

**SPECIAL BULLETIN****MARKET RENT REVIEWS DURING COVID 19**

Below is a summary of information provided by the Department of Housing and Public Works.

The process for increasing site rent has changed in response to the COVID 19 pandemic. Under a new regulation, market rent increases will be limited for the period between 19 March and 31 December 2020.

**Changes to the Act**

In May 2020, the *Justice and Other Legislation (Covid-19 Emergency Response) Amendment Act 2020* (the **Emergency Response Act**) was passed, amending the *Manufactured Homes (Residential Parks) Act 2003* (the **Act**) to introduce an emergency regulation-making power for modifying site rent increase processes in response to the COVID-19 pandemic.

On 25 September 2020 these changes came into effect via the *Manufactured Homes (Residential Parks) (COVID-19 Emergency Response) Regulation 2020* (the **Emergency Response Regulation**).

These changes will only affect you if:

- you had or are due to have a market rent review as the basis for your site rent increase, and
- your general increase day is between 19 March 2020 (the date of the declared COVID-19 pandemic) and 31 December 2020 (the current end date of the COVID-19 emergency period).

If the date of your last market rent review was before 19 March 2020, you are not affected.

**You are affected if the general increase day for the market rent review was:**

1. **Between 19 March 2020 to 24 May 2020** – After the declared COVID-19 pandemic state, but before the **Emergency Response Act** was given royal assent

You have until 20 November 2020 to initiate a dispute with the park owner if you believe the market review increase was excessive during the COVID-19 pandemic. You can dispute an excessive increase if you were:

- disadvantaged by social distancing requirements under a Queensland Health direction
- not sufficiently consulted about a rent increase
- unable to seek legal advice and commence a dispute about a rent increase.

**How to initiate a dispute**

To initiate a dispute, you must complete a *Dispute Negotiation Notice (Form 11)* and give it to the park owner no later than 20 November 2020. You must follow the steps for resolving residential park disputes as laid down in the **Act**.

**Current disputes**

If you already have a dispute underway, and you believe that you have been further impacted by COVID-19, you can change your existing dispute by providing a new *Form 11*.

If your market rent review dispute was already decided by QCAT and you want QCAT to reconsider the matter because of COVID-19, you can initiate a new dispute by providing a new *Form 11* to the park owner. You can now apply to QCAT without undertaking the dispute negotiation and dispute mediation

processes ordinarily required under the **Act**. For these disputes, QCAT will also consider circumstances arising during COVID-19 when determining if the increase was excessive.

2. **After 24 May and a general increase notice was provided before 8 June 2020** – Within 14 days of the ***Emergency Response Act*** gaining assent

### **Option 1**

If your park owner gives you a *site rent continuation notice* within 14 days of commencement of the ***Emergency Response Regulation***, the park owner is indicating that they will continue with the market rent increase.

However, as a home owner, you are entitled to a refund of the increased site rent paid between the general increase day and 31 December 2020. The park owner must pay this refund by 6 November 2020.

For example, if the weekly rent for an eligible site increased by \$10 from 1 July 2020, the park owner must pay the home owner \$260. This is equivalent to the 26 weeks of payments of \$10 which would have occurred between 1 July and 31 December.

From 1 January 2021 the site rent increase that was in effect prior to the ***Emergency Response Regulation*** continues until the next general increase day.

### **Dispute resolution**

Home owners who received a *site rent continuation notice* in the time frame stated will continue to have future site rents calculated by market review. However, you will have 56 days from the date you received your site rent continuation notice to dispute the increase.

You can dispute an excessive increase if you were:

- disadvantaged by social distancing requirements under a Queensland Health direction
- not sufficiently consulted about a rent increase
- unable to seek legal advice and commence a dispute about a rent increase.

To initiate a dispute, the you must complete a Form 11 and give it to park owner within 56 days of receiving the site rent continuation notice. You must follow the steps for resolving residential park disputes as laid down in the **Act**.

### **Option 2**

If your park owner does not give you a *site rent continuation notice* within 14 days of commencement of the ***Emergency Response Regulation***, the market review site rent increase is suspended and replaced with CPI increase which is effective until the next general increase day. Disputes already underway about the market rent review increase cease.

As a home owner, you are entitled to a refund of the difference between market review amounts paid and the amount that you would have paid if your site rent was calculated under a CPI increase. The park owner must refund the difference by 6 November 2020.

For example, if you paid an additional \$200 between your general increase day and the day that the market review was suspended, and under a CPI increase you would have only paid an additional \$120 during that period, the park owner must refund the difference of \$80.

When you receive a notice specifying the new site rent payable based on the CPI increase, you should ensure you modify your site rent payments to the amount specified, by the date in the notice.

3. **Between 25 May and 24 September** – Where a General Increase Notice was not provided before 8 June 2020

If you did not receive a general increase notice by 8 June 2020, the market review is suspended and replaced by a Consumer Price Index (CPI) increase to site rents. Any disputes that the you have with the park owner about the market rent review of site rent will end.

As a home owner, you are entitled to a refund of the difference between market review amounts paid and the amount that you would have paid if your site rent was calculated under a CPI increase. The park owner must refund the difference by 6 November 2020.

For example, if you paid an additional \$200 between your general increase day and the day that the market review was suspended, and under a CPI increase you would have only paid an additional \$120 during that period, the park owner must refund the difference of \$80 by 6 November 2020.

When you receive a notice specifying the new site rent payable based on the CPI increase, you should ensure you modify your site rent payments to the amount specified, by the date in the notice.

4. **After commencement of the regulation but before 31 December 2020** – Up to the current end date of the COVID-19 emergency period

Market reviews after commencement of the ***Emergency Response Regulation*** (25 September 2020) and up to 31 December 2020 are prohibited. Park owners who would have had their market review during this period can charge a CPI increase to site rents by providing a notice to home owners.

You will receive a notice specifying the new site rent payable based on the CPI increase, if the park owner chooses to increase site rent based on CPI. CPI will be calculated using the CPI figure published by the Australian Bureau of Statistics for the most recently published quarter in the 14 days prior to the date of the notice.

Once you receive this, you should ensure you modify your site rent payments to the amount specified by the date specified in the notice.

### **What happens in 2021?**

Where a market review has been suspended or prohibited in 2020, it can be undertaken in 2021 despite any statement to the contrary in the site agreement. The market review must be done at least 1 year from the date the suspended market review would have taken place.

To mitigate longer-term impacts on market review schedules, consultation for market reviews scheduled to occur from a general increase day of 1 January 2021 can begin in late 2020 as normal.

For more information about the regulation please contact Regulatory Services on (07) 3008 3450 or email [regulatoryservices@hpw.qld.gov.au](mailto:regulatoryservices@hpw.qld.gov.au).

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