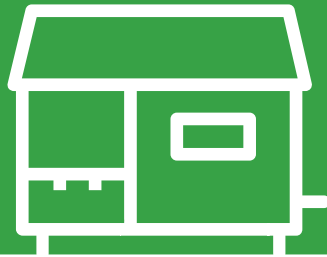


Living in a residential park

Information for residents
who rent only
a site



Government of South Australia

Attorney-General's Department



This guide will help you to understand your rights and responsibilities to enjoy a harmonious lifestyle in a residential park.

In a residential park a person rents a site, or a site and a dwelling, from the park owner to use as their principal place of residence. The dwelling may be a manufactured home or a moveable dwelling such as a caravan.

In South Australia residential parks include both mixed-use caravan parks and dedicated residential parks. A mixed-use park may offer both long and short term accommodation in a mixture of manufactured or transportable homes, caravan sites, tents and holiday cabins. Dedicated residential parks are often purpose built, only offering manufactured or transportable homes used for residential living.

The *Residential Parks Act 2007* (Act) and Residential Parks Regulations 2007 (regulations) regulate residential park living, and should be referred to for more detailed information. The Act does not cover holiday accommodation agreements.

Although residential parks are sometimes called *lifestyle communities* or *'villages'*, they are not retirement villages, which are regulated under the *Retirement Villages Act 2016*.

A register of residential parks in South Australia is available on the Consumer and Business Services (CBS) website: www.cbs.sa.gov.au

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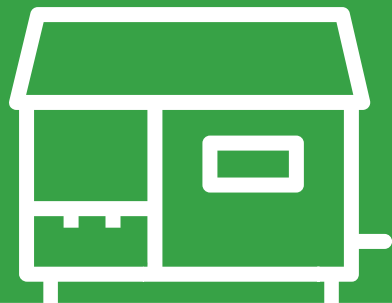
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Information for residents who rent only a site



If you are considering moving into a residential park, carefully read all information given to you by the park owner.

Residential parks may offer an attractive lifestyle and are often situated in a lovely location, but be aware that although you will own the dwelling, you will only be renting the site on which it is located.

You will need to enter into an agreement with the park owner to live in a residential park.

Seek advice on anything that you are unsure of before deciding whether residential park living is for you.



Your rights and responsibilities

Before you decide to move into a residential park you need to be clear about your rights and responsibilities.

As a park resident you must:

- pay the rent on time
- obey the park rules
- keep the rented site reasonably tidy.

You must not:

- give the park owner false information about your identity or where you work
- damage the site
- use the site for an illegal purpose
- interfere with the reasonable peace, comfort or privacy of other people in the park
- add a permanent structure to the site, without written permission from the park owner.

You are responsible for the behaviour of your visitors - where you have invited them or they are there with your consent. If a visitor behaves in a way that breaches a term of your agreement, you may be held liable.

Heavy items and permanent structures

If you bring very large or heavy items onto the site, remember that you will need to take them with you if you move out.

You must seek the owner's permission if you wish to build any type of structure on your rented site. If the structure is transportable, then you will be able to take it with you if you leave the park, but bear in mind that the cost to transport the structure may be significant.

If there is a permanent dwelling on your site, you have the right to sell the dwelling if you choose to leave the park. See page 7 for more information.

Documents you must be given

Before an agreement is made

There are certain documents that you must be given either before:

- you sign an agreement to live in a residential park
- your existing agreement is reviewed with the park owner.

The documents you must be given are:

- ☐ * Disclosure statement
- ☐ * Site condition report
- ☐ * Park rules
- ☐ * Information notice outlining your rights and responsibilities
- ☐ Details of the park owner and who to contact if emergency repairs are required
- ☐ Information about fees that may be charged in addition to rent

- ☐ Information about whether you are entitled to any payments (other than bond) when you leave the site, and if so, how the amount will be determined.
- ☐ Information about your right to sell or relocate a dwelling on the site, and what will happen if you are unable to sell the dwelling after a period of time

The documents marked with an asterisk (*) must be given to you at least 14 days before you sign an agreement. This will allow you time to seek advice and consider if the agreement is right for you.

However, you can sign an agreement sooner than 14 days if:

- your agreement is for a short term (90 days or less), and
- you sign a waiver confirming that it is your own choice to sign up sooner.

