



QUEENSLAND
MANUFACTURED HOME OWNERS
ASSOCIATION INC.

AMENDMENTS BILL 2024

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MANUFACTURED HOMES (RESIDENTIAL PARKS) AMENDMENT BILL 2024 QMHOA INFORMATION SHEETS v2 SHEETS 1 – 5 CHANGES TO THE ACT

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An Overview for Members of the Manufactured Homes (Residential Parks) Amendment Bill, 2024

The Manufactured Homes (Residential Parks) Amendments Bill, 2024, designed to amend The Manufactured Homes (Residential Parks) Act 2003 in certain particulars was introduced in Parliament by Minister Scanlan on Thursday 20th March 2024. This Bill was at that time referred to the appropriate Parliamentary Committee for consideration.

The Committee delivered a report to Parliament on 10th May 2024 recommending the Bill be passed with no amendments.

In accordance with procedure the Bill was read a second and third time and passed by Parliament on 23rd May 2024. It should be noted that the Opposition LNP did not oppose the Bill.

Measures introduced in the Bill will come into force in three stages. Some matters will become law immediately whilst others will be staged.

Firstly, will be those matters which have been enacted and are effective from the 6th June 2024. These include:

- Changes to the Objects of the Act
- Prohibition of market rent reviews
- Site rent increases to be capped/limited
- New definition of Consumer Price Index (CPI)
- A limited Buy Back Scheme for unsold homes and rent reduction in certain instances.
- A new framework will apply following termination of a site agreement by QCAT.

Secondly, one matter will be enacted 6 months after assent i.e.

- Park owners must provide multiple methods for payment of site rent.

Finally other amendments will require proclamation by Government within 12 months. These include:

- Changes to the sale of home procedures and assignment of site agreements.
- Park owners to publish Comparison Documents for their parks.
- Park owners to produce and implement Maintenance and Capital Replacement Plans
- A new registration system for parks.

We will provide detailed information on each of the above in separate sheets.

Questions on the above should be emailed to secretary@qmhoa.org.au

Note: This summary is QMHOA's understanding of the Manufactured Homes (Residential Parks) Amendment Bill, 2024, the Explanatory Notes that accompanied it and briefings from the Department of Housing, Local Government, Planning and Public Works.



INFORMATION SHEET No 1 Manufactured Homes (Residential Parks) Amendment Bill, 2024 OBJECTS OF THE ACT

These changes take effect from 6 June 2024. They are in effect now.

This Amendment Bill makes changes to sections of the Manufactured Homes (Residential Parks) Act 2003 including to section 4 (Objects of Act). This section sets out the overarching aims of the legislation in general terms and is being amended by adding to clause 4(2)(d) and including 2 new clauses being 4(2)(f) & (g).

The current Act provides that the main object of the Act is to regulate and promote fair trading practices in the operation of residential parks, and in:

Clause 4(1)(a) - to protect home owners from unfair business practices, and

Clause 4(1)(b) - to enable home owners, and prospective home owners, to make informed choices by being fully aware of their rights and responsibilities in their relationship with park owners.

The Act goes on to explain in clauses 4(2)(a) to (f) how these Objects will be achieved, and they are:

Clause 4(2)(a) declaring particular rights and obligations of the park owner, and home owners, for a residential park; and

Clause 4(2)(b) facilitating the disclosure of information about a residential park, and this Act, to a prospective home owner for a site; and

Clause 4(2)(c) regulating –

- (i) the making, content, assignment and ending of a site agreement; and
- (ii) (ii) the sale of an abandoned manufactured home positioned on a site in a residential park; and
- (iii) (iii) the variation of site rent

Clause 4(2)(d) facilitating participation by home owners for a residential park in the affairs of the park; and

Clause 4(2)(e) providing ways of resolving a residential park dispute.

Clause (4)(3) The following are also important objects of this Act -

Clause 4(3)(a) encouraging the continued growth and viability of the residential park industry in the State; and



INFORMATION SHEET No 1 Manufactured Homes (Residential Parks) Amendment Bill, 2024 OBJECTS OF THE ACT

Clause 4(3)(b) providing a clear regulatory framework to ensure certainty for the residential park industry in planning for future expansion.

