



New South Wales

# Holiday Parks (Long-term Casual Occupation) Regulation 2017

under the

Holiday Parks (Long-term Casual Occupation) Act 2002

His 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*.

MATT KEAN, MP  
Minister for Innovation and Better Regulation

## Explanatory note

The object of this Regulation is to repeal and remake, without substantial amendment, the *Holiday Parks (Long-term Casual Occupation) Regulation 2009*, which would otherwise be repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for how a park owner is to deal with goods that are left uncollected on a vacated site in the park and other savings and formal matters.

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

The 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 2017

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 2017*.

#### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

**Note.** This Regulation repeals and replaces the *Holiday Parks (Long-term Casual Occupation) Regulation 2009*, which would otherwise be repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

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

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

## 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,
  - (b) by posting the notice to the occupant's last forwarding address known to the park owner,
  - (c) by emailing the notice to an email address provided by the occupant to the park owner for the purposes of communication.
- (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.
- (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**

- (1) 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.
- (2) The public auction may be conducted in person or by electronic means.

#### **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 Repeal and savings**

- (1) The *Holiday Parks (Long-term Casual Occupation) Regulation 2009* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Holiday Parks (Long-term Casual Occupation) Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.