



New South Wales

Holiday Parks (Long-term Casual Occupation) Regulation 2009

under the

Holiday Parks (Long-term Casual Occupation) Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Holiday Parks (Long-term Casual Occupation) Act 2002*.

VIRGINIA JUDGE, MP
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Holiday Parks (Long-term Casual Occupation) Regulation 2003*, which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The amendments include the omission of the requirement that a park owner advertise in a newspaper that uncollected goods have been placed in storage and the requirement that a notice to a person in respect of unclaimed goods be in a prescribed form.

This Regulation makes provision with respect to the following:

- (a) how park owners must deal with goods abandoned in holiday parks,
- (b) prescribing a form for a warrant for enforcement of an order for possession,
- (c) savings and formal matters.

This Regulation is made under the *Holiday Parks (Long-term Casual Occupation) Act 2002*, including sections 30 (1), 34 (1) (b) and 51 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Holiday Parks (Long-term Casual Occupation) Regulation 2009

under the

Holiday Parks (Long-term Casual Occupation) Act 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Holiday Parks (Long-term Casual Occupation) Regulation 2009*.

2 Commencement

This Regulation commences on 1 September 2009 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Holiday Parks (Long-term Casual Occupation) Regulation 2003* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Holiday Parks (Long-term Casual Occupation) Act 2002*.

(2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4 Holiday Parks (Long-term Casual Occupation) Regulation 2009

Part 2 Uncollected goods

Part 2 Uncollected goods

4 Definitions

In this Part:

goods includes a relocatable home or other moveable dwelling.

occupant includes a former occupant.

reasonable costs, in relation to uncollected goods, means reasonable costs incurred in relation to the removal, storage, notice of storage, application to the Tribunal and sale of the goods (including the cost of advertising the sale).

uncollected goods—see clause 5.

working day means any day that is not a Saturday, Sunday or public holiday.

5 Uncollected goods

- (1) Goods that have been left on a site by an occupant after the occupant vacates the site become *uncollected goods* for the purposes of this Part:
 - (a) when the occupant vacates the site, or
 - (b) if the occupant vacates the site before the occupation agreement is terminated—when the agreement is terminated.
- (2) Uncollected goods are to be dealt with in accordance with this Part.

6 Options available to park owner when goods not collected

- (1) Uncollected goods (other than a moveable dwelling) that have not been removed from the site by the occupant within 2 working days after they become uncollected goods may be removed and destroyed or otherwise disposed of by the park owner if:
 - (a) the goods are perishable foodstuffs, or
 - (b) the park owner is reasonably of the opinion that it would cost more to remove, store and sell the goods than the goods are worth.
- (2) Except as provided by subclause (1), uncollected goods that have not been removed from the site by the occupant within 2 working days after they become uncollected goods must be stored in a safe place by the park owner.
- (3) If the uncollected goods include a moveable dwelling, the park owner may store other uncollected goods in the moveable dwelling.

7 Notice to occupant that goods are in storage

- (1) Within 7 days after uncollected goods are stored by the park owner, the park owner must give the occupant written notice that the goods have been stored, in one or more of the following ways:
 - (a) by giving the notice to the occupant or a representative nominated by the occupant, or
 - (b) by posting the notice to the occupant's last forwarding address known to the park owner.
- (2) The notice must contain the following:
 - (a) the park owner's name and address, or an address at which the goods can be claimed,
 - (b) the occupant's name,
 - (c) the address of the site (including the site number, where appropriate),
 - (d) a brief description of the goods,
 - (e) a statement that the occupant may claim the goods at any time before they are destroyed, sold or otherwise disposed of but will be required to pay any reasonable costs incurred by the park owner in respect of the goods,
 - (f) a statement that, on or after a specified date the goods (other than any moveable dwelling) will be sold by public auction unless they are first claimed,
 - (g) if the goods are or include a moveable dwelling, a statement that the park owner intends to apply to the Tribunal for an order authorising the removal, destruction, disposal or sale of the moveable dwelling, unless the dwelling is first claimed,
 - (h) a statement that the park owner will retain out of the proceeds of any sale of the goods any reasonable costs incurred,
 - (i) a statement that the occupant is entitled to the balance of the proceeds of any sale of the goods.