Residents purchasing an existing dwelling

If you are considering purchasing an existing dwelling in the park, ask the park owner for the required documents (those marked with * in the list on page 4). The park owner must give you these documents within seven days of you making the request.

If the site condition report or disclosure document have not been updated for some time, you may wish to ask the park owner to update the information.

After an agreement is made

Once you've signed a written agreement, you must be given:

- A copy of the agreement, which must include a copy of the park rules and a date for when the agreement will be reviewed.
- Instructions on how to use any appliance or device as part of the rented or common areas.

There must be a safety evacuation plan for the park and the plan must be reviewed at least once a year. The park owner must make the plan available for you to view it or give you a copy.



Agreements

You must have a written agreement to live in a residential park. When you rent only a site (rather than a site and a dwelling), you will have a residential park **site** agreement.

Your agreement may be either:

- a **fixed term agreement** – for a set period of time (e.g. 5 or 10 years).
- a **periodic agreement** – with a set start date, but no specified end date.

Your agreement will include terms and conditions about your arrangements for living in the park.

Agreements for 5 years or more will afford you with increased protections.

Sub-letting

Before you sub-let your site, check that your park rules allow sub-letting and the terms relating to this type of agreement.

If the park owner allows sub-letting, you will need a sub-tenancy agreement with the park owner.

The agreement between yourself and the sub-tenant may be an oral or written agreement, however it is always best to put what was discussed in writing, where possible.

Sub-letting without permission will mean that you are breaching your agreement.

Transferring your agreement to someone else

To transfer (assign) your agreement to another person, you will need written approval from the park owner. The park owner cannot refuse to transfer your agreement unless there is a good reason.

The park owner may request a small charge to cover their administrative costs for transferring your agreement.

At least 14 days before your agreement is transferred to another person, you must advise that person to contact the park owner to request the information that must be provided to them – as outlined in the section ‘Documents you must be given’ on page 4.

Selling a dwelling

If your dwelling is portable (e.g. a caravan) you may sell it and buy a new one, without requiring the park owner's permission.

If your dwelling is a more permanent structure on the site and cannot be removed, you must notify the park owner in writing of your intention to sell the dwelling and transfer your agreement to the buyer. See the previous section about 'Transferring your agreement to someone else'. The owner cannot unreasonably refuse to assign a site agreement.

If you pass away, and your personal representative or anyone who inherits the property decides to sell the dwelling, they must inform the park owner and give the owner first option to purchase the dwelling at market value. If no agreement to purchase is reached within 28 days, the dwelling may be offered for sale to another person.

If you breach the agreement

The park owner may give you a termination notice if you breach your agreement. This means your agreement will end if you do not fix the problem. The breach notice will state how much time you have to rectify the problem.

If the issue is not resolved, you will need to move out of the park by the date specified on the notice. At this point, failure to vacate will mean that the park owner can apply to the South Australian Civil and Administrative Tribunal (SACAT) for an 'order of possession'. SACAT will consider the facts presented and make a determination.

For information about
SACAT visit their website at
www.sacat.sa.gov.au

At the end of your agreement

Fixed term agreements

If you have lived at the park for
5 years or more -

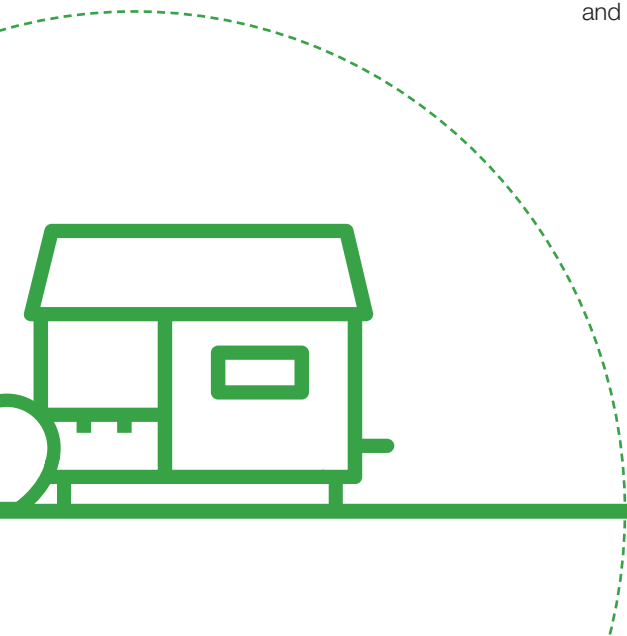
When your agreement expires, the following may happen:

- If you wish to move out, you must give the owner at least 28 days' notice.
- The owner cannot ask you to move out, unless there is a reason for terminating your agreement (e.g. a breach of the agreement). See page 17 for the circumstances where the owner can ask you to leave.

