

Retirement Villages Regulation 2000

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New South Wales

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Notes—

- **Does not include amendments by**
[Civil Procedure Act 2005 No 28](#) (not commenced)

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New South Wales

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Retirement Villages Regulation 2000



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Retirement Villages Regulation 2000*.

2 Commencement

This Regulation commences on 1 July 2000.

3 Definitions

In this Regulation:

termination notice means a notice under section 131 of the Act (that is, a notice of intention to apply to the Tribunal for an order terminating a residence contract).

the Act means the *Retirement Villages Act 1999*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Item of capital

The following items in a retirement village, including those in residential premises in the village, are prescribed for the purposes of the definition of **item of capital** in section 4 (1) of the Act:

- (a) fixtures (for example, bench tops, built-in cupboards and wardrobes, floor coverings, hot water systems and stoves),
- (b) fittings (for example, light fittings, taps and sanitary fittings),
- (c) furnishings (for example, curtains and blinds),
- (d) non-fixed items (for example, whitegoods, portable air conditioners, fans, tables and chairs).

6 Operator

A person who is engaged under an agreement with:

- (a) the relevant community association, neighbourhood association or precinct association of a retirement village that is subject to a community land scheme, or
- (b) the owners corporation of a retirement village that is subject to a strata scheme, or
- (c) the company that is the owner of a retirement village that is subject to a company title scheme,

and who enters into individual village contracts with the residents of the village (or arranges for another person to enter into those contracts) is prescribed for the purposes of the definition of **operator** in section 4 (1) of the Act.

7 Resident

(1) A person who is a resident of a retirement village only because:

- (a) he or she:
 - (i) is the spouse of another resident, and
 - (ii) occupies residential premises in the retirement village with that resident, or
- (b) he or she:
 - (i) is the other party to a de facto relationship with another resident, and
 - (ii) occupies residential premises in the retirement village with that resident,

is prescribed for the purposes of the definition of **resident** in section 4 (1) of the Act if the person continues to occupy the residential premises concerned after the other resident dies or otherwise permanently vacates the premises.

(2) However, if the other resident has died, subclause (1) does not apply if the terms of that other resident's will are such as to require (whether directly or indirectly) the person to vacate the residential premises concerned.

Note—

The will might provide, for example, for a bequest of a sum of money that the deceased resident's estate can raise only by delivering vacant possession of the residential premises to the operator of the village so as to obtain a refund of the deceased resident's ingoing contribution.

8 Retirement village

The following are excluded from the definition of **retirement village** in section 5 of the Act:

- (a) a place at which a designated service (within the meaning of the *Disability Services*

[Act 1993](#)) is provided,

(b) a facility (within the meaning of the [Community Welfare Act 1987](#)).

Part 2 Information about retirement villages

9 Disclosure statement: section 18

A disclosure statement must be in the form set out in Schedule 1.

Note—

Section 80 (Compliance with forms) (1) and (2) of the [Interpretation Act 1987](#) provides as follows:

- (1) If an Act or a statutory rule prescribes a form, strict compliance with the form is not necessary but substantial compliance is sufficient.
- (2) If a form prescribed by an Act or instrument requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.

10 Copies of certain documents to be available: section 20 (1) (k)

The following documents are prescribed for the purposes of section 20 (1) (k) of the Act:

- (a) if the operator of the retirement village and a Residents Committee were parties to any proceedings before a court or a tribunal in the immediately preceding 5 years—the decision or order, and the reasons for the decision or order, of the court or tribunal concerned,
- (b) if the operator of the retirement village operates a waiting list for the village and charges a waiting list fee—the operator’s written policy setting out the way in which the waiting list operates,
- (c) if the retirement village is subject to a company title scheme—such of the following as governs the company concerned:
 - (i) its constitution,
 - (ii) the replaceable rules set out in the [Corporations Act 2001](#) of the Commonwealth,
- (d) if the retirement village is subject to a community land scheme:
 - (i) the management statement of the scheme, and
 - (ii) any management agreement relating to the village to which the relevant community association, neighbourhood association or precinct association is a party, and
 - (iii) the minutes of the most recent annual general meeting of the relevant

community association, neighbourhood association or precinct association,

(e) if the retirement village is subject to a strata scheme:

(i) the by-laws of the scheme, and

(ii) any management agreement relating to the village to which the relevant owners corporation is a party, and

(iii) the minutes of the most recent annual general meeting of the owners corporation,

(f) every other document referred to in the disclosure statement for the village under the heading "Village Contracts".

Part 3 Village contracts and village rules

11 Condition report: section 38

(1) A condition report must be in the form set out in Schedule 2.

Note—

Section 80 (Compliance with forms) (1) and (2) of the [Interpretation Act 1987](#) provides as follows:

- (1) If an Act or a statutory rule prescribes a form, strict compliance with the form is not necessary but substantial compliance is sufficient.
- (2) If a form prescribed by an Act or instrument requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.

(2) The operator, or an agent or employee of the operator, must inspect the premises and complete the condition report in accordance with this clause.

Maximum penalty: 10 penalty units.

(3) The report is to be completed in the presence of the prospective resident (or a person nominated by the prospective resident) before the operator and the prospective resident enter into a village contract.

(4) However, if the premises are still being constructed, the operator and the prospective resident may enter a village contract before the condition report is completed, but the report must be otherwise completed in accordance with this clause before the prospective resident occupies the premises.

(5) The report must be completed to the best of the operator's knowledge (or, if the inspection is carried out by an agent or employee of the operator, to the best of that agent's or employee's knowledge).

- (6) If a required date is not known, an approximate date must be given and identified as such.
- (7) Sufficient time must be allowed for the prospective resident (or the prospective resident's nominee) to examine the report and suggest changes to it.
- (8) The report must be signed by the operator (or, if the inspection is carried out by an agent or employee of the operator, by that agent or employee). The prospective resident (or the prospective resident's nominee) must also sign the report if he or she agrees with it.

