

COVID-19: relief for residential tenancies in Queensland

Source: [Queensland legislation](#)

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On 24 April 2020, the Queensland government made the [Residential Tenancies and Rooming Accommodation \(COVID-19 Emergency Response\) Regulation 2020 \(QLD\) \(Regulation\)](#) (pursuant to section 24 of the *COVID-19 Emergency Response Act 2020 (QLD)*). It modifies the operation of the *Residential Tenancies and Rooming Accommodation Act 2008 (QLD) (Act)* to support and protect residential tenancies impacted by the COVID-19 pandemic.

Who does the Regulation apply to?

The Regulation applies to all resident tenancy agreements in Queensland and to all landlords and tenants (and their agents) under these agreements.

What does the Regulation provide?

The Regulation modifies the rights and obligations of residential landlords and tenants under the Act as follows:

Moratorium on evictions

From 29 March 2020 to 29 September 2020 (or earlier if Queensland's COVID-19 emergency period ends before that date), a landlord cannot evict a tenant for a failure to pay rent if the failure relates to the tenant "suffering excessive hardship because of the COVID-19 emergency" (defined below). The moratorium does not apply to a landlord who gave a notice to leave or applied to the Queensland Civil and Administrative Tribunal (**QCAT**) for a termination order before 29 March 2020.

Extension of fixed term tenancies

If a fixed term tenancy agreement is due to end on or before 29 September 2020 and the tenant is "suffering excessive hardship because of the COVID-19 emergency", the landlord must, before the term ends, offer the tenant an extension of the term to 30 September 2020 (or an earlier date requested by the tenant). The agreement continues on the same terms and no costs are payable by the tenant.

Landlords cannot give breach notices for unpaid rent

If:

- rent has remained unpaid in breach of a tenancy agreement for at least 7 days; and
- the landlord knows, or ought reasonably to know, that the tenant is or has been "suffering excessive hardship because of the COVID-19 emergency",

the landlord cannot give the tenant a notice to remedy the breach but may give the tenant a "show cause notice" requiring the tenant to:

- respond to the notice (stating if the rent is unpaid because the tenant is or has been "suffering excessive hardship because of the COVID-19 emergency"); or
- pay the unpaid rent within 14 days.

If the tenant does not comply, the landlord may give the tenant a notice to remedy the breach; however, if the tenant informs the landlord that the rent is unpaid because the tenant is or has been “suffering excessive hardship because of the COVID-19 emergency”, the landlord may request the tenant to enter into a **tenancy variation agreement** (for a rent reduction for a stated period or a payment plan for unpaid rent).

If the landlord and tenant cannot agree to a tenancy variation agreement, either party may make a dispute resolution request to the Residential Tenancy Authority (**RTA**) and, if the tenancy dispute is not resolved through conciliation at the RTA, either party may apply to QCAT for an order. QCAT cannot make a termination order for unpaid rent if the tenant is or has been “suffering excessive hardship because of the COVID-19 emergency”.

Restriction on landlords entering a property

A landlord or a landlord’s agent cannot enter a property (and a tenant can refuse entry):

- to inspect the property;
- to carry out (or to inspect) routine repairs or maintenance;
- to show the property to a prospective buyer or tenant;
- to allow a valuation of the property to be carried out;
- if property has been abandoned; or
- to see if a significant breach (see section 192 of the Act) has been remedied,

or a landlord’s agent can refuse to enter a property if:

- a person in the property is subject to a quarantine direction;
- the landlord or the landlord’s agent is subject to a quarantine direction;
- the entry would contravene a public health direction; or
- the tenant refuses entry because the tenant, or another person staying in the property, is a vulnerable person (as defined).

A landlord or a landlord’s agent can enter if required to do so in order to comply with certain legislative requirements regarding smoke alarms or safety switches, if it is an emergency or if the tenant agrees to it.

If a landlord or a landlord’s agent seek to enter the property to carry out an inspection or to show it to a prospective buyer or tenant and the tenant refuses entry because the tenant, or another person staying in the property, is a vulnerable person, the tenant must allow the landlord or the landlord’s agent to carry out the inspection by virtual inspection or by video conferencing or provide photographs or videos of the property.

Suspension of landlords’ routine repairs and maintenance obligations

Except in the case of emergency repairs, a landlord is not required to comply with its routine repairs and maintenance obligations if:

- compliance would be inconsistent with a public health direction or social distancing;
- if the landlord is restricted from entering the property for the above reasons; or
- the required tradespersons or supplies are not available.

Domestic violence – right to leave and end the tenancy

If a tenant believes that he/she can no longer safely continue to occupy a property because of domestic violence, the tenant may end the tenant’s interest in the tenancy agreement by giving the landlord a 7 day notice ending the tenancy (supported by evidence, e.g. a protection order, a personal protection injunction or a doctor’s report). In that case, a tenant’s general obligations under the Act do

not apply to the extent that the tenant would be required to repair, or to compensate the landlord for, damage to the property caused by domestic violence. Any reletting costs are not recoverable by the landlord. A tenant may also apply to QCAT for a termination order because of domestic violence.