→ If neither you nor the park owner terminate the agreement, your site agreement is automatically reissued with the same terms and conditions and for the same amount of time. The park owner must give you a written copy of the reissued agreement within 28 days after the fixed term ends.

If either you or the owner would like to vary the terms of the agreement, 90 days' written notice must be given. The owner must then, in consultation with you, undertake a review of the agreement. A new agreement will be reissued if both parties agree on the new terms.

If either party can't agree, an application can be made to SACAT to make a determination. If the review process is not finalised before the end of the fixed term, the agreement continues until the matter is resolved and the agreement reissued.



If you have lived at the park for
less than 5 years -

When your agreement draws to an end:

- If you wish to move out, you must give the owner at least 28 days' notice.
- If the owner asks you to move out, you must be given at least 28 days' notice.
- If neither you nor the park owner terminate the agreement, then your current agreement will automatically continue with the same terms and conditions, except that your agreement will then be a periodic agreement. The agreement must include the date, or approximate date, when you were first granted the right to occupy the site.

Once you have lived in the park continually for more than five years, your agreement will be reviewed and reissued with the same terms and conditions as those applying under the agreement immediately before the end of the fixed term.

Periodic agreements

- To leave the park, you must give notice to the owner (of at least 28 days, unless the rent period is longer – e.g. if you pay rent monthly, you must give at least a month's notice)
- If you have lived at the park for less than 5 years and the owner wants you to move out, you must be given at least 90 days' notice.
- If you have lived at the park for 5 years or more, the park owner must review your agreement in consultation with you. The agreement must be reissued for an agreed fixed term (unless you wish to remain on a periodic agreement). It must be in writing and include a further review date.

However, if you choose to continue with a periodic agreement, you must inform the park owner in writing and in accordance with any requirements set out in the Act or regulations. This means that the provisions relating to the reviewing of the agreement and the reissuing of the agreement with a fixed term, will not apply to you. This must be your own decision - the park owner cannot simply decide to keep you on a periodic agreement.



Bond, rent and charges

The Act and regulations set out what the park owner can charge you for.

Bond

The park owner cannot ask for more than the equivalent of four weeks' rent as bond.

The park owner must give you a receipt within 48 hours of receiving the bond money. This receipt must show the date, your name, the amount and address of the rented site.

The owner must lodge the bond with Consumer and Business Services (CBS) within seven days of receiving it.

Note: Housing SA may be able to assist you with paying a bond
– Phone 131 299.

Rent

You can be asked to pay the first two weeks' rent in advance. If two weeks' rent is paid at the start of the agreement, no more rent is due until those two weeks have passed.

Besides a bond and two weeks' rent in advance, the park owner cannot ask for any other money at the start of the agreement.

Rent receipts

The owner must give you a receipt for each rent payment, unless you pay rent into an account kept by the owner.

Rent increases

The park owner can increase the rent if the agreement states that there can be a rent increase. Rent cannot increase:

- during the first 12 months of an agreement
- until at least 12 months has passed since the last rent increase.

You must be given at least 60 days' written notice of a rent increase (except where your agreement sets out the increases and dates).

Services and utilities

If your site does not have an individual meter for utilities (e.g. gas and water), then you do not need to make a separate payment for these charges, as they will be included in your rent.

If your site has an individual meter for utilities, your agreement should state that you need to make payments in addition to rent.

You can ask the owner to give you the following details of these charges:

- the amount you have used
- the dollar amount of the charges (and how that amount was calculated)
- the period of time that the charges relate to, and
- if being charged for any other related matters, itemising those matters and specifying the amount of the charge in relation to each item.

If the owner provides you with bottled gas, you will be responsible for refilling the gas bottle and paying for the gas that you use.