The Amendment Bill adds 2 new clauses to these being:

Clause 4(2)(f) protecting home owners from unfair or excessive increases in site rent; and

Clause 4(2)(g) preserving the safety and security of tenure of home owners.

The Government have attempted to achieve the first of these new Objects by the prohibition of market rent reviews, by the capping of site rent increases and a new definition of the Consumer Price Index (CPI).

The second new Object has received some attention with changes to the procedure following termination of a site agreement by the Queensland Civil and Administrative Tribunal (QCAT) and to some extent with the inclusion of the Buy Back Scheme.

In addition to the above, the Bill amends the wording of clause 4(2)(d) above by adding the words “maintenance and operation” and the clause will now read:

Facilitating participation by home owners for a residential park in the affairs, **maintenance and operation** of the park.

The inclusion of these words would indicate a desire by Government that home owners should have a greater say in the operation of their park. Unfortunately, the Amendment Bill does not appear to make any provision for this involvement. It may be possible to have something included in regulations which are yet to be drafted.

QMHOA will be making suggestions to Government along these lines in coming months.

This becomes more relevant when we consider that the Amendment Bill will require park owners to publish Comparison Documents and Maintenance and Capital Replacement Plans.

See subsequent Information Sheets regarding these plans and the Buy Back Scheme.

Any questions on the above should be emailed to secretary@qmhoa.org.au

Note: This information sheet outlines QMHOA’s understanding of the Manufactured Homes (Residential Parks) Amendment Bill, 2024, the Explanatory Notes that accompanied it and briefings from the Department of Housing, Local Government, Planning and Public Works.



INFORMATION SHEET No 2

Manufactured Homes (Residential Parks) Amendment Bill, 2024

PROHIBITION OF MARKET RENT REVIEWS

These changes take effect from 6 June 2024. They are in effect now.

Market rent reviews have been included in many site agreements as a mechanism for increasing site rents, usually on a 3 or 5-year cycle.

The procedure has been that the park owner appoints a valuer to arrive at a market value for the site rent at a particular park. The usual method used by the valuer is to compare the rents paid at the subject park with rents payable at other parks in the vicinity.

Invariably home owners have been dissatisfied with the outcome and often enter into a dispute with the park owner resulting in an application for a hearing and decision by QCAT (Queensland Civil Administration Tribunal).

These increases, based on market rent reviews have been the major cause of angst and of disputes by home owners with their park owners.

The State Government have seen the problems caused by this system and in this Amendment Bill has prohibited this practice effective immediately.

This means that wherever market rent reviews appear in a site agreement they will have no effect and cannot be used.

There is no reason for site agreements to be rewritten to accommodate this change as the Amendment Bill will over-ride the site agreement.

Confirming that should your site agreement include a proviso for a site rent increase based on a periodic market rent review this will have no effect and the Amendment Bill provides that in that year the increase will be based on the remaining basis as set out in the site agreement and be subject to the cap of CPI or 3.5% whichever is the higher. (See Information Sheet 3.)

This prohibition applies to all current and new site agreements.

In a transition provision, market rent reviews in progress before 6th June 2024 can be completed where:

- a general increase notice has given to a home owner; and



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PROHIBITION OF MARKET RENT REVIEWS

- the general increase notice was accompanied by a market valuation for the market review of site rent; and
- the general increase day stated in the general increase notice is a day after the commencement.

During the transition period, all market rent reviews started before and completed after commencement of the prohibition must not increase the site rent by more than:

- a) the CPI increase; or
- b) 3.5%

Any questions on the above should be emailed to secretary@qmhoa.org.au

Note: This information is QMHOA's understanding of the Manufactured Homes (Residential Parks) Amendment Bill, 2024, the Explanatory Notes that accompanied it and briefings from the Department of Housing, Local Government, Planning and Public Works.



INFORMATION SHEET No 3

Manufactured Homes (Residential Parks) Amendment Bill, 2024

SITE RENT INCREASES TO BE CAPPED/LIMITED

This amendment which limits the extent of site rent increases is effective from 6 June 2024 and is in effect now.

