

Housing Legislation (Building Better Futures) Amendment (Postponement) Regulation 2018

Explanatory notes for Subordinate Legislation 2018 No. 158

made under the

Housing Legislation (Building Better Futures) Amendment Act 2017

General Outline

Short title

Housing Legislation (Building Better Futures) Amendment (Postponement) Regulation 2018.

Authorising law

Section 15DA of the *Acts Interpretation Act 1954*.

Section 2 of the *Housing Legislation (Building Better Futures) Amendment Act 2017*.

Policy objectives and the reasons for them

The purpose of the *Housing Legislation (Building Better Futures) Amendment (Postponement) Regulation 2018* (the Postponement Regulation) is to extend the period before automatic commencement of the uncommenced provisions in the *Housing Legislation (Building Better Futures) Amendment Act 2017* (HLA Act) to the end of 10 November 2019.

The HLA Act delivered on the government's commitment in the Queensland *Housing Strategy 2017-2027* to modernise the housing regulatory system, so consumers are protected and empowered, and the industry can supply quality services.

The objective of the HLA Act is to amend the *Manufactured Homes (Residential Parks) Act 2003* (MHRP Act), *Residential Services (Accreditation) Act 2002* (RSA Act), *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) and the *Retirement Villages Act 1999* (RV Act) to ensure fairness and consumer protections for people who are either living in regulated accommodation or considering moving into these types of housing, while enabling the continued viability of these industries and sectors.

The HLA Act received assent on 10 November 2017. Section 2 of the HLA Act provides for the commencement of provisions of that Act which did not commence on assent, to commence on a day to be fixed by proclamation.

The implementation of the HLA Act is being commenced in stages to ensure important consumer protections are delivered as quickly as possible while allowing for broad stakeholder consultation and co-design in the development of processes, approved forms, notices and regulations arising out of the HLA Act.

The HLA Act amendments to the MHRP Act to introduce new behavioural standards in residential parks commenced on assent.

Stage 1 MHRP Act amendments were proclaimed in October 2018 and commenced provisions related to site rent increases, dispute resolution, emergency and visitor access, limitations on utility charging, and new processes for park liaison committees. The second and final stage of the amendments to the MHRP Act are expected to be proclaimed between April and June 2019. This stage will commence amendments to improve pre-contractual disclosure processes and cooling off periods and will require residential parks to develop emergency plans.

The HLA Act amendments to the RV Act to introduce new behavioural standards in retirement villages and new requirements for payment of exit entitlements to former residents commenced on assent.

Stage 1 RV Act amendments are intended to be proclaimed in October 2018 to commence on 1 February 2019. This stage will commence improvements to the pre-contractual disclosure process, resident and prospective resident access to village operational documents, the process for reinstatement and renovation of units following a resident's departure and valuing a unit for resale and will commence a regulation-making power related to public safety equipment in retirement villages. Stage 2 is expected to be proclaimed between April and June 2019 and will commence amendments to address changes in village operations, such as redevelopment of a village, and new standards for retirement village contracts. Stage 3 will be proclaimed by 10 November 2019 and will commence a new set of standard financial reports and budgets.

The new minimum housing standards to be included in the *Residential Tenancies and Rooming Accommodation Regulation 2009* are currently being consulted on as part of the State-wide *Renting in Queensland* consultation process.

All HLA Act amendments to the RSA Act have now commenced in addition to the new *Residential Services (Accreditation) Regulation 2018* being made.

Achievement of policy objectives

Section 15DA(2) of the *Acts Interpretation Act 1954* provides that a postponed law which has not commenced within one year of the date of assent will automatically commence the next day. Accordingly, if the Postponement Regulation is not made, the un-commenced HLA Act provisions will automatically commence on 12 November 2018. This automatic commencement would not allow the development of processes, approved forms, notices and regulations and the consultation on these things to take place.

Section 15DA(3) of the *Acts Interpretation Act 1954* provides that a regulation may be made to extend the period before automatic commencement to not more than two years from the date of assent.

To achieve the policy objectives described above, the Postponement Regulation will extend the period before automatic commencement of all uncommenced provisions of the HLA Act to the end of 10 November 2019.

Consistency with policy objectives of authorising law

The Postponement Regulation is consistent with the objectives of the HLA Act and the *Acts Interpretation Act 1954*.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The Postponement Regulation is the only effective means of postponing the automatic commencement of the un-commenced provisions of the HLA Act.

Benefits and costs of implementation

There are no costs associated with the implementation of the Postponement Regulation.

Consistency with fundamental legislative principles

The Postponement Regulation is consistent with fundamental legislative principles.

Consultation

The Ministerial Housing Council (MHC) was consulted on the implementation timeline for the HLA Act. The MHC members supported staged implementation concluding in October 2019.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category G - Regulatory proposals that are of a machinery nature).