s 34 (Automatic ending of sale agreement))**

Page 25, after line 7—

*insert—*

- (4) Section 34(5)(a), from ‘person’ to ‘(Cwlth)’—

*omit, insert—*

financier under a security interest in the home

- (5) Section 34—

*insert—*

- (5A) For subsection (5)(a), the amount owing under the security interest is the amount stated in a notice given by the financier to the park owner.

- (6) Section 34(7), definition *refundable amount*, paragraph (b), before ‘the amount’—

*insert—*

if the park owner did not give the home owner the disclosure documents for the site

as required under section 29—

(7) Section 34(7)—

*insert—*

***refund period*** means the period—

(a) if subsection (5)(a) applies, starting—

(i) when the financier gives the park owner the notice as required under subsection (4B); or

(ii) 7 days after the ending of the sale agreement under subsection (2); and

(b) ending at the end of the day that is 14 days after the ending of the sale agreement under subsection (2).

**12 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 31, line 4, after ‘interest’—

*insert—*

in the site agreement for the site

**13 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 31, lines 5 to 7—

*omit, insert—*

(2) The buyer may, within the cooling-off period, terminate the assignment agreement by giving a signed notice of the termination to—

(a) the park owner; and

(b) the seller; and

(c) if the buyer has granted a person a security interest in the manufactured home positioned on the site—that person.

**14 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, after line 13—

*insert—*

- (4A) Subsection (4B) applies if the buyer has granted a person (a *financier*) a security interest in the home and the financier has been given notice of the termination of the assignment agreement under section 51A(2) or otherwise knows about the termination.
- (4B) The financier must, within 7 days after the ending of the sale agreement under subsection (2), give the seller a notice stating the amount owing under the security interest.

**15 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, lines 14 and 15, from ‘14 days’ to ‘subsection (2)’—

*omit, insert—*

the refund period

**16 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, lines 18 to 20, from ‘person’ to ‘(Cwlth)’—

*omit, insert—*

financier under a security interest in the home

**17 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, after line 25—

*insert—*

- (5A) For subsection (5)(a), the amount owing under the security interest is the amount stated in a notice given by the financier to the seller.

**18 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, lines 27 to 33—

*omit, insert—*

***refundable amount*** means the amount paid to the seller, or at the seller's direction, under the sale agreement.

**19 Clause 32 (Insertion of new pt 7, divs 3 and 4)**

Page 33, after line 33—

*insert—*

***refund period*** means the period—

- (a) if subsection (5)(a) applies, starting—
  - (i) when the financier gives the seller the notice as required under subsection (4B); or
  - (ii) 7 days after the ending of the sale agreement under subsection (2); and
- (b) ending at the end of the day that is 14 days after the ending of the sale agreement under subsection (2).

**20 After clause 55**

Page 70, after line 27—

*insert—*

**55A Amendment of s 166 (Variation of site agreement on assignment to allow site rent to be increased in accordance with market review)**

Section 166(4)(a), from 'a copy' to '45(2)'—

*omit, insert—*

the disclosure documents for the site to the buyer under section 45A(1)

**21 Clause 56 (Insertion of new pt 21, div 4)**

Page 71, line 22, after ‘29(1)(a)’—

*insert—*

and (b)

**22 Clause 56 (Insertion of new pt 21, div 4)**

Page 72, lines 6 to 13—

*omit, insert—*

- (a) section 29(2)(a) and (3), to the extent it relates to waiving the right to be given the initial disclosure documents, does not apply to the park owner; and
- (b) section 29(2)(b) and (3) applies to the park owner as if each reference in the provisions to the supplementary disclosure documents for the site were a reference to the previous disclosure documents for the site.

**23 Clause 57 (Insertion of new sch 1)**

Page 77, line 24, ‘sections 29(2) and (3)(a)’—

*omit, insert—*

sections 29(2)(a) and (b)(i)

**24 Clause 58 (Amendment of schedule (Dictionary))**

Page 80, lines 20 to 23—

*omit, insert—*

*default notice period—*

- (a) for giving the initial disclosure documents—see section 29(2)(a); or
- (b) for giving the supplementary disclosure documents—see section 29(2)(b); or



(c) for giving the disclosure documents under part 7, division 2—see section 48A(a).

