

EMERGENCY RESPONSE REGULATION: general increase day between 25 May and 24 September 2020

IMPORTANT NOTE

This factsheet only applies to a [Form 12 General Increase Notice](#) given between 25 May and 24 September 2020. You can find the general increase day under 'Key dates' at the bottom of page 2 of the Form 12 that the park owner issued to you. If you were given the Form 12 on a date outside this timeframe, please see our [other factsheets](#) covering periods between 19 March and 31 December 2020.

NEW LEGISLATION

The [Manufactured Homes \(Residential Parks\) \(COVID-19 Emergency Response\) Regulation 2020 \(Qld\)](#) (Emergency Response Regulation) became law on Friday 25 September 2020.

The Emergency Response Regulation will apply to home owners in residential parks in Queensland whose site rent increased (or was proposed to increase) on the basis of a market rent review between 19 March and 31 December 2020. The way it applies to home owners differs, depending on the date the Form 12 General Increase Notice was given and the general increase day in the Form 12.

To work out how the Emergency Response Regulation applies to you, you need to work out the date the Form 12 was given to you.

The Regulation applies differently depending on if you were given the Form 12 General Increase Notice on or before 8 June 2020, or on or after 9 June 2020.

If you were given the Form 12 on or before 8 June 2020	If you were given the Form 12 on or after 9 June 2020
<p>The market rent review can only continue if you are given a Site Rent Continuation Notice by 9 October 2020.</p> <p>If you are given this notice, the park owner:</p> <ul style="list-style-type: none"> cannot charge the increased rent until 1 January 2021 must refund any increased rent you have paid in 2020. <p>If you are not given this notice, the market rent review will not apply, and your rent will increase according to the consumer price index instead.</p>	<p>The park owner cannot continue with the market rent review.</p> <p>However, your site rent will increase according to the consumer price index.</p> <p>Any increased amounts you have paid above a consumer price index increase must be refunded.</p>

This means that if you were given the Form 12 General Increase Notice on or after 9 June 2020, the market rent review cannot continue and your site rent will increase by the consumer price index (CPI). See 'If you are not given a Site Rent Continuation Notice by 9 October 2020' below for an explanation about how this CPI increase must be calculated.

Where you have been given the Form 12 on or before 8 June 2020, the park owner has two options, they can:

- continue with the increase by way of market rent review by giving you a Site Rent Continuation Notice by 9 October 2020
- not continue with the increase by way of market rent review, in which case your rent will increase by CPI.

IF THE PARK OWNER GIVES YOU A SITE RENT CONTINUATION NOTICE BY 9 OCTOBER 2020

If you do not wish to dispute the market rent review

If you agree with the increase by way of market rent review (which will have effect from 1 January 2021), you do not have to do anything. Your rent will be 'frozen' at the pre-market rent review rate until 1 January 2021, the park owner must pay you a refund amount as outlined below and then, from 1 January 2021, you will have to pay the increased site rent amount.

If you wish to dispute the market rent review

If you do not agree to the increase by way of market rent review, the Emergency Response Regulation gives you another opportunity to raise a dispute, but only on limited grounds.

Under a market rent review process, the park owner or a registered valuer must consult with the home owners committee or, if there is no home owners committee, with a proportion of the home owners affected by the proposed increase. You can find more information about the process in the Queensland Civil and Administrative Tribunal (QCAT) in our factsheet [Park Site Rent Increase—Market Review](#).

The Emergency Response Regulation says that you can dispute the increase if you think the increase was excessive **and** you consider that there was insufficient consultation by the park owner or the valuer due to:

- social distancing requirements under a public health direction
- you (the home owner) being unable to participate in the consultation because of the COVID-19 emergency
- you (the home owner) being unable to receive legal advice about the dispute because of the COVID-19 emergency.

