
This fact sheet provides information for tenants and residents (of rooming accommodation) affected by COVID-19. It provides information on the recent *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020* in effect until 31 December 2020.

If you need further advice contact Tenants Queensland for free tenancy advice on 1300 744 263

Introduction

Some changes recently announced due to the COVID-19 emergency apply only to tenants and residents who have 'suffered excessive hardship due to COVID-19' (e.g. the evictions moratorium) whilst others affect everyone's tenancies (e.g. repairs, entries and some of the new grounds for ending tenancies).

Who is covered by the COVID- 19 Regulations?

If you're a tenant or rooming resident who has **suffered excessive hardship** the following definition must apply to you and have occurred during the emergency period:

- You or another person under your care, suffers from COVID-19;
- You are subject to a quarantine direction;
- Your place of employment is closed in compliance with a public health direction;
- Your place of employment is unable to continue to operate because of a loss of trade or business resulting from a public health direction;
- You are in self isolation due to self-vulnerability, live with a vulnerable person; or you're the primary carer for a vulnerable person;
- There is a restriction on travel preventing you from working or returning home;
- You cannot leave or enter Australia

AND

- You suffer a loss of income of **25% or more of the net weekly income** – including any financial assistance received from the State of Commonwealth; **OR**
- Rent payable is 30% or more of your income
- If there is **more** than 1 person named as a tenant or resident on the agreement, the combined total net weekly income of all those named is taken into account.

Am I considered a vulnerable person?

If you fall into one of the following categories, you are considered a vulnerable person

- (a) An individual over 70 years of age.

(b) An individual over 65 years of age who has an existing health condition or comorbidities.

(c) An Aboriginal or Torres Strait Islander individual over the age of 50 who has an existing health condition or comorbidities

(d) An individual whose immune system is compromised.

How can I prove my income has been affected by COVID-19?

Income is total weekly income after tax, including any government payments you receive. You can provide bank statements that show your income has been reduced, you can also provide any official letters or notices from your employer that show you have been stood down, lost hours or your job as a result of COVID-19. Evidence in the form of medical certificates and income supplement confirmation from Services Australia (Centrelink) is useful.

Can I be evicted during COVID- 19?

The 'evictions moratorium' applies to people suffering excessive hardship from COVID. A lessor, agent or provider must not evict a tenant or resident for failure to pay rent if the failure relates to the tenant **suffering excessive hardship** because of the COVID-19 emergency.

A lessor or provider may end the agreement for:

- Any reason other than failure to pay rent; or
- Failure to pay rent due if the failure was **not** related to the tenant suffering excessive hardship if because of COVID-19 emergency; or
- As a consequence of having given a NTL or applying to QCAT for an order, before 29 March 2020.
- New grounds noted below.

Evict means:

- Give the tenant a notice to leave; or
- Apply to the tribunal for an order terminating the residential tenancy agreement; or
- Cause the tenant to vacate the premises.

Even if you are in COVID hardship, a lessor or provider can end a periodic tenancy agreement if

the owner or family member wants to move into the property.

Whether or not you're in COVID hardship, the lessor or provider can also end your agreement – even during a fixed term - if they require the property to prepare it for sale or have entered into sales contract. It's important for the lessor to provide evidence to prove their reasons and it is an offence for them to provide false or misleading information.

If you do not meet the definition of suffering excessive COVID hardship, your agreement can still be ended without any grounds, but not during the fixed term.

What if I'm struggling to pay the rent?

Whether or not you meet the criteria of **suffering excessive hardship** because of the COVID-19 emergency, if you're struggling to pay rent inform your agent, lessor or provider as soon as possible and try to negotiate a variation for rent due. Sit down and work out your budget to determine what's affordable for you in rent. Leave yourself enough money for other household bills and health needs etc. Offer and pay what you can during negotiations and any dispute resolution processes.

The new rules suggest limits on renters not paying more than 30% of their income on rent (if they're in 'COVID hardship'). That's a generally accepted benchmark and one that agents often use when assessing applications for rentals. Remember though, all the named tenants or residents will have their income assessed in settling a dispute. You might want to get some advice from the National Debt Helpline.

If you come to an agreement on a new rent amount complete a Tenancy Variation Form (RTA Form 18d *tenants* and 18e for *residents*). Read the form carefully before signing, especially the special terms, to be sure you understand if the rent is completely reduced or the lessor or provider wants you to pay it back later.

The tenant can ask the lessor for the rent amount to be reviewed at any time during the agreed variation to rent if the household's circumstances change, such as a change in income or if a person leaves or joins the household.

The bond held by the RTA will not be varied if rent is varied (reduced) for the COVID-19 emergency period.