8 Order of Tribunal required for disposal of uncollected moveable dwelling

- (1) A park owner is to apply to the Tribunal for an order under section 34 of the Act authorising the removal, destruction, disposal or sale of a moveable dwelling as soon as practicable after the moveable dwelling has been stored by the park owner in accordance with this Part for 30 days.
- (2) The park owner is to dispose of or otherwise deal with the moveable dwelling only in the manner authorised by the Tribunal and is to do so as soon as practicable after the Tribunal makes the order.

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Part 2 Uncollected goods

- (3) Nothing in this Part prevents a park owner from making an application to the Tribunal under section 34 of the Act without first taking the steps set out in this Part.

9 Uncollected goods (other than moveable dwelling) may be auctioned

A park owner is to cause uncollected goods (other than a moveable dwelling) to be sold by public auction as soon as practicable after the goods have been stored by the park owner in accordance with this Part for 30 days.

10 Proceeds of sale

- (1) A park owner must give an occupant the balance of the proceeds of the sale of any of the occupant's goods under this Part after deduction of the reasonable costs incurred by the park owner.
- (2) If a park owner cannot locate an occupant, after making reasonable attempts to do so, for the purpose of giving the occupant the balance of the proceeds of any sale, that money is to be dealt with as if it were unclaimed money under the *Unclaimed Money Act 1995*.

11 Claiming uncollected goods

- (1) A person who is entitled to possession of goods left on site may claim the goods at any time before they are destroyed, sold or otherwise disposed of under this Part.
- (2) A park owner must deliver up goods to a person who claims them if the park owner is satisfied that the person is entitled to claim them.
- (3) The park owner is entitled to require payment of the reasonable costs incurred by the park owner with respect to uncollected goods before delivering them to a person under this clause unless:
- (a) the claim is for some but not all of the uncollected goods of a person, and
 - (b) the remaining goods are worth enough to cover the reasonable costs incurred, and likely to be incurred, by the park owner in respect of all the uncollected goods of the person.

Part 3 Miscellaneous

12 Warrant enforcing order for possession of premises

For the purposes of section 30 (1) of the Act, the prescribed form of a warrant is the form set out in Schedule 1.

13 Savings

Any act, matter or thing that, immediately before the repeal of the *Holiday Parks (Long-term Casual Occupation) Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Form

Schedule 1 Form

(Clause 12)

Warrant enforcing order for possession of premises

Holiday Parks (Long-term Casual Occupation) Act 2002

To all sheriff's officers:

Why is this warrant being issued?

On [*insert date*], the Consumer, Trader and Tenancy Tribunal sitting at [*insert location*] made the following orders [*delete whichever orders were not made*]:

- an order terminating the occupation agreement between [*insert name of park owner*] and [*insert name of occupant*]
- an order for possession of the site at [*insert location of site*] in New South Wales
- an order that the operation of the order for possession be suspended for a period of [*insert number of days*] days from the date of the order.

An application was made by the person in whose favour the order was made for the enforcement of the order for possession of the site.

I am satisfied that the order has not been complied with, or that a condition of suspension of the order has not been complied with.

What does this warrant authorise?

This warrant authorises any sheriff's officer to enter the premises and take all steps that are reasonably necessary to give possession to the park owner.

Police assistance

A sheriff's officer may request that any police officer assist the sheriff's officer to enforce the order for possession.

Use of force

The sheriff's officer or police officer enforcing the order for possession is authorised to use such force as is reasonably necessary to enforce the order for possession.

Production of this warrant

The sheriff's officer or police officer enforcing the order for possession must produce this warrant if asked.

Issue details

Date of issue of warrant:

This warrant must be executed within 28 days of its issue.

Signature

Signed by me:

Chairperson/Deputy Chairperson/Member/Registrar/Deputy Registrar [*delete whichever is not applicable*] of the Consumer, Trader and Tenancy Tribunal.

Name [*print*]:

Signature:

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Form

Schedule 1

Case information

Consumer, Trader and Tenancy Tribunal Registry

Phone No:

Name and address of park owner/park manager:

Phone No of park owner/park manager:

Occupant's Phone No:

File No: