

Passed by both Houses



New South Wales

# Retirement Villages Amendment Bill 2004

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2004*



New South Wales

## **Retirement Villages Amendment Bill 2004**

Act No , 2004

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An Act to amend the *Retirement Villages Act 1999* to make further provision with respect to the rights and obligations of residents of retirement villages; and for other purposes.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Retirement Villages Amendment Act 2004*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Retirement Villages Act 1999 No 81**

The *Retirement Villages Act 1999* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 8 “Permanent vacation” of residential premises

Insert “or is taken to be an owner because of section 150 (1) (b)” after “the operation of section 4 (2)” in section 8 (d).

### [2] Section 116 Expenditure to be in accordance with statement of approved expenditure

Insert “or any amendment authorised under section 117” after “approved expenditure” in section 116 (3).

### [3] Section 117

Omit the section. Insert instead:

#### 117 Amendment of statement of approved expenditure

- (1) The operator may seek the consent of the residents to amend the statement of approved expenditure.
- (2) If the residents consent to the amendment, the operator is authorised to expend money in accordance with the amended statement of approved expenditure.
- (3) If the residents do not consent to the amendment, the operator may apply to the Tribunal for an order approving the amendment. If the Tribunal makes such an order, the operator is authorised to expend money in accordance with the amended statement of approved expenditure.
- (4) In the case of an amendment that relates to further expenditure, the Tribunal is not to make an order under subsection (3) unless the Tribunal is satisfied that:
  - (a) there is an urgent need for the further expenditure, and
  - (b) the further expenditure was not reasonably foreseeable when the statement of proposed expenditure was approved under section 116.

**[4] Section 129 How and when residence right or contract is terminated**

Insert after section 129 (1):

- (1A) A residence right arising from a residence contract that is in the form of an assignable lease terminates on the assignment of the lease.

**[5] Section 129 (2)**

Insert “or premises that are subject to an assignable lease” after “other than premises owned by the resident”.

**[6] Section 150 References to “owner” and sale of “residential premises”**

Omit section 150 (1) (b). Insert instead:

- (b) who does not own the premises but whose residence contract:
  - (i) is in the form of a registered long-term lease, and
  - (ii) includes a provision that entitles the resident or former occupant to at least 50% of any capital gains in respect of the premises.

**[7] Section 150 (3)**

Insert at the end of the section:

- (3) For the purpose of subsection (1) (b), *registered long-term lease* means a lease registered under the *Real Property Act 1900* that:
  - (a) has a term of at least 50 years (inclusive of any option to renew), or
  - (b) is for the life of the lessee.

**[8] Section 151 Recurrent charges in respect of personal services**

Omit section 151 (1). Insert instead:

- (1) A resident of a retirement village who is temporarily absent from the village for a period of at least 28 days is not liable to pay, in respect of the remainder of that period of absence, recurrent charges for personal services.

- (1A) In the case where the resident concerned has moved out or died, the liability to pay recurrent charges for personal services ceases as from the date the resident moved out or the date on which the operator is notified of the resident's death, as the case may be. However, any such liability does not cease in relation to services provided before that date.

**[9] Section 151 (3)**

Omit the subsection.

**[10] Section 174 Letting or subletting of premises**

Insert after section 174 (1):

**Note.** As a consequence of section 8 (d), a resident or former occupant may retain possession of residential premises (ie they are not required to hand over the keys to the operator) in order to enable the premises to be let or sublet.

**[11] Section 208 Review of Act**

Omit section 208 (2) and (3). Insert instead:

- (2) The review is to be undertaken as soon as possible after the commencement of the *Retirement Villages Amendment Act 2004*.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the commencement of the *Retirement Villages Amendment Act 2004*.

**[12] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Retirement Villages Amendment Act 2004*