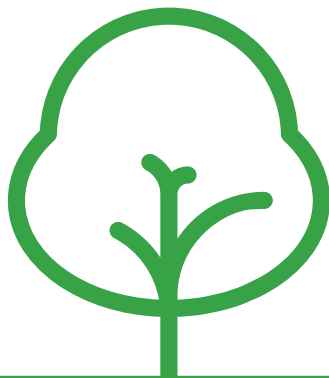
Overnight visitor fees

You can be charged visitor fees when a friend or relative visits and stays overnight, if the amount is clearly stated in your agreement or in the park rules.

Things you cannot be charged for

The park owner cannot ask you to pay:

- for the key, opening device or information needed so you have 24 hour access to the park
- to have a residential park agreement renewed or extended.



Park rules

It is a condition of your site agreement that you obey all of the park rules.

Park rules can cover things such as:

- the use of common areas -
e.g. laundry
- parking
- rubbish disposal
- pets
- sub-letting
- sporting and other recreational activities.

You should receive a copy of the rules at least 14 days before you sign an agreement to live in the park.

Changing the rules

Before changing the park rules, the owner must consult with the park's residents committee (if there is one) and consider their views.

Park rules can be changed after the park owner gives 14 days' written notice to all residents.

If you think a rule is unreasonable, you can apply to SACAT to have the rule changed or removed. A majority of site residents living in the park must make a joint application.



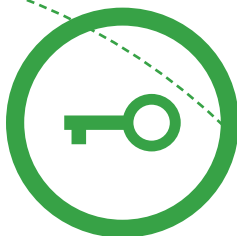
Owner entering your site

The park owner can only enter your site:

- to prevent danger to life or valuable property
- to read the meter if you are required to pay for certain charges - e.g. water
- to check that legal requirements are met for distances between structures on neighbouring sites and to remove hazardous materials (entry must be at a reasonable time and on a reasonable number of occasions)
- to maintain the lawn and grounds, if this is included in your site agreement (entry must be at a reasonable time and on a reasonable number of occasions)
- at any time with your consent.

A park owner does not have any other right to enter your rented site.

The owner does not have the right to enter your dwelling, unless you give the owner permission to do so.



Residents committee

If a residential park has at least 20 fixed term site agreements with residents, there must be a residents committee to represent the common interests of park residents.

If there are fewer than 20 agreements in place, a residents committee is still recommended, as the committee can work with the park owner to maintain and improve the lifestyle of residents.

If a residents committee is in place, the park owner must consult the residents committee and consider its collective views when changing park rules and reviewing the safety evacuation plan each year. The park owner must allow the use of a room for committee meetings.

The role of the committee is to advise and consult with the park owner regarding:

- Preparing and amending park rules
- Developing guidelines for the standards of behaviour of park residents
- Improving and maintaining the natural environment and amenities of the park

- Installing and maintaining lighting and fencing within the park, and other matters relating to residents safety.

After a matter has been considered by the residents committee, it can be brought to the park owner's attention for consideration. The owner must consider the matter and provide a written response to the committee within one month, or a longer period if agreed by the committee.

Committee members

Committee members must be elected by residents from at least five different sites in the park to form a residents committee.

All residents have a right to be a member of a residents committee, unless they are employed by the park owner to help with the management of the park.

Committee confusion

If more than one group claims to be the residents committee for the park, SACAT can make a determination so it is clear which group is the official residents committee. Either the park owner or a park resident can apply to SACAT for an order of this kind.

Procedures

There are no requirements in the Act on how a committee should operate, however to help things run smoothly the committee could consider:

- Having a set of written rules - Consumer and Business Services (CBS) has developed some model rules, which can be adapted to suit each committee's needs.
- Deciding who can attend committee meetings – generally, only committee members should attend a residents committee meeting, unless guest speakers, friends or family members are invited by the committee to attend.
- Appointing residents to take on the roles of chairperson and secretary to make sure that accurate records are kept and that meetings are run well. These roles could be held for a year or two, with other members then being given the opportunity to take up one of these roles if they wish.

The committee does not need to be an incorporated association, as it does not:

- Deal with money, borrow money, operate bank accounts or incur debt
- Enter into contracts
- Appoint agents.

If the committee is considering becoming an incorporated association, it is recommended that independent legal advice is sought.

Other committees

There can be other groups or committees in addition to the residents committee. For example:

- A social group to play cards each week
- A social committee to plan events and excursions for interested residents.



Repairs and maintenance

If damage occurs to your rented site or common area, you should let the park owner know as soon as possible.