Site rent increases in the future will be limited so as to not exceed 3.5% or the relevant CPI (Consumer Price Index) whichever is the higher.

The basis for the increase set out in individual site agreements will remain and is unchanged by the Amendment Bill.

Once the increase calculation as provided in the site agreement has been completed the result will be capped to the limit set out in the Bill. That is 3.5% or CPI whichever is the higher. It does not mean that the increase will be 3.5% or CPI but that the increase will be capped in this way.

To assist in understanding this concept please refer to the examples below.

Situation 1: The increase basis in the site agreement is CPI ONLY

The actual increase will not be affected by the cap and the increase will be whatever the CPI is for that year.

If the CPI figure is 2.5% then the increase will be 2.5% whereas if CPI is 5% then the increase will be 5%.

Situation 2: The increase basis in the site agreement is a PERCENTAGE ONLY

The increase will be calculated at the percentage listed in the site agreement but cannot exceed 3.5% or the CPI for that year.

If the fixed percentage in the site agreement is 3.5% or less then the increase will never reach the cap, so the increase paid will always be as on the site agreement.

If the fixed percentage on the site agreement is more than 3.5%, then the cap could affect the site rent paid, and there are 3 possibilities:

- i. If CPI in a year is below 3.5% then 3.5% is the maximum that can be paid rather than the fixed percentage.
- ii. If the CPI in a year is over 3.5% (say 3.7%) but below the fixed percentage on in the site agreement (say 4%), then the CPI number (3.7%) is the cap and that will be the increase basis for that year, rather than the fixed percentage.



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SITE RENT INCREASES TO BE CAPPED/LIMITED

- iii. If CPI in a year is equal to or more than the fixed percentage in the site agreement (say CPI is 4.5% and basis in site agreement is 4%) then the increase paid will be as stated on the agreement (4%) because this will be below the cap for that year.

Situation 3: The increase basis in the site agreement is CPI PLUS 2%

If CPI is 4% add the 2% making 6% the increase will be capped at 4% being the higher of CPI or 3.5%

If CPI is 2% add the 2% making 4% the increase will be capped at 3.5% being the higher of CPI or 3.5%.

To explain further:

If the increase basis is CPI only then the increase will be the current CPI. Nothing else matters.

If the increase is a combination of CPI plus a percentage or plus a dollar amount, the increase will be calculated as per the site agreement, but the result will be capped at 3.5% or CPI whichever is the higher.

If the increase is a fixed percentage, then the increase will be that percentage unless it exceeds the cap of 3.5% or the CPI for the year whichever is higher, in that case it will be reduced to the cap.

This capping of site rent increases applies to all current and new site agreements.

NOTE. The amendment Bill does not alter the basis for site rent increases set out in your site agreement but provides the result of the calculation cannot exceed the limits imposed.

There is no requirement for site agreements to be rewritten as the Amendment Bill will prevail over the site agreement.

Any questions on the above should be emailed to secretary@qmhoa.org.au

Note: This information is QMHOA's understanding of the Manufactured Homes (Residential Parks) Amendment Bill, 2024, the Explanatory Notes that accompanied it and briefings from the Department of Housing, Local Government, Planning and Public Works.



INFORMATION SHEET No 4

Manufactured Homes (Residential Parks) Amendment Bill, 2024

DEFINITION OF CONSUMER PRICE INDEX (CPI)

This amendment clarifies which CPI number is used to calculate site rent increases and is effective from 6 June 2024 and is in effect now.

Wherever CPI (Consumer Price Index) is mentioned in site agreements as a basis for increasing site rents, the appropriate index shall be that provided by the Australian Bureau of Statistics as being the weighted average of the 8 capital cities. The CPI for Brisbane can no longer be used.

As this all-capitals CPI is that which the Federal Government use in calculating increases in the aged pension, its use will more closely align site rent increases with increases in the aged pension.

In addition, the CPI used must be that which has been published and applies to the quarter immediately preceding the last date for issuing a notice of site rent increase.

