

Rent reviews during COVID-19

Park owner information

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

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

On 25 September changes to the MHRP Act and its associated Regulation, the Manufactured Homes (Residential Parks) (COVID-19 Emergency Response) Regulation 2020 came into effect.

These changes will only affect sites that:

- had or are due to have a market review as the basis for the site rent increase, and
- the 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).

Sites that had their last market rent review before 19 March 2020 are not affected.

Sites are affected if the general increase day for the market rent review was...

Between 19 March 2020 to 24 May 2020

Home owners have until 20 November 2020 to initiate a dispute if they disagree with the market review increase. A home owner may initiate a dispute if they consider the increase excessive and consultation was insufficient for any of the following reasons:

- social distancing requirements under a public health direction (Public Health Act 2005) impacted them
- they were unable to participate in the consultation because of the COVID-19 Emergency
- they were unable to receive legal advice about the dispute because of the COVID-19 emergency.

How can a home owner initiate a dispute?

The home owner must give you a Dispute Negotiation Notice (Form 11) by 20 November 2020.

For these disputes, QCAT will consider whether circumstances arising during COVID-19 had an impact when determining if the increase was excessive.

What if a home owner already has a dispute underway?

If a home owner already has a dispute underway, and they think COVID-19 affected the fairness of the market review process, they can amend any existing dispute by providing a new dispute negotiation notice.

If a home owner already has a decision about an eligible market review, and want QCAT to reconsider the matter with COVID-19 considerations, they can initiate a new dispute by giving you a new a dispute negotiation notice (Form 11), and may make a new application to QCAT. They do not

need to undertake the dispute negotiation and dispute mediation processes ordinarily required under the MHRP Act. They must notify you by 20 November 2020 of the dispute.

After 24 May and a general increase notice was provided before 8 June 2020

You have 2 options.

Option 1

Continue with the market review by providing a Site Rent Continuation Notice to the home owner within 14 days of commencement.

To continue with the market review, you must refund the increase amount between the general increase day and 31 December 2020 to the home owner.

For example, if the weekly amount of the site rent increase for an eligible site is \$10 and the site rent increase started on 1 July 2020. The park owner must pay the equivalent of the increase amount between 1 July and 31 December (26 weeks), which is equal to \$10 multiplied by 26, which is \$260.

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

Where this occurs, the market review is not suspended and home owners are able to initiate a dispute if they disagree with your market review increase.

A home owner may initiate a dispute if they consider the increase excessive and consultation was insufficient for any of the following reasons:

- social distancing requirements under a public health direction (Public Health Act 2005) impacted them
- they were unable to participate in the consultation because of the COVID-19 Emergency
- they were unable to receive legal advice about the dispute because of the COVID-19 emergency.

Home owners will have 56 days from receiving the Site Rent Continuation Notice to dispute the increase.

The home owner is required to provide a Dispute Negotiation Notice (Form 11) to you.

Option 2

If you don't provide the site rent continuation notice within 14 days of commencement of the regulation to the home owners, the market review site rent increase is suspended on 25 September 2020 and replaced by a Consumer Price Index (CPI) site rent increase.

The CPI site rent increase is effective until the homeowners' next general increase day.

Disputes already underway about the market rent review site rent increase are ended.

You will need to refund the difference between the market review amounts paid and CPI increase by 6 November 2020.

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

You need to repay any additional amounts the homeowner has paid by 6 November 2020.

Between 25 May and 24 September and a general increase notice was not provided before 8 June

The market review is suspended and replaced by a CPI increase, and you are required to send a notice specifying the new site rent payable based on the CPI increase.

The homeowner is required to modify their site rent payments to the amount stated by the date in the notice.

Disputes underway about the increase are ended.

You need to refund the difference between the market review amounts paid and that amount that would have been paid under a CPI increase by 6 November 2020.

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

You need to repay any additional amounts you've paid by 6 November 2020.

After commencement of the regulation but before 31 December 2020

Market reviews after commencement of the regulation and up to 31 December 2020 are prohibited.

You can impose a CPI increase by providing a notice to home owners.

How is CPI calculated?

For increases that have been suspended and replaced by CPI, the CPI is calculated in accordance with the terms of the site agreement. Where a CPI increase isn't provided for in the site agreement, you should use the CPI figure published by the Australian Bureau of Statistics for the most recent quarter that ended before the day of the original site rent increase.

Australian Bureau of Statistics publishes [CPI figures](#).

What happens in 2021?

Where a market review has been suspended or prohibited in 2020, it can be undertaken in 2021 even if the site agreement says otherwise. The market review must be done at least 1 year from the date the suspended market review would have taken place.

To mitigate long-term impacts on market review schedules, consultation for market reviews scheduled to occur in early 2021 can begin in late 2020 as normal.

Complying with the regulation

Please contact Regulatory Services on (07) 3008 3450 or email regulatoryservices@hpw.qld.gov.au if you need help or have questions about how the regulation affects you.

Compliance activities will be taking place and penalties will apply if you do not meet your obligations.