12 Contents of village contracts: section 42

- (1) The matter that is to be included in a village contract is the matter set out in Schedule 3.
- (2) The matter that is to be excluded from a village contract is the matter set out in Schedule 4.
- (3) This clause does not prevent the inclusion of any additional matter in a village contract (other than the matter set out in Schedule 4 or matter that is inconsistent with the matter set out in Schedule 3).
- (4) This clause applies to all village contracts other than residence contracts relating to premises that are subject to a community land scheme, company title scheme or strata scheme.
- (5) However, this clause applies to residence contracts referred to in subclause (4) if the operator of the village (or a close associate of the operator) is the vendor under the residence contract concerned.

13 Subject-matter of village rules: section 46

In addition to the matters set out in section 46 of the Act, village rules may relate to the following matters:

- (a) security in the retirement village concerned,
- (b) the external appearance of residents' premises in the village.

14 Model village rules: section 48

- (1) Model village rules that may be adopted in respect of a retirement village are set out in Schedule 5.
- (2) An operator of a retirement village may (but is not required to) use the model village rules.

Part 4 Financial management of retirement villages

15 Minimum public liability insurance: section 97 (4)

The minimum amount of public liability insurance that the operator of a retirement village is required to obtain under section 97 of the Act is cover of \$10,000,000.

16 Money in maintenance fund: section 100 (3)

If the operator of a retirement village is a property trust or other corporation constituted by an Act, money in the maintenance fund for the village may be held in any fund administered by the property trust or corporation concerned.

17 Notice of variation of recurrent charges by fixed formula: section 105

- (1) A notice of variation of recurrent charges given under section 105 of the Act must include, in addition to the matter required by section 105 (2) (a) and (b), the following:
 - (a) the name of the resident and the address of the residential premises concerned,
 - (b) the fixed formula set out in the contract and a demonstration, by an application of the formula, of the way in which the new recurrent charges have been calculated,
 - (c) the following statements:
 - (i) it is a requirement of section 105 of the *Retirement Villages Act 1999* that the operator of a retirement village give a resident of the village whose village contract provides that recurrent charges are to be varied according to a fixed formula at least 14 days' written notice of the variation concerned,
 - (ii) the resident is not required to pay any increase in his or her recurrent charges until notice of the increase is given as required by that section,
 - (iii) the resident may apply to the Residential Tribunal for an order directing the refund of overpaid recurrent charges on the grounds that an increase in the charges came into effect otherwise than in accordance with Division 4 of Part 7 of the *Retirement Villages Act 1999* (which includes section 105),
 - (iv) any application for such an order must be lodged no later than 12 months after the increase came into effect.
- (2) The notice:
 - (a) must be dated, and
 - (b) must be signed by the operator (or an agent or employee of the operator) of the retirement village.

18 Notice of variation of recurrent charges otherwise than by fixed formula: section 106

- (1) A notice of variation of recurrent charges given under section 106 of the Act must include, in addition to the matter required by section 106 (2) (a)-(d), the following:
- (a) the name of the resident and the address of the residential premises concerned,
 - (b) the following statements:
 - (i) it is a requirement of section 106 of the *Retirement Villages Act 1999* that the operator of a retirement village give a resident of the village whose village contract provides that recurrent charges are to be varied otherwise than according to a fixed formula at least 60 days' written notice of any proposed variation of the charges,
 - (ii) a notice given under that section may be cancelled by a later notice, and a later notice may provide for a lesser increase than the increase (if any) specified in the earlier notice,
 - (iii) the operator of the village must not increase (or attempt to increase) the recurrent charges beyond any upper level specified in the relevant village contract,
 - (iv) the variation in the charges does not take effect unless the residents whose recurrent charges will be affected by the variation consent to it (or the Residential Tribunal orders that the variation take effect),
 - (v) the residents concerned must, within 30 days after receiving the notice, meet, consider and vote on the proposed variation and advise the operator whether or not they consent to it,
 - (vi) if the operator is not advised one way or the other, the residents are taken to have refused consent,
 - (vii) the operator must provide such information in relation to the proposed variation as the Residents Committee (or, if there is no such Committee established in the village, any resident) reasonably requests for the purpose of deciding whether consent should be given to the variation,
 - (viii) if the residents do not consent to the proposed variation the operator may apply to the Residential Tribunal for an order in respect of the proposed variation,
 - (ix) the resident may apply to the Residential Tribunal for an order directing the refund of overpaid recurrent charges on the grounds that an increase in the charges came into effect otherwise than in accordance with Division 4 of Part 7 of the *Retirement Villages Act 1999* (which includes section 106),

(x) any application for such an order must be lodged no later than 12 months after the increase came into effect.

(2) The notice:

(a) must be dated, and

(b) must be signed by the operator (or an agent or employee of the operator) of the retirement village.

19 Matters that must be dealt with in statement of proposed expenditure: section 112 (3) (a)

The matters that must be dealt with in a statement of proposed expenditure are the following:

- (a) the amount of recurrent charges payable by residents of the village during the year (including any expected increases in those charges in line with a fixed formula),
- (b) the method by which that amount has been calculated,
- (c) the total expected income from recurrent charges for the village for the year,
- (d) the effect of the expected surplus or deficit (as the case may be) for the current year on the finances of the village,
- (e) all proposed categories of expenditure (without grouping together 2 or more unlike categories),
- (f) the proposed expenditure on each of those categories, the proposed expenditure on each of them as indicated in the statement of approved expenditure for the current year, and the likely actual expenditure on each of them for the current year,
- (g) if any expenditure (proposed or actual) is an apportionment of a total expenditure relating to the village and one or more other villages or businesses—the method or calculation by which the expenditure is apportioned,
- (h) if any residents of the village are paying significantly higher recurrent charges than some other residents of the village (for example, because they are receiving personal services)—the method or calculation by which expenditure is apportioned between the categories of residents concerned,
- (i) the total proposed expenditure of the village for the year,
- (j) the expected surplus or deficit for the year.

20 Certain matters not to be financed by way of recurrent charges: section 112 (3) (b)

The following must not be financed by way of recurrent charges:

- (a) fees for membership of industrial or professional associations,
- (b) overseas travel by the operator of the retirement village or the operator's agent or employees,
- (c) internal repainting of vacant residential premises in the retirement village.

21 Form of statement of proposed expenditure: section 112 (3) (c)

- (1) A model statement of proposed expenditure is set out in Schedule 6.
- (2) An operator of a retirement village may, but is not required to, use the model form of statement of proposed expenditure.