Notice to leave – given by landlords

A landlord may give a notice to leave a property to a tenant:

- if the landlord is preparing to sell the property and the preparation requires the property to be vacant or if the landlord has entered into a contract to sell the property with vacant possession;
- if the property is required for use under a state government program; or
- if the landlord, or a member of the landlord's immediate family, needs to occupy the property.

However, a landlord cannot give a notice to leave without grounds if a tenant is or has been "suffering excessive hardship because of the COVID-19 emergency". Any such notice is of no effect until the end of the COVID-19 emergency period.

Tenant's termination order for excessive hardship

A tenant suffering excessive hardship because of the COVID-19 emergency cannot apply to QCAT for a termination order for excessive hardship unless:

- the tenant has made a dispute resolution request to the RTA; and
- the parties cannot reach a conciliation agreement as a result of the request.

QCAT can only make a termination order if satisfied that the tenant has established that he/she will suffer excessive hardship if the tenancy agreement is not terminated.

Cap on landlord's reletting costs

If:

- a tenant terminates a fixed term tenancy agreement in a way that is not permitted under the Act; and
- the agreement provides that, in that case, the tenant is liable to pay the landlord's reasonable reletting costs,

the tenant is only required to pay an amount equivalent to 1 week's rent if the tenant suffers a loss of income of at least 75% and the tenant has less than \$5,000 in savings (or, if there is more than 1 tenant, an amount equivalent to 1 week's rent if there has been at least a 75% reduction in their combined total income and their combined savings is less than \$5,000).

Restriction on listing on tenancy databases

A person must not list personal information about another person (relating to a failure to pay rent or ending a tenancy agreement) in a tenancy database if:

- the failure to pay rent or the ending of the agreement happens during the COVID-19 emergency period; and
- it happens because the other person is "suffering excessive hardship because of the COVID-19 emergency" or has to comply with a public health direction.

What is suffering excessive hardship because of the COVID-19 emergency?

A person suffers excessive hardship because of the COVID-19 emergency if, during the COVID-19 emergency period (i.e. the period during which the COVID-19 public health emergency in Queensland remains in effect), the person:

- suffers a loss of income of at least 25% (or, if there is more than 1 tenant, at least a 25% reduction in their combined total income); or
- the rent is at least 30% of the person's income (or, if there is more than 1 tenant, at least 30% of their combined total income),

and:

- the person, or another person under the person's care, suffers from COVID-19;
- the person is subject to a quarantine direction;
- the person's place of employment is closed, or the trade or business conducted by the person's employer is restricted, because of a public health direction;
- the person is self-isolating because the person is a vulnerable person, lives with a vulnerable person or is the primary carer for a vulnerable person;
- a restriction on travel, imposed under a public health direction or other law, prevents the person working or returning home; or
- the COVID-19 emergency prevents the person leaving or returning to Australia.

"Income" means the net weekly income of a person (i.e. after tax), including any financial assistance the person is receiving from the State or the Commonwealth.

A landlord may require evidence from a tenant to support a claim of excessive hardship. If a landlord makes a dispute resolution request to the RTA, the RTA may also require the tenant to provide additional evidence. There are penalties for giving false or misleading documents.

When does the Regulation take effect?

The moratorium on evictions applies retrospectively and takes effect from 29 March 2020. The remainder of the provisions take effect from 24 April 2020.

When does the Regulation expire?

The Regulation expires on 31 December 2020 (pursuant to section 24 of the *Emergency Response Act 2020* (QLD)).

Further guidance and resources

The Queensland government has published a [residential tenancies practice guide](#) based on the Regulation to assist parties in managing the impact of COVID-19 on residential tenancies. It provides a guide to landlords and tenants on negotiating arrangements (e.g. variations to agreements) and on the conciliation process facilitated by the RTA. See also:

- [The Residential Rental Hub](#)
- [COVID-19 Changes to residential tenancies in Queensland](#)
- [COVID-10 Protection for tenants and owners](#)
- [COVID-10 rental conciliation eligibility tool](#)

RTA:

- [COVID-19 Change of circumstances and rent](#)

- [COVID-19 Changes](#)
- Tenants: [COVID-19 Regulation: step by step guide for tenants](#)
- Tenants: [self-resolution tips](#)
- Tenants: [template letter to landlord requesting a rent variation due to COVID-19](#)
- Landlords: [self-resolution tips](#)
- Landlords: [template letter to tenant responding to request for a rent variation due to COVID-19](#)
- Landlords: [Form – show cause notice](#)
- [Form – General tenancy COVID-19 variation agreement](#)
- [Conciliation/dispute resolution](#)
- [Online COVID-19 Dispute resolution request](#)

QCAT:

- [QCAT COVID-19 update](#)
- [Applying to QCAT](#)