What happens if I'm late paying my rent?

If your rent is seven days late for general tenancies or, for rooming accommodation, 2 days' late (lived there less than 28 days) or 4 days' late (lived there longer than 28 days), the lessor or provider knows you're suffering COVID-19 excessive hardship and your rent remains unpaid, they are not allowed to give you a Notice to Remedy Breach. Instead they should provide you with a 'show cause notice', with 14 days for you to respond.

If you receive a show cause notice, within 14 days you must either pay the unpaid rent or inform the lessor or provider that you cannot pay due to COVID.

If you reach a reasonable agreement about the rent reduction, record it by using a Tenancy Variation Form (RTA Form 18d *tenants* and 18e for *residents*).

I can't reach an agreement with my lessor or provider

If you can't reach an agreement, request dispute resolution as soon as possible from the RTA by using a Form 16a if you haven't done so already. The RTA conciliates between you and your lessor or provider. Conciliation is a free and confidential service.

If the dispute is not resolved through conciliation, the RTA will issue a Notice of Unresolved Dispute and you can then apply to the Queensland Civil and Administrative Tribunal (the Tribunal) for a decision on either the rent reduction or for an excessive hardship termination (see below).

Can I be listed on a tenancy database?

A person must not be listed on a tenancy database for rent arrears or for ending a tenancy, if the issues happened during the COVID-19 emergency and the listed person was:

- Suffering excessive hardship because of the COVID-19; or
- Complying with a public health direction

Acting contrary to this is an offence, unless the person who made the listing did not know the circumstances of the person they listed. Therefore, it's important to let your lessor or provider know your circumstances.

My tenancy agreement ends before the end of the 6-month evictions moratorium, will I have to leave?

If your agreement is due to end on or before 29 September 2020 and you're **suffering excessive**

hardship due to COVID-19, the lessor or provider must, before the agreement ends, offer you an extension to 30 September 2020 or an earlier date requested by you.

The agreement should continue on the same terms and there should be no costs payable by you for the extension.

If you are not suffering COVID excessive hardship as defined in the new rules, you can still receive a Notice to Leave without grounds.

Can I end a fixed term tenancy early because of my circumstances?

If you have lost 75% of your income have less than \$5000 in savings, you can end your fixed term agreement early by giving a Notice of Intention to Leave, paying rent to the later of the date you say you'll leave or the day you leave, and additionally, pay compensation of the equivalent one week's rent. Make sure you have and keep good evidence of your circumstances in case the lessor disputes this later. If you are on a periodic (month to month) agreement you can always end your tenancy with two weeks' notice.

Alternatively, you can apply for an Excessive Hardship termination in the Tribunal. If you fit the definition of suffering excessive hardship due to COVID you must apply for RTA dispute resolution first. If you do not fit the definition, you can apply directly to the Tribunal. At the Tribunal you will have to show how your circumstances have changes since you signed the agreement.

Ending your agreement because the place is not in good repair or is unfit to live in

Within seven days of occupation, a tenant or resident can issue a Notice of Intention to Leave because of condition of the tenancy – that it's not in good repair, it's unfit to live in or does not comply with minimum housing standard. Make sure you have and keep good evidence. The usual processes of breaching the lessor or provider to

fix the issues apply if you want to stay or wish to seek a Tribunal order before moving out.

Do I have to allow entries during the COVID emergency period?

Entries can still be made to check smoke alarms and safety switches (in compliance with requirements), in an emergency, or to protect the tenancy from imminent or further damage. Entries can also be made if the tenant or resident agrees.

Entries cannot be made for other purposes if:

- You or someone else living at the property is either subject to a quarantine direction or the entry would contravene a public health direction or,
- The tenant or resident or someone else staying is a vulnerable person.

If this applies to you, you can refuse entry for things like routine repairs; to inspect after completion of repairs; to inspect the cleanliness of a resident's room or for pest control; to show prospective buyers, tenants or residents; to undertake a valuation; suspected abandonment; or to re-inspect after a serious breach notice.

What happens if repairs and maintenance are needed?

During the COVID-19 emergency period your lessor or provider is released from obligations to undertake routine repairs (but not emergency repairs) if undertaking them would: be inconsistent with a public health direction or social distancing; they are unable to enter due to the restrictions (e.g. there is a vulnerable person in the property); or, if tradesperson or supplies are not available.

Your lessor or provider must ensure that all emergency repairs and legislated safety requirements are carried out.

If you require advice about your tenancy or residency, call Tenants Queensland for free advice on 1300 744 263. Tenants Queensland manages and delivers the Queensland Statewide Tenancy Advice and Referral Service (QSTARS).

Disclaimer: This flyer provides information only and is not intended to provide legal advice