22 Notice accompanying statement of proposed expenditure: section 112 (4) (e)

In addition to the matter required by section 112 (4) (a)–(d) of the Act, the notice accompanying a statement of proposed expenditure must contain the following statements:

- (a) it is a requirement of section 112 of the *Retirement Villages Act 1999* that the operator of the village supply each resident with a statement of proposed expenditure for the financial year of the village at least 60 days before the commencement of the financial year concerned,
- (b) the statement may be cancelled and replaced by an amended statement,
- (c) it is a requirement of section 114 of the *Retirement Villages Act 1999* that the residents meet, within 30 days after receiving a request for consent to the statement, to consider and vote on the statement,
- (d) it is a further requirement of that section that the residents advise the operator of whether or not they consent to the statement (and, if they do not consent, they must specify the item or items in the statement to which they object),
- (e) if the operator is not advised one way or the other, the residents are taken to have refused consent,
- (f) the Residents Committee (if there is such a Committee established in the village) may call the meeting required by section 114,
- (g) the operator must provide such information in relation to the proposed expenditure as the Residents Committee (or, if there is no such Committee established in the village, any resident) reasonably requests for the purpose of deciding whether consent should be given to the statement,
- (h) if the residents do not consent to the expenditure itemised in the statement, the operator or a resident may apply to the Residential Tribunal for an order in respect of it,

- (i) if the operator makes such an application and the Residential Tribunal does not make an order that gives rise to a statement of approved expenditure before the start of the financial year concerned, the operator may expend the money received by way of recurrent charges to meet the reasonable and necessary costs of the village until the Tribunal makes the relevant order,
- (j) in dealing with the application, the Residential Tribunal may have regard to the reasonable cost of services provided (or proposed to be provided) in the village and the need for the services to be provided in the village,
- (k) if the residents consent to the expenditure itemised in the statement, or the Residential Tribunal orders that the expenditure is to be as itemised in the statement, the statement of proposed expenditure is taken to be a statement of approved expenditure,
- (l) the operator must not expend money received by way of recurrent charges otherwise than in accordance (apart from minor variations) with the statement of approved expenditure.

23 Interest on recurrent charges: section 155 (3)

For the purposes of section 155 (3) of the Act, the maximum rate of interest is the rate for the time being prescribed under section 95 (1) of the [Supreme Court Act 1970](#) for payment of interest on a judgment debt.

Note—

The rate of interest as at the commencement of this Regulation is 10%. It is prescribed by rule 7 (2) of Part 40 of, and Schedule J to, the [Supreme Court Rules 1970](#).

Part 5 Residential Tribunal

24 Time for making application to Residential Tribunal

- (1) An application to the Tribunal under a section of the Act specified in Column 1 of Schedule 7 may be made only within the time specified in Column 2 of that Schedule in relation to the section.

Note—

The Residential Tribunal may, of its own motion or on application by any person, extend the period of time for making such an application, even though the relevant period has expired. See section 74 of the [Residential Tribunal Act 1998](#).

- (2) An application to the Tribunal under any other section of the Act may be made at any time.
- (3) An application is to be made in accordance with the [Residential Tribunal Regulation 1999](#).

25 Applications to Tribunal by Residents Committee

- (1) The Residents Committee of a retirement village may, at the request of one or more residents of the village, apply to the Tribunal on behalf of the resident or residents concerned for any order for which a resident may apply.
- (2) The Residents Committee may apply to the Tribunal on behalf of all residents for an order for which a resident may apply if the residents consent, by special resolution, to the application.
- (3) However, any resident who does not wish to be a party to the proceedings may notify the Residents Committee in writing of that fact before the application to the Tribunal is made, and the Residents Committee must exclude that resident from the application.

26 Tribunal may determine other party to application made by operator

The Tribunal may, if it considers it appropriate to do so, order that:

- (a) one or more specified residents of a retirement village, or
- (b) all the residents of the retirement village,

is the other party, or are the other parties, to an application made to the Tribunal by the operator of the village concerned.

27 Additional orders of Tribunal: section 128 (1) (I)

For the purposes of section 128 (1) (I) of the Act, the Tribunal may make an order that varies, sets aside or stays a previous order of the Tribunal that is in force under the Act.

28 Differential orders

The Tribunal may make different orders in relation to different residents (or groups of residents) of a retirement village in determining:

- (a) an application to which 2 or more residents of the village are parties (whether the application was made jointly by the residents or by the Residents Committee on behalf of the residents), or
- (b) an application made by the operator of the village, being an application to which 2 or more residents are the other parties.

Part 6 Uncollected goods

29 Alterations, additions and fixtures

For the purposes of this Part:

- (a) any additions made to residential premises in a retirement village, and

(b) any fixtures installed in the premises,

by the former resident of the premises (and not demolished or removed by the resident) are taken to form part of the premises concerned and are not to be regarded as uncollected goods.

30 Disposal of perishable and certain other uncollected goods

- (1) The operator of a retirement village may remove and dispose of goods left in residential premises in the village by a former resident of the village if the goods are:
 - (a) perishable foodstuffs, or
 - (b) goods that it would be unsafe or unhealthy to store.
- (2) The operator may remove and dispose of the goods:
 - (a) if the residence contract concerned was terminated on an order of the Tribunal—at any time that is 3 or more days after the date on which the former resident vacated the residential premises concerned, and
 - (b) if the residence contract concerned was terminated otherwise than on an order of the Tribunal—at any time that is 3 or more days after the termination.

31 Storage of other uncollected goods

- (1) The operator must deal with any uncollected goods that are not goods of the kind referred to in clause 30 (1) in accordance with this clause.

Maximum penalty: 10 penalty units.

- (2) The operator must leave the goods in the residential premises, or store them in a secure place, for at least 30 days after the operator has issued the notice required by section 147 (2) of the Act or, if the operator does not have a forwarding address for the former resident (or the address of the executor or administrator of the estate of a deceased former resident), at least 30 days after:
 - (a) the date on which the former resident vacated the residential premises concerned (if the residence contract concerned was terminated on an order of the Tribunal),
or
 - (b) the date on which the residence contract was terminated (in any other case).