**25 Clause 58 (Amendment of schedule (Dictionary))**

Page 80, line 28, after ‘2’—

*insert—*

and 2 copies of a proposed site agreement

**26 Clause 58 (Amendment of schedule (Dictionary))**

Page 81, line 10, ‘section 29(2)’—

*omit, insert—*

section 29(2)(a)

**27 Clause 58 (Amendment of schedule (Dictionary))**

Page 82, after line 12—

*insert—*

*security interest*, in a manufactured home, means a security interest registered for the home under the *Personal Property Securities Act 2009* (Cwlth).

**28 Clause 58 (Amendment of schedule (Dictionary))**

Page 82, after line 15—

*insert—*

*supplementary disclosure documents*, for a site, see section 29(2)(b).

**29 Clause 60 (Amendment to s 4 (Meaning of residential service))**

Page 82, line 25, ‘to’—

*omit, insert—*

of

**30 Clause 69 (Amendment of s 41 (Meaning of accreditation decision))**

Page 86, line 23, ‘accreditation’—

*omit, insert—*

‘accreditation’—

**31 Clause 72 (Amendment of s 70 (Death of sole service provider))**

Page 88, line 14, ‘or’—

*omit.*

**32 Clause 76 (Amendment of s 179 (Register of residential services))**

Page 90, line 1, ‘to’—

*omit.*

**33 Clause 76 (Amendment of s 179 (Register of residential services))**

Page 90, lines 18 and 19—

*omit, insert—*

(3) Section 179(2)(a)(ia) to (iii)—

*renumber* as section 179(2)(a)(ii) to (iv).

**34 Clause 77 (Insertion of new s 180A)**

Page 90, line 23, after ‘3’—

*insert—*

—

**35 Clause 78 (Insertion of new pt 16)**

Page 91, line 23, ‘services’—

*omit, insert—*

**service**

**36 Clause 99 (Insertion of new ss 40 to 40G)**

Page 105, after line 3—

*insert—*

(3A) Before deciding the application, the chief executive must—

(a) give each resident of the retirement village a written notice stating that—

(i) the scheme operator has applied for approval of the proposed closure plan; and

(ii) the resident may make submissions to the chief executive about the proposed closure plan in a stated way and by a stated day; and

(b) if a resident of the retirement village requests a copy of the proposed closure plan—give a copy of the proposed closure plan to the resident; and

(c) have regard to any submissions made to the chief executive by the residents in the stated way and by the stated day.

**37 Clause 99 (Insertion of new ss 40 to 40G)**

Page 105, after line 10—

*insert—*

(4A) The chief executive’s decision must be made within 90 days of the later of—

- (a) the day the application is received; or
- (b) if the chief executive reasonably requires further information for the purpose of making the decision and asks the scheme operator for the further information—the day the information is given.

**38 Clause 99 (Insertion of new ss 40 to 40G)**

Page 106, after line 11—

*insert—*

- (9) If the chief executive fails to decide the application in the time required under subsection (4A), the chief executive is taken to have approved the proposed closure plan.

**39 Clause 101 (Insertion of new pt 2, div 5)**

Page 111, after line 4—

*insert—*

- (1A) The chief executive's decision must be made within 90 days of the later of—
  - (a) the day the proposed transition plan is received; or
  - (b) if the chief executive reasonably requires further information for the purpose of making the decision and asks the existing scheme operator or the new scheme operator for the further information—the day the information is given.

**40 Clause 101 (Insertion of new pt 2, div 5)**

Page 112, after line 15—

*insert—*

- (7) If the chief executive fails to decide whether or not to approve the proposed transition plan in the time required under subsection (1A), the chief executive is taken to have approved the proposed transition plan.

