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# Your legal questions answered

**Despina Priala explains what options a landlord has when they want to increase the rent**



**Q I am the owner of a two-bedroom unit in Queensland. I have had the same tenants (a couple of students) for two years. Recently, I decided to increase the rent and they have objected to it. They believe I am just putting up the rent to force them out. What can I do?**

**A** Can a landlord increase the rent? Good question, because it is not all that straightforward, as is the case with many legal matters. To deal with any legal matter, generally the first source is always the legal documentation. Usually, the answer lies within the relevant contract or agreement in place, and often this answer may need to be qualified by relevant legislation in place.

In Queensland, residential tenancies are governed by the *Residential Tenancies and Rooming Accommodation Act 2008*. Section 55 of that Act provides for circumstances when a landlord can increase the rent and how that is to be carried out. Similar legislation would be in place for other states and territories in Australia, but each may have their differences, thus it is important to carefully look at the relevant law that applies.

Where a tenancy is for a fixed period of time, a landlord can increase the rent during the term but can only do so if the tenancy agreement provides for this. In other words, the tenancy agreement itself needs to include a

special clause to allow the landlord to increase the rent during the term and the manner in which it is increased. For example, the clause could say that rent is to be increased by CPI, fixed percentage or by a market review, and include the dates the rent is to be increased. As a matter of practicality, such a clause would be inserted on page 8 of the Queensland Tenancy Agreement under 'Clause 3 Special Terms' which provides for special conditions that apply to your tenancy.

Notice of the proposed rent increase must be given in writing and given to the tenant not earlier than two months from when the rent increase is to commence.

If the tenancy agreement is a periodic tenancy, that is, no fixed term, just a tenancy from month to month, the rent can be increased provided the landlord provides the required notice above.

Any notice to increase rent cannot be given before the first six months, however, it can be given during this time provided the new rental is to commence from a date that is after the first six months of the tenancy.

A tenant has the right to object to a rental increase if the tenant believes the increase is excessive. Notice of their objection must be given within 30 days of the tenant receiving the notice of the rental increase, and for a fixed term, must be given before the term ends.

An application to object to a rent increase is made to the relevant

tribunal who has jurisdiction in this matter, in this case the Queensland Civil and Administrative Tribunal (QCAT). The Tribunal looks at a number of factors in hearing such applications such as:

- The range of market rents usually charged for comparable premises
- The proposed increased rent compared to the current rent
- The state of repair of the premises
- The term of the tenancy
- The period since the last rent increase (if any)
- Anything else the tribunal considers relevant.

Unless a tenant objects in the manner allowed under the Act, the increased rent will be payable by the tenant provided the landlord has complied with the Act and increased the rent in the manner prescribed.

It is important for landlords to understand that rental increases do not occur automatically as set out in this article. Therefore, when landlords are tenanting their property, it is important to obtain legal advice at the time to ensure all your bases have been covered.



## The legal expert

Despina Priala is principal of Priala Legal.