32 Claiming of uncollected goods

- (1) A person who is entitled to possession of goods left in residential premises in a retirement village may claim the goods at any time before they are destroyed, sold or otherwise dealt with in accordance with this Part.
- (2) The operator of the retirement village concerned must deliver up the goods, free of

any charge (other than a removal or storage charge), to a person who claims them if the operator is satisfied that the person is entitled to claim them.

- (3) The operator is entitled to require payment of any reasonable costs and expenses actually incurred in removing or storing (or both removing and storing) the goods before delivering the goods to a person under this clause.
- (4) However, if the claim is for some but not all of the goods and the remaining goods are of sufficient value to cover the reasonable costs and expenses of removing or storing (or both removing and storing) all of the goods, the operator must deliver the claimed goods to the claimant without requiring payment for removal or storage.

33 Disposal of uncollected goods after storage

- (1) On the expiry of the 30-day period referred to in clause 31 (2), the operator of the retirement village concerned must deal with the uncollected goods in accordance with this clause.

Maximum penalty: 10 penalty units.

- (2) The operator must send any uncollected personal documents of the former resident to the former resident's forwarding address (or, if the former resident has died, to the executor or administrator of the former resident's estate).
- (3) If the operator does not have a forwarding address for the former resident (or the address of the executor or administrator of the estate of a deceased former resident), the operator must:
 - (a) return the personal documents to their place of origin, if possible (for example, bank statements to the issuing bank, licences to the issuing authority and passports to the Commonwealth Government), and
 - (b) retain the other personal documents in a secure place for at least 6 months, and then dispose of them as the operator sees fit.
- (4) If the operator is reasonably of the opinion that any individual item of uncollected goods (other than a personal document) is worth less than \$100, the operator may give the item to a charitable organisation or otherwise dispose of it.
- (5) The operator must cause any item of uncollected goods (other than a personal document) that is, in the reasonable opinion of the operator, worth \$100 or more to be sold by public auction.
- (6) In this clause, **personal documents** means certificates, financial records and statements, licences, medical records, passports, personal correspondence, photographs and any other document it would be reasonable to expect the former resident (or his or her family) to want to keep.

34 Records and accounting

- (1) The operator must make (and retain for a period of at least 2 years) a record of all uncollected goods that he or she disposes of under clause 33.
- (2) The operator must account to the former resident (or to the executor or administrator of the estate of a deceased former resident) for the balance of the proceeds of the sale of the goods after the deduction of the reasonable costs of removal, storage and sale of the goods.
- (3) However, if the operator has no forwarding address for the former resident (or for the executor or administrator of the estate of a deceased former resident), the balance of the proceeds are to be dealt with as unclaimed money within the meaning of the [Unclaimed Money Act 1995](#).

Part 7 Penalty notices

35 Penalty notice offences

For the purposes of section 184 of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 8 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 4 of Schedule 8.

36 Short description of offences

- (1) For the purposes of section 145B of the [Justices Act 1902](#), the prescribed expression for an offence arising under a provision specified in Column 1 of Schedule 8 consists of the IPB Code set out in relation to the offence in Column 2 together with:
 - (a) the expression specified in Column 3 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 8, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order

or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

(5) In this clause and Schedule 8:

Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.

IPB Code, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

Part 8 Miscellaneous

37 Appointment of resident's proxy: section 77 (2)

(1) The appointment of a person as the proxy of a resident of a retirement village is to be made in the form set out in Schedule 9.

Note—

Section 80 (Compliance with forms) (1) and (2) of the [Interpretation Act 1987](#) provides as follows:

- (1) If an Act or a statutory rule prescribes a form, strict compliance with the form is not necessary but substantial compliance is sufficient.
- (2) If a form prescribed by an Act or instrument requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.

(2) The appointment is effective in relation to a meeting of the residents of the village only if the duly completed form is given to the chairperson of the meeting before any vote is taken at the meeting.

38 Disputes between operator and resident: section 122

A resident of a retirement village is nominated as the representative of 2 or more residents in the village who claim that a dispute has arisen between those residents and the operator of the village (whether or not the nominated resident is a party to the dispute) if:

- (a) each resident who is a party to the dispute signs a statement to the effect that the resident named in the statement is nominated as the signatory's representative, and
- (b) the nominated resident consents in writing to the nomination.

39 Termination notice: section 131

(1) A termination notice is to be in the relevant form set out in Schedule 10.

Note—

A termination notice does not have to be given if the application to terminate a residence contract is made on the grounds of the resident's causing serious damage to the village or serious injury to the operator, an employee of the operator or another resident.

- (2) Except in the case of an application referred to in section 136 of the Act, the notice is to be given no later than at the time at which the applicant makes the application to the Tribunal, but no earlier than 14 days before that time.
- (3) If the person who gave the notice does not apply to the Tribunal for the relevant order within 14 days after giving the notice, a fresh termination notice must be given (in accordance with subclause (2)) before the application may be made.

40 Service of documents generally: section 201

- (1) For the purposes of section 201 of the Act, a notice (other than a termination notice) or other document may be given to the operator or a resident of a retirement village by either of the following methods:
 - (a) by delivering it by hand (rather than sending it by post) to the letterbox of the operator or resident concerned,
 - (b) by facsimile or other electronic means.
- (2) However, a notice (including a termination notice) or other document required to be given under the Act or this Regulation:
 - (a) to a resident of a retirement village who is a protected person (within the meaning of the *Protected Estates Act 1983*) or who has a guardian—is to be given to the Protective Commissioner or the guardian as appropriate (and, if the resident is both a protected person and a person who has a guardian, is to be given to both the Protective Commissioner and the guardian), or
 - (b) to an operator of a retirement village in respect of whom a receiver, or a receiver and manager, or an administrator, has been appointed—is to be given to the receiver, receiver and manager or administrator concerned.
- (3) Subclause (1) extends to apply (with the necessary modifications) to a notice or other document that is required to be given to the Protective Commissioner, a guardian, a receiver, a receiver and manager or an administrator under subclause (2).

