

Proclamation – Housing Legislation (Building Better Futures) Amendment Act 2017

Explanatory notes for Subordinate Legislation 2018 No. 155

made under the

Housing Legislation (Building Better Futures) Amendment Act 2017

General Outline

Short title

Proclamation to commence provisions of the *Housing Legislation (Building Better Futures) Amendment Act 2017*.

Authorising law

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

Policy objectives and the reasons for them

The objectives of this Proclamation are to commence amendments to the *Manufactured Homes (Residential Parks) Act 2003* (MHRP Act) made by the *Housing Legislation (Building Better Futures) Amendment Act 2017* (HLA Act).

As well as amending the MHRP Act, the HLA Act made amendments to the:

- *Residential Services (Accreditation) Act 2002* (RSA Act);
- *Retirement Villages Act 1999* (RV Act);
- *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act);
- *Building Act 1975*; and
- *Housing Act 2003*.

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 policy objectives of the HLA Act are provided in the explanatory notes which accompanied the *Housing Legislation (Building Better Futures) Amendment Bill 2017* (the Bill).

The overarching objectives of the HLA Act are to amend the MHRP Act, the RSA Act, the 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.

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 that important consumer protections are delivered as quickly as possible while allowing for broad stakeholder consultation on approved forms, notices and potential 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.

The policy objective of this Proclamation is to commence certain provisions of the HLA Act which are not yet in force to amend the MHRP Act to the extent that it commences provisions related to site rent increases, dispute resolution, emergency and visitor access, limitations on utility charging, and new processes for park liaison committees.

The new limitations on site rent increases are an important reform and for example, as stated on the explanatory notes that accompanied the Bill, new section 69C requires that a park owner must nominate a general increase day when site rents for all eligible sites in the park will be increased on the same basis and states that the next general increase day must be at least 1 year after a general increase day that was stated in a general increase notice given under section 69E.

Following the amendments contained in this Proclamation, the second and final stage of 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 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.

A separate proclamation for stage 1 RV Act amendments is 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 current State-wide *Renting in Queensland* consultation process.

All HLA Act amendments to the RSA Act that did not commence on assent, and a new *Residential Services (Accreditation) Regulation 2018*, started on 1 September 2018.

Achievement of policy objectives

The policy objective of commencing provisions of the HLA Act not yet in force is achieved by providing for the proclamation of the following sections relevant to the MHRP Act to commence on 31 October 2018:

- Sections 9, 12, 16-18, 30, 33-42, 44-52, 54-55;
- Section 24 to the extent it introduces the new dispute resolution procedures;
- Section 53 to the extent that it inserts part 17 of the MHRP Act;
- Section 56 to the extent that it inserts transitional sections 176, 181, 182, 183, 184, 185 into the MHRP Act;
- Section 58 to the extent it inserts the following definitions into the dictionary for the MHRP Act: basis, CPI, dispute negotiation notice, eligible site, general increase day, general increase notice, market valuation, mediation, mediation agreement, mediation conference, mediator, operational cost, proposal decision, Queensland Ambulance Service, Queensland Fire and Emergency Service, registered valuer, registrar, repair cost, residential park dispute, security interest, special cost, special increase notice, stated purpose, upgrade cost; and
- Section 58 to the extent that it removes the definition of "site agreement dispute" from the dictionary in the MHRP Act.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the objectives of the HLA Act.

Alternative ways of achieving policy objectives

There is no alternative means of achieving the policy objective of proclaiming sections to commence.

Benefits and costs of implementation

There are no costs associated with the implementation of the Proclamation.

Inconsistency with policy objectives of other legislation

The Proclamation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Information about the benefits and costs of implementation was provided in the explanatory notes accompanying the Bill.

Consistency with fundamental legislative principles

The Proclamation is consistent with fundamental legislative principles.

Consultation

Stakeholders were consulted on the draft Bill including:

- resident/consumer groups including: Associated Residential Parks Queensland, Caxton Legal Centre (Park and Village Information Link), Manufactured Home Owners Association, Tenants Queensland;
- peak and community groups including: COTA, National Seniors Australia, Queensland Law Society; and
- industry representatives including: Caravanning Queensland, Leading Age Services Australia, Property Council of Australia and Urban Development Institute of Australia.

During the debate of the Bill, a number of amendments were made to address the feedback of stakeholders and committee members.

A consultative group comprised of key stakeholders was consulted during the development of supporting material for the implementation of the HLA Act such as regulations, forms and notices. These stakeholders include the Property Council of Australia, Urban Development Institute of Australia, Caravanning Queensland, Associated Residential Parks Queensland, Manufactured Home Owners Association, Tenant's Queensland, Caxton Legal Centre and the Queensland Law Society

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

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 of Housing and Public Works applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category G - Regulatory proposals that are of a machinery nature).