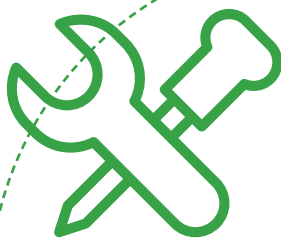
If you cause or allow damage to occur, it is your responsibility to repair it.

If repairs are needed to common areas due to normal wear and tear, or to your site due to circumstances beyond your control – e.g. a severe storm, it is the park owner's responsibility to organise repairs.

If you have been unable to contact the park owner, or if nothing has been done after letting the park owner know there is a problem, then you can:

- Have emergency repairs carried out by a licensed tradesperson. You must get a written report from the tradesperson; or
- Apply to SACAT for the repairs to be carried out.

If damage occurs to your own dwelling, it is your responsibility to fix it. The park owner does not have responsibility for your dwelling.



Moving out

When you decide you want to leave

If you decide to move out of the residential park, you will need to notify the park owner. The notice you must give to the owner will depend on the circumstances.

Circumstances	Minimum amount of notice required
Breach of agreement by the park owner	14 days if the breach of agreement is not remedied by the park owner within this period
Repeat breaches by the park owner (usually within a short space of time)	14 days
End of fixed term agreement	28 days
No specified ground – periodic agreement only	28 days, unless the rent period is longer – eg if you pay rent monthly, you must give a month's notice
Site is uninhabitable – e.g. flooding	Immediate

You must use the correct form to give notice to the park owner. It is called *Notice of Termination - End of Agreement*. All forms are available from the 'residential parks' section at www.sa.gov.au/tenancy/renters

If you want to move out earlier

If you want to move out of the park before your agreement ends, you can only end your agreement if the park owner agrees. Discuss your intentions with the park owner and try to come to an arrangement, ensuring that any agreement is in writing.

If you leave a fixed term agreement early you may need to pay for:

- the costs involved in finding a new resident
- any loss of rent.

If the owner decides that you won't be responsible for these costs, make sure this is made clear in writing.

Contact Consumer and Business Services (CBS) for advice about moving out before your agreement ends.

Undue hardship

If continuing the agreement would cause you undue hardship, you can lodge an application with SACAT to terminate the agreement.

An example of undue hardship could be the need to move into supported accommodation. Generally, 'undue hardship' does not include financial difficulties.



When the park owner wants you to move out

The park owner can only ask you to leave and end your agreement in certain circumstances. The amount of notice they must give you will depend on the circumstance.

Circumstances	Amount of notice
Breach of the agreement – e.g. rent arrears	28 days, if you do not remedy the breach within this period
Serious misconduct	Immediate
End of fixed term agreement – if you have lived at the park for less than 5 years	28 days
No specified ground – periodic agreement only, and you have lived at the park for less than 5 years. *If you have an agreement for 5 years or more, or you have lived in the park for 5 years or more, your agreement cannot be terminated without specific grounds (e.g. misconduct by the resident).	90 days
Site has been destroyed, rendered uninhabitable, or ceased to be lawfully usable for residential purposes.	Immediate
The park will no longer be a residential park	365 days, unless a SACAT ruling says otherwise, or the owner and resident agree to a different time period
The park will be redeveloped	365 days, unless a SACAT ruling says otherwise, or the owner and resident agree to a different time period

Disputing the termination notice

If you do not think you have breached the agreement, or you have already fixed the problem, contact Consumer and Business Services (CBS) for advice.

You can apply to SACAT for a determination if:

- You wish to dispute the termination notice.
- You believe you were given a termination notice because you complained to a government authority or you were trying to enforce your legal rights.
- The termination is so harsh that it goes against good conscience.

SACAT will consider the facts presented and make a determination.

For information on how to make an application to SACAT, refer to their website at www.sacat.sa.gov.au/application-form

Violence (serious misconduct)

If you have caused a serious act of violence or a threat to the safety of others in the park, you may be given an exclusion notice. You must leave the park immediately and you will not be allowed to return during the exclusion period (the amount of time will be stated on the form the park owner gives you).

If you have a visitor to the park, who is there with your consent, and your visitor is violent or threatens the safety of others in the park, your visitor may be given an exclusion notice.

If you believe that you or your visitor did not behave in that way, you can lodge an urgent application with SACAT requesting an order that:

- you can return to live in the park
- the park owner compensates you for any rent paid during the exclusion period
- the park owner compensates you for any other reasonable expenses.



