



New South Wales

Retirement Villages Transitional Regulation 2000

under the

Retirement Villages Act 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retirement Villages Act 1999*.

JOHN WATKINS, M.P.,

Minister for Fair Trading

Explanatory note

Clause 14 of Schedule 4 to the *Retirement Villages Act 1999* (which commenced on the date of assent to that Act) provides that residents of a retirement village who are parties to legal proceedings in respect of the village (being proceedings to which the operator of the village is also a party) that had been commenced but not finally determined before the commencement of that clause are not liable to pay such part of the operator's costs in relation to the proceedings as are incurred, or may reasonably be apportioned to such of the proceedings as take place, after that commencement. However, the clause does not apply to costs awarded in favour of the operator and against the residents in the proceedings concerned.

Section 198 of the Act (which has not yet commenced) is generally to the effect that the residents of a retirement village are not liable to pay any costs incurred by the operator (or that the operator expects to incur) in obtaining legal advice, or undertaking legal proceedings, in relation to the village unless the residents agreed to expenditure on those costs or the Residential Tribunal (on application by the operator) ordered the expenditure (or the costs are awarded against the residents in the proceedings).

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Explanatory note

The object of this Regulation is to provide for the payment of legal costs in proceedings involving residents and operators during the transitional period before the commencement of section 198. This transitional regulation ensures that residents of a retirement village are not liable for any costs of the operator of the village in relation to legal proceedings involving the operator and the residents (or a resident) that are commenced after the commencement of this regulation but before the commencement of section 198, unless the costs are awarded against the residents in the proceedings.

This Regulation is made under the *Retirement Villages Act 1999* and, in particular, under section 203 (the general regulation-making power) and clause 1 of Schedule 4.

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Clause 1 Retirement Villages Transitional Regulation 2000

Part 1 Preliminary

Retirement Villages Transitional Regulation 2000

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Retirement Villages Transitional Regulation 2000*.

2 Commencement

This Regulation commences on 7 January 2000.

3 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Transitional provision

4 Operator's legal costs

- (1) If, after the commencement of this clause but before the commencement of section 198 of the *Retirement Villages Act 1999*, any legal proceedings in relation to a retirement village are commenced (being proceedings to which the operator and a resident or residents of the village are parties), the resident or residents concerned are not liable to pay any part of the operator's costs in relation to the proceedings.
- (2) Subclause (1) applies whether or not the proceedings are finally determined before the commencement of section 198.
- (3) However, subclause (1) does not apply in respect of any costs awarded in favour of the operator and against a resident or residents of the retirement village in the legal proceedings concerned.