For example:

A site rent increase is due on the 16th November 2024.

Notice of increase must be issued by the 12th October (35 days prior).

Though the 12th October is after the end of the September quarter, in 2024 the CPI for that quarter will not be published until 29th October, so the CPI used will be that for the June quarter.

This definition of CPI applies to all current and new site agreements.

There is no requirement for site agreements to be rewritten as the Amendment Bill will prevail over the site agreement.

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INFORMATION SHEET No 5 Manufactured Homes (Residential Parks) Amendment Bill, 2024 BUY BACK AND RENT REDUCTION

This amendment is effective from 6 June 2024 and relates to the sale of pre-owned homes. It is in effect now. It includes a requirement for park owners to buy a home and reduce site rent if not sold within a time frame.

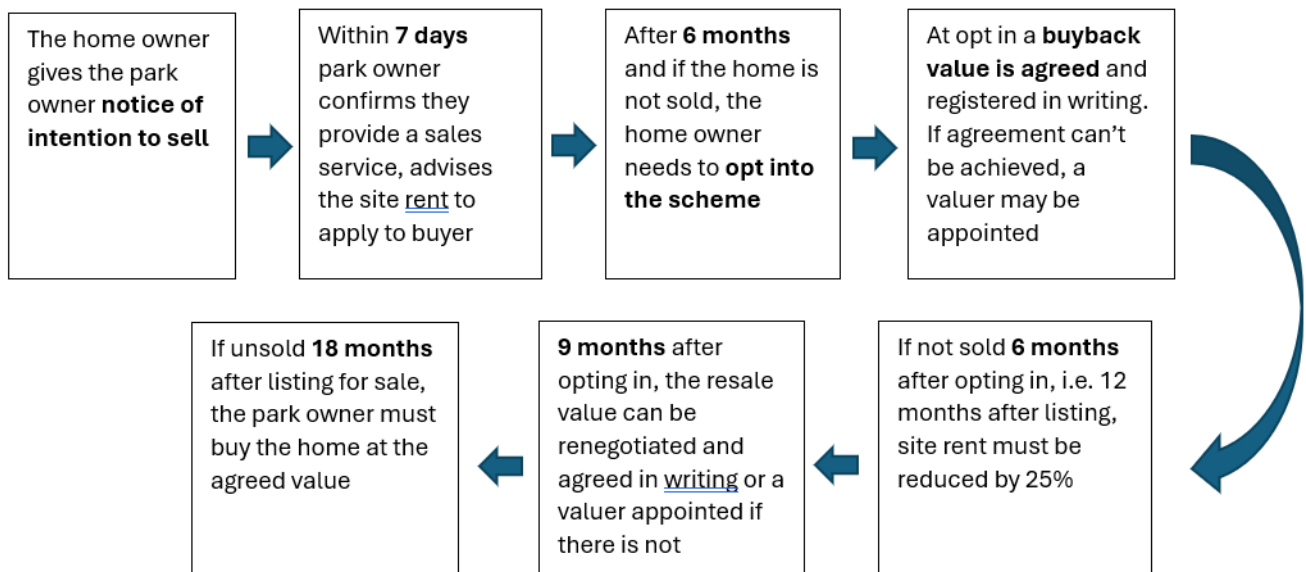
It is the view of QMHOA that this amendment will have limited use in the short term while homes are selling quite quickly. Nevertheless, this option is available, and we need to be aware of the conditions applying.

The amendment is designed to incentivise park owners, having been appointed to sell a pre-owned home, to use their best endeavours to achieve a sale in as short a time frame as possible.

This Buy Back Scheme will only apply to a home purchased from the park owner or an existing home owner and which was constructed on site. The home needs to be unoccupied at the time of opting into the scheme.

The scheme also only applies if the park owner is appointed as the sales agent. The home owner retains the right to appoint an external agent or sell the home privately.

The procedure to join the scheme is outlined in the chart below.



This amendment provides home owners with some protections in the event that the sale of their home takes an inordinate length of time.

Any questions on the above should be emailed to secretary@qmhoa.org.au

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