If you wish to dispute the increase, you must give a [Form 11 Dispute Negotiation Notice](#) to the park owner within **56 days** of being given the Site Rent Continuation Notice. This starts the dispute resolution process. You can find more information about this process in our [factsheets regarding dispute resolution](#) and can seek legal advice from the Queensland Retirement Village and Park Advice Service (QRVPAS) about this process.

The Emergency Response Regulation makes it clear that the initial dispute resolution meeting can be by audio or audio-visual link, which means you can meet by telephone or use a video chatting application such as Skype.

What refund amount should I be paid?

If the park owner wants to continue with the increase by way of market rent review and gives you a Site Rent Continuation Notice by 9 October 2020, they must also refund you the increased site fee amount for the weeks (rounded down to the nearest whole number) between the general increase date and 31 December 2020 (inclusive).

For example, if your site rent increased by \$10 per week on 1 July 2020, the park owner must agree to refund you this increased site rent for the period between 1 July 2020 and 31 December 2020. The refund period between the general increase day and 31 December is 184 days. This equates to 26 weeks (rounded down). Accordingly, the park owner must refund you the \$10 weekly increase multiplied by 26 weeks, which equates to \$260 if they wish to continue with the market rent review.

The Site Rent Continuation Notice must include details of how this refund amount has been calculated, and the refund must be paid to you by 6 November 2020.

If you are not paid the refund, you will have grounds to complain to the Regulatory Services Unit. See our [Making a Complaint to Regulatory Services](#) factsheet for further information.

What if there is dispute resolution about the market rent review already underway?

If there is a dispute about the market rent review that has completed the first dispute negotiation stage or is at the mediation or hearing stage in QCAT, and you are either a party to this dispute (meaning you are already involved) or want to join the dispute, we recommend you seek advice from QRVPAS about your options.

In some circumstances, the Emergency Response Regulation allows you to progress more quickly through dispute resolution for example by joining an existing mediation or hearing in QCAT. However, you will have obligations to notify QCAT and the park owner about your involvement, and you should seek legal advice before taking this step.

IF YOU ARE NOT GIVEN A SITE RENT CONTINUATION NOTICE BY 9 OCTOBER 2020

If you are not given a Site Rent Continuation Notice by 9 October 2020, the increase by way of market rent review converts to a site rent increase based on CPI on 9 October 2020.

If you had started a dispute resolution process about the increase by way of market rent review and the park owner does not give you a Site Rent Continuation Notice, the dispute resolution processes you started will end.

The CPI increase will occur in accordance with:

- the terms of your site agreement, if it provides for a CPI increase
- the annual CPI change published by the Australian Bureau of Statistics for the quarter that ended immediately before the day of the original site rent increase if your site agreement does not provide for a CPI increase.

For example, if the site rent is increased on the basis of a market review on 1 July 2020, the site rent increase on the basis of an increase in the CPI number will be based on the annual CPI change published for June 2019 to June 2020.

If the park owner does not give you a Site Rent Continuation Notice and the increase converts to a CPI increase, the park owner must give you a [Section 14\(9\) Notice](#) stating that the increase by way of market rent review has been replaced by a CPI increase and you are entitled to a refund of the difference between the amount by way of market rent review and the CPI amount from the park owner by 6 November 2020.

What if I think the CPI increase is incorrect or excessive?

If you think the CPI increase is incorrect or excessive or your refund under the Section 14(9) Notice is incorrectly calculated, you should get legal advice. It is possible that you may have grounds to start a dispute resolution process, or you may have grounds to make a complaint to the Regulatory Services Unit within the Department of Housing and Public Works.

FURTHER INFORMATION

The explanatory note to the Emergency Response Regulation provide a plain-English overview:

www.legislation.qld.gov.au/view/pdf/published.exp/sI-2020-0057

The Queensland Government has released information on 'Rent increases during COVID-19' on their Business Queensland website:

www.business.qld.gov.au/industries/service-industries-professionals/housing-accommodation/managing-manufactured-homes/rent-increases-covid-19

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This information is current at October 2020.

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