41 Consent of residents: Schedule 1 to Act

Schedule 11 has effect for the purposes of:

- (a) determining when a vote of residents of a retirement village is to be taken by means of a written ballot, and
- (b) specifying the method by which such a written ballot is to be conducted.

42 Savings and transitional provisions

Schedule 12 has effect.

43 Repeal

The *Retirement Villages (Applications to Residential Tribunal) Regulation 2000* is repealed.

Schedule 1 Disclosure statement

(Clause 9)

DISCLOSURE STATEMENT

Retirement Villages Act 1999, section 18 (1)

This statement is required to be given to all prospective residents under the *Retirement Villages Act 1999*. It is designed to give you a general understanding of the features and financial arrangements of this retirement village, should you choose to become a resident.

The retirement village industry offers a wide range of features and financial arrangements. Comparing the disclosure statements from a number of retirement villages will assist you in identifying the most suitable and affordable village for your needs.

You are unable to enter into a village contract with us for at least 14 days after receiving a copy of this statement. You should use this time to read all documents you have obtained and carefully consider your options. If, after reading this statement, you are uncertain as to any aspects of the village or its suitability for you, feel free to ask us any further questions. You are encouraged to get independent legal advice before signing any contracts.

1 LOCATION

1 Common name of village:

2 Full address of village:

Street No

Street/Road etc

Suburb/town

Postcode

3 Proximity to services:

Nearest public hospital: Distance from village km

Nearest shopping centre: Distance from village km

Nearest railway station: Distance from village km

4 Is there a bus stop within 200 metres of the village? Yes/No

If Yes, details are as follows:

bus no/s	destination/s	frequency/limitations of service
----------	---------------	----------------------------------

.....
-------	-------	-------

.....
-------	-------	-------

2 SIZE

1 The residential premises in the village are made up of:

-x bedsitters
-x 1br premises
-x 2br premises
-x 3br premises
-x other (*specify*)

- 2 The total number of premises currently in the village is, of which:
- are self-contained premises
 - are serviced premises
 - are other (*specify*)

- 3 Has development consent for the construction of more residential premises in the village been granted? Yes/No

If Yes, details are as follows:

- 1 Stage No:
- Number of premises to be built:
 - Estimated completion date:
- 2 Stage No:
- Number of premises to be built:
 - Estimated completion date:

3 RESIDENTIAL CARE FACILITIES

Does the operator operate a facility through which residential care within the meaning of the [Aged Care Act 1997](#) of the Commonwealth is provided (that is, a nursing home or hostel) adjoining the retirement village or elsewhere? Yes/No

If Yes, note that:

- (a) the facility is not covered by the [Retirement Villages Act 1999](#), and
- (b) current Commonwealth Government policy guidelines on admission to such a facility requires that places are to be allocated on a “needs” basis. Access will be subject to a person’s being assessed as eligible for admission in accordance with Commonwealth Government laws and cannot be guaranteed. No priority can be given to residents of our retirement village.

4 VILLAGE OWNERSHIP

- 1 The land on which the village is located is owned by:
-
- Year of original construction:
- Name of original developer:

- 2 (*Delete if not applicable*) Residents own the premises they occupy in the village.

This ownership is of the following kind: (*tick whichever is applicable*)

- strata title
- company title
- community title
- other (*specify*)

5 VILLAGE MANAGEMENT

- 1 Who is/are the current operator/s of the village?

Name, address and telephone number:

.....
.....
.....

ABN (*delete if not applicable*):

2 Date current operator became operator of the village:

3 The operator has been involved in operating retirement villages in New South Wales since

4 Is the operator, or an employee or agent of the operator, available at the village to deal with residents? Yes/No
If Yes, the person is available from am to pm, days per week.

5 What is the name and what are the contact details of the person to whom inquiries should be directed if further information about becoming a resident is required?

.....
.....
.....

Villages subject to a community land scheme or strata scheme (*delete if not applicable*)

6 Name, address and telephone number of managing agent (if any):

.....
.....

7 Does the operator or a close associate of the operator have voting rights on the relevant association or owners corporation? Yes/No
If Yes, the percentage of votes held by the operator or close associate at the last Annual General Meeting was%

6 RESIDENT INPUT

Does the village have a Residents Committee established by the residents under the [Retirement Villages Act 1999](#)? Yes/No

If Yes, its contact details are:

Name of Secretary or Chairperson:

Address:

Phone Number:

7 FINANCIAL MANAGEMENT

1 The financial year of the village is from to

2 Does the village have a maintenance fund for long-term maintenance? Yes/No

If Yes, the balance in the fund at the end of the last financial year was \$.....

3 Is a specific proportion of ingoing contributions or departure fees (or both) paid by residents set aside in a capital replacement fund for the purpose of financing depreciation and capital replacement in the village? Yes/No

If Yes, the proportion is calculated as follows

.....

and the surplus/deficit (*delete whichever is not applicable*) in the capital replacement fund at the end of the last financial year was \$.....

Note—

In a community land scheme, company title scheme or strata scheme, maintenance of community or common property is the

responsibility of the relevant association, company or owners corporation.

- 4 Are any ingoing contributions paid by residents held by a trustee? Yes/No
If Yes, is it permissible under the trust deed for those contributions to be lent or otherwise made available to the operator of the village? Yes/No
- 5 Is there any personal or legal connection between any of the trustees and the operator? Yes/No
If Yes, details are:
.....
.....
- 6 In the last financial year was money payable by the operator to former residents paid in full and on time? Yes/No
If No, specify the amount concerned and the reasons for the delay:
.....
- 7 Did the audited accounts for the previous financial year contain a statement from the auditor expressing considerable uncertainty regarding the ability of the operator to meet the liabilities of the village as and when they fall due during the financial year immediately following? Yes/No
- 8 Has the operator ever applied to the Residential Tribunal to extend the period of time to pay refunds to former occupants? Yes/No
- 9 According to the audited accounts of the income and expenditure of the village, the surplus/deficit (*delete whichever is not applicable*) at the end of the 3 previous financial years/the financial years during which the village has been in operation (*if fewer than 3*) was as follows:

Financial year ending	Amount surplus/deficit (<i>delete whichever is not applicable</i>)
.....	\$.....
.....	\$.....
.....	\$.....