Sale of the park

If the park is sold to a new owner:

- The new owner must take on the obligations of the previous owner in relation to your existing site agreement.
- For a **periodic agreement** the existing owner can give you 60 days' notice to terminate your agreement, unless you have lived in the park for more than 5 years.
- A **fixed term agreement** remains in force until the expiry date, but can be terminated if you have been a resident for less than 5 years.

Change of use or redevelopments at the park

You may be asked to move if the park will no longer be a residential park, or if the park, or your site, is being redeveloped and the process cannot be completed safely and efficiently with you staying at the site.

If you have a periodic agreement, and have lived in the park for less than 5 years, you may be given 90 days' notice. Otherwise you must be given at least 365 days' notice, unless both you and the owner agree to a shorter period of time, or SACAT makes an order specifying a different timeframe.

Your agreement can then only be terminated if the owner has offered to do one of the following, and you agree:

- Give you another site agreement in either the same park or another park which they own, and agree to cover your costs to relocate.
- Purchase your dwelling.
- Cover the cost to relocate your dwelling to another location.

If you and the park owner cannot reach an agreement, either party can apply to SACAT for an order.

If the park owner gives you a termination notice due to change of use or redevelopment, you can choose to end your agreement sooner by giving 28 days' notice to the owner. No reason needs to be given.

A park owner may choose to waive their right to be able to terminate an agreement for these reasons. If so, this will be included in the terms of your agreement.



When you leave the park

When you leave the park to live somewhere else you must:

- give the rented site back to the park owner in a reasonable condition
- give your forwarding address to the park owner if they ask for it
- leave any keys or devices that were provided to you by the park owner - e.g. access card to the park
- take all your belongings with you, including your dwelling (if moveable) and your personal items.

Bond refund

At the end of your agreement, you should arrange for the bond to be refunded. If there is no damage, rent owed or other liability, the bond can be refunded to you.

You will need to fill out a residential park bond refund form (available from the 'residential parks' section of www.sa.gov.au/tenancy/renters).

Both you and the park owner will need to sign the form.

You can lodge the form either by post or in person to Consumer and Business Services (CBS). If the park owner tries to claim the bond without your consent, CBS will send you a 'Notice of Claim', which will explain your options.

If you do not respond to the notice, the park owner will need to provide CBS with evidence of their claim. If they cannot provide evidence, the park owner will need to make an application to SACAT.

If a resident passes away

If you pass away your site agreement does not automatically end. Your personal representative or a person who inherits your estate can choose to:

- assign the agreement to another person
- terminate the agreement
- sell the dwelling (see the section Selling a dwelling on page 8 for more information).



Resolving issues

If you have a dispute with the park owner, follow these steps to help resolve the issue.

1. Talk to the owner

Discuss the problem with the park owner to try to resolve the dispute. If an agreement cannot be reached, contact Consumer and Business Services (CBS) for advice.

2. Raise the matter with the residents committee

Other residents may have similar concerns. If the committee raises an issue with the park owner, the owner must consider the matter and provide a written response to the committee within one month, or a longer period if agreed by the committee.

3. Contact CBS

CBS provides free impartial advice about your rights and responsibilities and can recommend options to help resolve the issue. If a suitable outcome is not found, you can apply to the South Australian Civil and Administrative Tribunal (SACAT).

4. Apply to SACAT

SACAT is an independent specialist tribunal that provides a prompt and informal way of determining disputes between park owners and residents.

SACAT may send your matter to mediation, where a mediator will help explore options for you and the park owner to reach an agreement. A mediator has the power to make legally binding orders.

SACAT may also refer your matter to a hearing. SACAT can make a decision and issue a binding order.

Contacts

Consumer and Business Services (CBS)

GPO Box 965, Adelaide 5001

Phone: 131 882

Renting information is available at
sa.gov.au/tenancy/renters

South Australian Civil and Administrative Tribunal (SACAT)

Level 4, 100 Pirie Street, Adelaide
5000 (GPO Box 2361)

Phone: 1800 723 767

sacat.sa.gov.au

Housing SA

Phone: 131 299

sa.gov.au/housingsa

Concessions

Department of Human Services

Phone: 1800 307 758

sa.gov.au/concessions







