

Manufactured Homes (Residential Parks) Amendment Regulation 2019

Explanatory notes for Subordinate Legislation 2019 No. 82

made under the

Manufactured Homes (Residential Parks) Act 2003

General Outline

Short title

Manufactured Homes (Residential Parks) Amendment Regulation 2019

Authorising law

Sections 86A, 89, 146 and Schedule 1 (Part 1) of the *Manufactured Homes (Residential Parks) Act 2003*.

Policy objectives and the reasons for them

Section 2 of the *Housing Legislation (Building Better Futures) Amendment Act 2017* (the Amendment 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 purpose of the Amendment Act is to make amendments to the *Manufactured Homes (Residential Parks) Act 2003* (MHRP Act), the *Residential Services (Accreditation) Act 2002* (RSA Act), the *Retirement Villages Act 1999* (RV Act), the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act), the *Building Act 1975* and the *Housing Act 2003*. The policy objective of the amendments contained in the Amendment Act are provided for in the explanatory notes accompanying the *Housing Legislation (Building Better Futures) Amendment Bill 2017*.

The overarching objectives of the Amendment Act are to amend the MHRP Act, RSA Act, RTRA Act and the 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 Amendment 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 Amendment Act. Part 4 of the Amendment

Act amends the MHRP Act, and this part, to the extent it is not in force, will commence on 1 September 2019.

The policy objective in amending the *Manufactured Homes (Residential Parks) Regulation 2017* (MHRP Regulation) is to implement changes in the Amendment Act by enhancing the protections relating to emergency plans in the MHRP Act by requiring that emergency plans include information about where home owners and other residents must evacuate to if there is an emergency; ensuring records of emergency procedure tests are kept; and that the emergency plan is displayed on the park notice board, and by ensuring that the proposed basis and frequency for site rent increases are included in pre-contractual documents provided to prospective home owners.

Achievement of policy objectives

The amendments to the MHRP Regulation will achieve the policy objectives of the MHRP Act by providing further information for:

- emergency plans by requiring a specified place that home owners and other residents must evacuate to if there is an emergency; that the park owner ensures a written record of each emergency procedure test is kept at the park; and that the emergency plan is displayed on the park noticeboard; and
- the Initial Disclosure Document, by requiring that the basis for site rent increases for the site and how often the site rent is to be increased be included in addition to requirements under the MHRP Act.

These amendments will commence on 1 September 2019 to align with the commencement of new requirements under the MHRP Act on residential park owners to ensure that there is an emergency plan for the park and commencement of new pre-contractual disclosure requirements.

Consistency with policy objectives of authorising law

The amendments to the MHRP Regulation are consistent with the objectives of the MHRP Act.

Inconsistency with policy objectives of other legislation

The amendments to the MHRP Regulation are consistent with the policy objectives of other legislation.

Alternative ways of achieving the policy objectives

There are no alternative means of achieving the policy objective to ensure the emergency plan provisions protect home owners as required by the MHRP Act and that prospective home owners are well informed about the proposed basis and frequency of site rent increases in a residential park.

Benefits and costs of implementation

Benefits of implementation include providing more clarity to park owners about what is to be included in an emergency plan; records to be kept; and where the plan is to be displayed. This will help make residential parks safer for home owners and other people in the park. These requirements do not impose significant costs on park owners.

Benefits also include that prospective home owners are well informed about the proposed basis and frequency of site rent increases in a residential park. Because this information must be provided in other documents before a home owner can enter a site agreement, this requirement does not impose significant costs on park owners.

Consistency with fundamental legislative principles

The amendments to the MHRP Regulation are consistent with fundamental legislative principles.

Consultation

In March 2019, the department sought feedback from an Amendment Act Consultative Group about the amendments proposed to the MHRP Regulation and the proposed forms and templates to support implementation of the Amendment Act and MHRP Regulation amendments. These stakeholders included:

- Resident/consumer groups including: Associated Residential Parks Queensland, Caxton Legal Centre (Queensland Retirement Villages and Parks Advice Service), Manufactured Home Owners Association, Tenants Queensland, Association of Residents in Queensland Retirement Villages.
- Peak and community groups including: COTA, National Seniors Australia, Queensland Law Society.
- Industry representatives including: Caravanning Queensland, Leading Age Services Australia, Property Council of Australia and Urban Development Institute of Australia.

Stakeholders provided detailed feedback on the proposed forms and templates which support the implementation of the Amendment Act. Feedback also identified that while the initial disclosure documents provided to home owners during precontractual disclosure must include information on the site rent history for the site, there was no requirement to include information on the basis for increases. Knowing how site rent can increase enables prospective home owners to better predict the future cost of living in a residential park. Accordingly, disclosing this information is included as a requirement under the MHRP Regulation.

Feedback on the emergency plans mainly related to how park owners should comply with the requirements. In response to this feedback, guidance about what park owners need to consider in developing their emergency plans will be included in communication materials released to support implementation.

Prior to commencement, stakeholders will be advised of the commencement date of the amendments to the MHRP Regulation.

The amendments to the MHRP Regulation are of a machinery nature and fall within the agency assessed exclusion category (g) under the Queensland Government Guide to Better Regulation.

Notes on provisions

Clause 1 sets out the title to the Regulation.

Clause 2 provides for commencement of the provisions of the amendments to the MHRP Regulation on 1 September 2019.

Clause 3 states that this regulation amends the *Manufactured Homes (Residential Parks) Regulation 2017*.

Clause 4 inserts new provisions relating to emergency plans that will require a place that home owners and other residents must evacuate to if there is an emergency; that the park owner ensures a written record of each emergency procedure test is kept at the park; and that the emergency plan is displayed on the park notice board.

Clause 4 also creates a requirement for the Initial Disclosure Documents to include the basis for working out the amount of each increase in the site rent and how often the site rent is to be increased. Setting out the basis for rent increases for the site is a requirement of the site agreement. However, providing the information in the Initial Disclosure Documents in the precontractual disclosure process may help a prospective home owner to 'shop around' and decide whether a particular park will likely be affordable to them in the future.

Clause 5 renumbers sections 4A to 5.