8 SECURITY AND SAFETY

- 1 Do all residential premises within the village have security screen doors? Yes/No
- 2 Are all windows of residential premises fitted with key operated locks? Yes/No
- 3 Do all residential premises within the village have smoke alarms? Yes/No
- 4 Has the operator been notified of any residential premises within the village being broken into in the last 2 years? Yes/No
If Yes, how many?
- 5 Are residential premises and common areas in the village accessible to persons with impaired mobility, including those in wheelchairs? Yes/No/Partially (*specify*)
.....
.....
- 6 Does the village have a village emergency system that enables residents to summon assistance in an emergency? Yes/No

If Yes, the system involves: *(tick whichever is applicable)*

- distress buttons in residential premises and common areas
- emergency bracelets worn by residents
- other *(specify)*
.....

7 The village emergency system is monitored: *(tick whichever is applicable)*

- on site by the operator or an employee of the operator
- off site by *(specify)*
.....

The system is monitored between am and pm, days per week.

8 Does the operator have a master key or copies of keys to residential premises in the village for use in an emergency? Yes/No

9 COMPLIANCE WITH LEGISLATION

1 Has the operator ever been convicted of an offence under the [Retirement Villages Act 1999](#) or the [Retirement Villages Regulation 2000](#)? Yes/No

If Yes, give details of the offence and amount of penalty:
.....

2 Has the operator ever been ordered by the Residential Tribunal to comply with a requirement of the [Retirement Villages Act 1999](#) or the [Retirement Villages Regulation 2000](#)? Yes/No

If Yes, give details of the order/s made:
.....

3 Has the operator complied with all requirements of any development consent relating to the village? Yes/No

If No, details of the non-compliance are:
.....
.....

4 Have final occupation certificates been issued in relation to all the buildings in the village? Yes/No

10 VILLAGE CONTRACTS

1 Before becoming a resident of the village you will be required to enter into: *(tick those applicable)*

- a residence contract
- a service contract
- other *(specify)*

2 If your residence contract does not give you the right to use the following, you may enter into a separate (optional) contract in respect of them: *(tick those applicable)*

- a garage
- a parking space
- a storage room
- other *(specify)*

3 If you become a resident, documents setting out the following will also be relevant: *(tick those applicable)*

- the village rules
- the by-laws of the community land scheme/strata scheme
- the company's constitution/the replaceable rules set out in the *Corporations Act 2001* of the Commonwealth
- other (*specify*)

Note—

Copies of the documents referred to in any of the ticked boxes may be inspected during business hours or you can request copies to be sent to you free of charge.

11 FACILITIES

1 At the village the following facilities are currently available for the use of residents: *(tick those applicable)*

- | | |
|---|---|
| <input type="checkbox"/> activities room | <input type="checkbox"/> outdoor barbecue area |
| <input type="checkbox"/> arts and crafts room | <input type="checkbox"/> putting green |
| <input type="checkbox"/> auditorium | <input type="checkbox"/> restaurant |
| <input type="checkbox"/> billiards room | <input type="checkbox"/> separate games room |
| <input type="checkbox"/> bowling green | <input type="checkbox"/> separate lounge |
| <input type="checkbox"/> chapel | <input type="checkbox"/> shop |
| <input type="checkbox"/> common laundries | <input type="checkbox"/> spa (indoor/outdoor) (heated/not heated) |
| <input type="checkbox"/> community room/centre | <input type="checkbox"/> swimming pool (indoor/outdoor) (heated/not heated) |
| <input type="checkbox"/> consultation room for visiting medical practitioners | <input type="checkbox"/> tennis court |
| <input type="checkbox"/> croquet lawn | <input type="checkbox"/> village bus |
| <input type="checkbox"/> dining room | <input type="checkbox"/> visitor parking |
| <input type="checkbox"/> gym | <input type="checkbox"/> workshop |
| <input type="checkbox"/> hairdressing room for visiting hairdresser | <input type="checkbox"/> other (<i>specify</i>) |
| <input type="checkbox"/> library | |

Note—

Indicate if more than one of the same facility is available.

2 Does any development consent in relation to the village require that any of the above facilities be provided for the life of the village? Yes/No

If Yes, those facilities are:

.....

Note—

Any of the facilities (other than those referred to in the above question) may be withdrawn or varied if the residents consent, by special

resolution, to the withdrawal or variation.

3 Are any of the facilities identified above available only on a “user pays” basis (or available on that basis to some residents only—such as meals available in the dining room to residents in self-contained premises)? Yes/No

If Yes, those facilities and current amounts charged are:

Facility	Charge
.....
.....
.....
.....

4 Does the operator intend to provide or make available additional facilities in the future? Yes/No

If Yes, the details are as follows:

Proposed facility	Date by which it is to be provided or made available
.....
.....

12 SERVICES

1 The operator provides, or makes available, the following general services to all residents of the village: (*tick those applicable*)

- annual auditing of the accounts of the village
- cleaning and maintenance of common areas and facilities
- insurance of the village to full replacement value
- maintenance and care of common area lawns and gardens
- management and administration services
- payment of all rates, taxes and charges including charges for gas, water and electricity relating to common areas and facilities
- public liability cover to the value of \$.....
- other (*specify*)

Note—

In a community land scheme, company title scheme or strata scheme, these services may be provided by the relevant association, company or owners corporation rather than the operator.

2 Does any development consent in relation to the village require that any of the above services be provided for the life of the village? Yes/No

If Yes, those services are:

Note—

Any of the services (other than those referred to in the above question) may be withdrawn or varied if the residents consent, by special resolution, to the withdrawal or variation.

3 If a village bus is provided or made available to residents the service operates: *(tick those applicable)*

- for arranged outings
- on demand (ie if or more residents request to use the bus)
- per day/week to the following destinations
- other *(specify)*

4 Are optional services provided, or made available, by or on behalf of the operator to individual residents of the village? Yes/No

If Yes, the following is a complete and accurate list of those optional services:

Service	Charge (if any)
.....	\$.....
.....	\$.....

5 Does the operator intend to provide or make available additional services in the future? Yes/No

If Yes, the details are as follows:

Proposed service	Date by which it is to be provided or made available
.....
.....

