

1995—No. 412

RETIREMENT VILLAGES ACT 1989—REGULATION

(Retirement Villages Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Retirement Villages Act 1989, has been pleased to make the Regulation set forth hereunder.

FAYE LO PO', M.P.,
Minister for Consumer Affairs.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Retirement Villages Regulation 1995.

Commencement

2. This Regulation commences on 31 August 1995.

Definition

3. In this Regulation:

“the Act” means the Retirement Villages Act 1989.

Certain by-laws excluded from definition of “residence rules”: sec. 3

4. For the purposes of the definition of “residence rules” in section 3 of the Act, the Strata Titles (Leasehold) Act 1986, the Community Land Development Act 1989 and the Community Land Management Act 1989 are prescribed Acts, such that any by-law in force under any of those Acts, and to which residents are subject, is excluded from the definition.

Order for possession: sec. 25

5. For the purposes of section 25 of the Act, the prescribed form of warrant authorising a sheriff's officer to enter residential premises is the form of warrant set out in Form 1 in Schedule 1.

Repeal

6. (1) The Retirement Villages Regulation 1989 is repealed.

(2) Any act, matter or thing which, immediately before the repeal of the Retirement Villages Regulation 1989, had effect under that Regulation continues to have effect under this Regulation.

PART 2—DISPOSAL OF GOODS LEFT BY RESIDENT (s. 29)**Uncollected goods**

7. Goods that have been left on residential premises by the resident after the resident vacates the premises become "uncollected goods" for the purposes of this Part when the resident vacates the premises unless the resident vacates the premises before the residence contract is terminated, in which case the goods become uncollected goods when the residence contract is terminated. Uncollected goods may be disposed of as provided by this Part, but only if the requirements of this Part are complied with.

Notice to resident

8. (1) The administering authority must give written notice (a "warning notice") to the resident that goods left on the residential premises may be disposed of if they are not collected within 7 days. Such a notice cannot be given until the goods become uncollected goods.

(2) The warning notice may (in addition to any other way in which it may be given) be given to the resident by being sent by post to the resident at the last forwarding address known to the administering authority.

(3) The warning notice may instead of being, given to the resident be given to a representative nominated by the resident before the resident vacated the residential premises.

Options available to the administering authority when goods not collected

9. (1) Uncollected goods that have not been removed from the residential premises by the resident within 7 days after the resident was given a warning notice are to be dealt with as provided by this clause.

(2) The goods are to be stored in a safe place by the administering authority unless the goods are disposed of as authorised by this clause.

(3) If the goods are perishable foodstuffs, the administering authority may remove and destroy or otherwise dispose of the goods.

(4) If the administering authority is reasonably of the opinion that it would cost more to remove, store and sell the goods than the goods are worth, the administering authority may remove and destroy or otherwise dispose of the goods.

Notice to resident that goods are in storage

10. (1) When goods are stored by the administering authority, the authority must give the resident written notice that the goods have been stored. The notice must also be published in a newspaper circulating generally throughout the State. The notice must be given and published within 7 days after the goods are stored.

(2) The notice may (in addition to any other way in which it may be given) be given to the resident by being sent by post to the resident at any forwarding address known to the administering authority.

(3) The notice may instead of being given to the resident be given to a representative nominated by the resident before the resident vacated the residential premises.

(4) The notice must contain the following:

- (a) the administering authority's name and address, or an address at which the goods can be claimed;
- (b) the resident's name;
- (c) the address of the residential premises;
- (d) a description of the goods;
- (e) a statement that, on or after a specified date, the goods will be sold by public auction unless they are first claimed and the reasonable costs of removal and storage are paid;
- (f) a statement that the administering authority will retain out of the proceeds of the sale of the goods the reasonable costs of removal, storage and sale.

Uncollected goods may be auctioned

11. (1) As soon as practicable after uncollected goods have been stored by the administering authority in accordance with this Part for 30 days, the administering authority is to cause them to be sold by public auction.

(2) The administering authority is required to account to the resident for the balance of the proceeds of the sale of the goods after deduction of the reasonable costs of removal, storage and sale of the goods.

Claiming uncollected goods

12. (1) A person who is entitled to possession of goods left on residential premises, or who has a lawful interest in such goods, may claim the goods at any time before they are destroyed, sold or otherwise disposed of under this Part.

(2) The administering authority must deliver up the goods to a person who claims them if the administering authority is satisfied that the person is entitled to claim them.

(3) The administering authority is entitled to require payment of the authority's costs and expenses actually incurred in the removal and storage of goods (not exceeding a reasonable amount for those costs and expenses), before delivering goods to a person under this clause.

(4) If a claim is for some but not all of the goods, and the remaining goods are worth enough to cover the reasonable costs of removal and storage of all of the goods, the administering authority must deliver the claimed goods to the claimant without requiring payment of the authority's reasonable costs of removal and storage of the claimed goods.

SCHEDULE 1—FORMS

Form 1

(Cl. 5)

WARRANT FOR ENFORCEMENT OF ORDER FOR POSSESSION

(Retirement Villages Act 1989)

To all sheriff's officers:

Why is this warrant being issued?

On the Residential Tenancies Tribunal sitting at
made the following orders:

(a) an order terminating the residence contract between and
.....

(b) an order for possession of the residential premises at
in New South Wales;

*(c) an order that the operation of the order for possession be suspended for a
period of days from the date of the order;

*(d) an order that the operation of the order for possession be terminated 14 days after the date of issue of this warrant.

An application was made by the person in whose favour the order was made for the enforcement of the order for possession of the premises.

I am satisfied that the order has not been complied with, or that a condition of suspension of the order has not been complied with.

What does this warrant authorise?

This warrant authorises any sheriffs officer to enter the residential premises and take all steps that are reasonably necessary to give possession to the administering authority.

Police assistance

A sheriff's officer may request that any member of the police force assist the sheriff's officer to enforce the order for possession.

Use of force

The sheriff's officer or member of the police force enforcing the order for possession is authorised to use such force as is reasonably necessary to enforce the order for possession.

Production of this warrant

The sheriff's officer or member of the police force enforcing the order for possession must produce this warrant if asked.

Issue details

Date of issue of warrant:

* This warrant must be executed within 14 days of its issue.

Signature

Signed by me:

.....
(Print name) (Signature)

Chairperson/Member/Registrar/Deputy Registrar (*delete whichever is not applicable*) of the Residential Tenancies Tribunal.

* Delete if not applicable.

Case information

Residential Tenancies Tribunal Registry

Phone No:

Name and address of administering authority:

.....

Phone No. of administering authority:

Resident's Phone No:

Number of residents:

File No:



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SCHEDULE 1—FORMS



EXPLANATORYNOTE

The object of this Regulation is to repeal and remake, with some modifications, the provisions of the Retirement Villages Regulation 1989. The new regulation deals with the following matters:

- (a) the form of warrant for enforcement of an order for possession (clause 5 and Schedule 1);
- (b) the disposal of goods abandoned by a resident after a residence contract is terminated (Part 2);
- (c) other formal matters (clauses 1–4 and 6).

This Regulation is made under the provisions of the Retirement Villages Act 1989, including section 46 (the general regulation making power) and sections 25 and 29.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