**41 Clause 114 (Insertion of new s 67A)**

Page 125, lines 20 to 27—

*omit.*

**42 Clause 120 (Amendment of s 86 (False or misleading documents))**

Page 138, lines 15 to 26—

*omit, insert—*

**120 Replacement of s 86 (False or misleading documents)**

Section 86—

*omit, insert—*

**86 Misleading or deceptive conduct**

- (1) This section applies to a person who is—
  - (a) a scheme operator; or
  - (b) a representative of a scheme operator.
- (2) The person must not, in relation to the operation of a retirement village scheme, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

*Example of conduct that is misleading or deceptive or is likely to mislead or deceive—*

Giving false or misleading information (orally or in writing) to—

- (a) the chief executive; or
- (b) a resident or prospective resident.

Maximum penalty—200 penalty units.

(3) In this section—

*representative*, of a scheme operator, means—

(a) an employee or agent of the scheme operator; and

(b) if the scheme operator is a corporation—an executive officer of the scheme operator.

**43 Clause 130 (Amendment of s 104 (Working out and paying charges for general services for former residents))**

Page 144, line 5—

*omit, insert—*

**general services charges and maintenance  
reserve fund contributions**

**44 Clause 130 (Amendment of s 104 (Working out and paying charges for general services for former residents))**

Page 144, lines 9, 13 and 17, after ‘charge’—

*insert—*

and maintenance reserve fund contribution

**45 Clause 131 (Amendment of s 105 (General services charges for unsold right to reside in accommodation units))**

Page 144, lines 20 to 22—

*omit, insert—*

(1) Section 105, heading, after ‘General services charges’—

*insert—*

**and maintenance reserve fund contributions**

(1A) Section 105(1), after ‘charges’—

*insert—*

and maintenance reserve fund contributions

(1B) Section 105(2)—

*omit, insert—*

(2) The scheme operator must pay the amounts payable under subsection (1) into the general services charges fund and maintenance reserve fund respectively.

**46 Clause 138 (Insertion of new pt 5, div 10)**

Page 152, after line 23—

*insert—*

(3A) Before deciding the application, the chief executive must—

(a) give each resident of the retirement village a written notice stating that—

(i) the scheme operator has applied for approval of the proposed redevelopment plan; and

(ii) the resident may make submissions to the chief executive about the proposed redevelopment plan in a stated way and by a stated day; and

(b) if a resident of the retirement village requests a copy of the proposed redevelopment plan—give a copy of the proposed redevelopment plan to the resident; and

- (c) have regard to any submissions made to the chief executive by the residents in the stated way and by the stated day.

**47 Clause 138 (Insertion of new pt 5, div 10)**

Page 152, after line 30—

*insert—*

- (4A) The chief executive’s decision must be made within 90 days of the later of—
  - (a) the day the application is received; or
  - (b) if the chief executive reasonably requires further information for the purpose of making the decision and asks the scheme operator for the further information—the day the information is given.

**48 Clause 138 (Insertion of new pt 5, div 10)**

Page 153, after line 31—

*insert—*

- (9) If the chief executive fails to decide the application in the time required under subsection (4A), the chief executive is taken to have approved the proposed redevelopment plan.

**49 After clause 147**

Page 162, after line 26—

*insert—*

**147A Insertion of new s 225**

After section 224—

*insert—*



## **225 Review of operation of s 63(1)(c)**

- (1) A review of the operation of section 63(1)(c) must be conducted, under this section, to determine the impact of the provision on the following persons—
  - (a) residents;
  - (b) former residents;
  - (c) the families of residents or former residents;
  - (d) scheme operators.
- (2) The review must be conducted by a panel of not more than 4 appropriately qualified persons appointed by the Minister.
- (3) The Minister must prepare, and give to the panel, terms of reference to guide the conduct of the review.
- (4) The review must start no later than 2 years after the commencement.

## **50 Clause 150 (Insertion of new pt 15, div 3)**

Page 166, lines 10 and 11—

*omit, insert—*

resident, in—

- (a) a current public information document; or
- (b) a document mentioned in section 84(1).

## **51 Clause 150 (Insertion of new pt 15, div 3)**

Page 168, after line 12—

*insert—*

### **237OA Non-application of pt 2, div 5 to existing contracts**

Part 2, division 5 does not apply to the

transfer of control of a scheme's operation  
under a contract executed before the  
commencement.

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