13 ENTRY COSTS

1 To become a resident you will be required to pay the following: *(tick those applicable)*

- an ingoing contribution of \$....., irrespective of which premises you choose
- an ingoing contribution of between \$..... and \$....., depending on which premises you choose
- lease registration fee of \$.....
- the purchase price of your premises. The price of premises sold in the village in the last financial year ranged from \$..... to \$.....
- stamp duty
- half of the cost of preparing your residence contract, the total cost of that preparation being \$.....
- half of the cost of preparing your service contract, the total cost of that preparation being \$.....
- weeks' advance payment of recurrent charges
- other *(specify)*

2 Is a deposit payable to the operator on entering into a village contract? Yes/No

If Yes, it is: (*tick whichever is applicable*)

- \$.....
-% of the ingoing contribution

3 Is a separate payment required to secure the use of a garage or carport under a separate village contract? Yes/No

If Yes, the payment is:

- garage \$.....
- carport \$.....

14 RECURRENT CHARGES

1 The current rate/s of recurrent charges are as follows:

Type of premises	Singles	Couples
self contained dwellings (<i>specify if amount differs depending on size</i>)	\$.....	\$.....
serviced premises	\$.....	\$.....
other (<i>specify</i>)	\$.....	\$.....

Note—

In a community land scheme, company title scheme or strata scheme, residents may be liable to pay levies in addition to recurrent charges.

2 Recurrent charges are payable by residents: (*tick all options available to residents*)

- weekly
- fortnightly
- monthly
- quarterly
- other (*specify*)

3 Payment of recurrent charges may be made: (*tick all those applicable*)

- in cash at the office
- by cheque or money order
- by direct debit
- other (*specify*)

4 Are future variations in the rate/s of recurrent charges limited according to a fixed formula? Yes/No

If Yes, the formula is as follows: (*tick whichever is applicable*)

- recurrent charges will remain% of the standard maximum single/couple (*delete whichever is not applicable*) aged pension (excluding/including (*delete whichever is not applicable*) rental assistance subsidy)
- recurrent charges will vary in proportion to variations in the Consumer Price Index

- recurrent charges will increase by% every months/years
- other (*specify*)

14A STRATA CONTRIBUTIONS PAYABLE (Where applicable)

The amount of contributions levied under the *Strata Schemes Management Act 1996* for the current year in respect of the lot (within the meaning of the *Strata Schemes Management Act 1996*) are:

Note—

The amount of contributions to be levied is reviewed at least once each year.

15 FINANCIAL ISSUES AFTER PERMANENT VACATION OF THE VILLAGE

1 Is a departure fee payable to the operator? Yes/No

If Yes, the departure fee is% per annum (calculated on a daily basis) for a maximum of years of occupancy of: (*tick whichever is applicable*)

- the ingoing contribution of the outgoing resident
- the ingoing contribution of the incoming resident
- the purchase price of the outgoing resident
- the purchase price of the incoming resident
- other (*specify*)

If the departure fee is calculated on a different basis, specify

.....

.....

.....

2 If an ingoing contribution is payable, is any of that contribution non-refundable? Yes/No

If Yes: (*complete whichever is applicable*)

- the amount is \$.....
- the proportion is%

3 Do former residents and the operator share any capital gains (that is, if the incoming resident pays a higher ingoing contribution/purchase price than the former resident)? Yes/No

If Yes, the respective proportions are

4 Do former residents and the operator share any capital loss (that is, if the incoming resident pays a lower ingoing contribution/purchase price than the former resident)? Yes/No

If Yes, the respective proportions are

16 VACANCIES

1 Does the village operate a waiting list? Yes/No

If Yes, is a waiting list fee charged? Yes/No

If Yes, the fee is \$.....

2 Annexed to this statement is a list, accurate as at the date of this statement, of all residential premises in the village that are available for occupation in the next 3 months. The list specifies the following in respect of each of the premises:

- (a) the address of the premises,

- (b) the number of bedrooms in the premises,
- (c) whether the premises are self-contained premises, serviced premises or another (specified) type of premises,
- (d) whether or not the premises have ever been previously occupied,
- (e) the amount of ingoing contribution required for, or the asking price of, the premises,
- (f) whether the premises are for sale,
- (g) if the premises are for sale, whether the operator of the village is the selling agent,
- (h) if the operator is not the selling agent, the name and contact details of selling agent.

(Annex the list referred to)

This statement was provided to, or a person acting on behalf of (if known):

This statement was given personally/sent by post.

Signed by or on behalf of the operator, who warrants that, to the best of the operator's knowledge, the information contained in this statement is true:

..... *(print name)* *(signature)*

Signed this day of, 20.....

Notes—

1 If a question in this statement provides for a “Yes/No” answer and the operator of the village:

- (a) answers “No” to the question—the operator may delete from the statement any immediately following matter that begins “If Yes”, or
- (b) answers “Yes” to the question—the operator may delete from the statement any immediately following matter that begins “If No”.

2 If the village is not subject to a community land scheme, company title scheme or strata scheme, the operator may delete the notes in this statement referring to those schemes and that title.

Schedule 2 Condition report

(Clause 11 (1))

RESIDENTIAL PREMISES CONDITION REPORT

Retirement Villages Act 1999, section 38

Address of residential premises:

.....

Date of inspection:

How to complete this report:

- 1** The operator, or an agent or employee of the operator, must inspect the premises and complete this report in accordance with these directions.
- 2** The report is to be completed in the presence of the prospective resident (or a person nominated by the prospective resident) before the operator and the prospective resident enter into a village contract.
- 3** However, if the premises are still being constructed, the operator and the prospective resident may enter a village contract before this report is completed, but the report must be otherwise completed in accordance with these directions before the prospective resident occupies the

premises.

- 4 The report must be completed to the best of the operator's knowledge (or, if the inspection is carried out by an agent or employee of the operator, to the best of that agent's or employee's knowledge).
- 5 If a required date is not known, an approximate date must be given and identified as such.
- 6 Sufficient time must be allowed for the prospective resident (or the prospective resident's nominee) to examine the report and suggest changes to it.
- 7 The report must be signed by the operator (or, if the inspection is carried out by an agent or employee of the operator, by that agent or employee). The prospective resident (or the prospective resident's nominee) must also sign the report if he or she agrees with it.
- 8 A copy of the condition report must be annexed to the first village contract that the prospective resident enters into with the operator.

General condition:

Are the premises generally clean and free of rubbish? Yes/No

If No, specify.....

Are there any signs of fleas, cockroaches, ants or other pests in the premises? Yes/No

If Yes, specify.....

Floor coverings:

Are the premises carpeted? Yes/No

If Yes, has the carpet in the premises been newly laid? Yes/No

If No, the carpet was originally laid in

Is the carpet generally clean? Yes/No

Are there any stains, burns or other marks on the carpet? Yes/No

If Yes, specify.....

Are any other floor coverings (eg tiles, vinyl) damaged in any way? Yes/No

If Yes, specify.....

Walls:

Have the internal walls of the premises been freshly painted? Yes/No

If No, the walls were last painted in

Are there any picture hooks on the walls? Yes/No

If Yes, how many?

Are there any cracks, holes, scratches, signs of mould, rising damp or other marks on the walls? Yes/No

If Yes, specify.....

Windows:

Are the windows of the premises clean? Yes/No

Are blinds/curtains provided with the premises? Yes/No

If Yes, how many?

Are blinds/curtains new? Yes/No

If No, the blinds/curtains were installed in

Are the blinds/curtains clean, free of dust and undamaged? Yes/No

If No, specify.....

Are flyscreens provided with the premises? Yes/No

If Yes, how many?

Are the flyscreens damaged in any way? Yes/No

If Yes, specify.....

Ceilings:

Are light fittings provided with the premises? Yes/No

If Yes, how many?

Are the light fittings clean, free of dust and undamaged? Yes/No

If No, specify.....

Kitchen:

(delete if the premises does not have a kitchen)

Has the kitchen in the premises been newly installed or renovated? Yes/No

If No, the kitchen was originally installed in

The kitchen contains the following appliances: *(delete those not applicable)* stove/wall oven/hot plates/
refrigerator/dishwasher/range hood/microwave/other

(specify)

Are all the appliances listed above in working order? Yes/No

If No, specify.....

Is the kitchen generally clean? Yes/No

If No, specify.....

Are there any scratches, burns or other marks on the bench tops, sink or appliances listed above? Yes/No

If Yes, specify.....

Bathroom:

Has the bathroom in the premises been newly installed or renovated? Yes/No

If No, the bathroom was originally installed in

The bathroom contains the following fixtures: *(delete those not applicable)* bath/shower/shower screen/toilet/wash
basin/vanity/cupboard/cabinet/mirror/grab rails/shower seat/hand held shower hose/other

(specify)

Is the bathroom generally clean? Yes/No

If No, specify.....

Are there any chips, scratches or other marks on any of the bathroom fixtures? Yes/No

If Yes, specify.....

Security:

Are all the locks on the premises in working order? Yes/No

If No, specify.....

Keys for the following locks will be provided by the operator: *(delete those not applicable)* front door/security door/
back door/letterbox/window locks/garage/storeroom/other

(specify)

Utilities:

Is electricity available to be connected by the resident? Yes/No

Will the resident be separately billed by the supply authority for electricity charges relating to the premises? Yes/
No

If Yes, the electricity meter reading is

Is gas available to be connected by the resident? Yes/No

Will the resident be separately billed by the supply authority for gas charges relating to the premises? Yes/No

If Yes, the gas meter reading is

Will the resident be separately billed by the supply authority for water usage charges relating to the premises?

Yes/No

If Yes, the water meter reading is

Is there a telephone line installed in the premises available to be connected by the resident? Yes/No

Garage/Carport:

(delete if no garage/carport is provided with the premises)

Is the garage/carport generally clean and free of rubbish? Yes/No

If No, specify.....

Are there any grease stains on the floor of the garage/carport or driveway? Yes/No

If Yes, specify.....

Storeroom:

(delete if no storeroom is provided with the premises)

Is the storeroom empty, generally clean and free of rubbish? Yes/No

If No, specify.....

Garden:

(delete if no garden is provided with the premises)

Is the garden generally clean and free of rubbish? Yes/No

If No, specify.....

Has the lawn area been recently mown? Yes/No

Other fixtures, fittings, furniture or household items:

List all other fixtures, fittings, furniture or household items supplied with the premises not mentioned elsewhere in this report:

item	age of item	condition of item
.....
.....
.....

Promised improvements/repairs:

Has the operator undertaken to do any improvements/repairs to the premises? Yes/No

work to be undertaken	estimated completion date
.....
.....
.....
.....
.....
.....

Signed by or on behalf of the operator:
..... (print name) (signature)

Date: / /

Note—

The prospective resident, or the prospective resident's nominee, should not sign this report if they do not agree with it.

Signed by or on behalf of the prospective resident:

..... (print name) (signature)

Date: / /

Schedule 3 Matter to be included in village contracts

(Clause 12 (1))

Matter required to be included in village contracts

A village contract must specify the following:

- (a) the name of the retirement village concerned,
- (b) the address in the village of the resident's residential premises,
- (c) the full names of the parties to the contract,
- (d) the signatures of the parties to the contract,
- (e) the name and address of any operator of the village who is not a party to the contract,
- (f) the name and address of the resident's agent (if any) appointed under section 68 of the Act,
- (g) the date or dates on which the disclosure statement and information under section 19 of the Act was provided to the resident (or a person on the resident's behalf),
- (h) the date on which the contract is made,
- (i) if the operator is the other party to the contract:
 - (i) the name and address of the operator's agent (if any),
 - (ii) the date on which the copy of the contract was provided to the resident (or a person on the resident's behalf),
 - (iii) the amount of any ingoing contribution payable by the resident and the date by which it must be paid,
 - (iv) the amount of recurrent charges payable by the resident as at the date the contract is drafted,
 - (v) the date from which those charges become payable,
 - (vi) the date agreed as the date on which the resident is entitled to occupy the premises (subject to completion of construction, and not precluding an earlier date if an earlier date is subsequently agreed between the operator and the resident),
- (j) a provision reflecting section 56 of the Act,
- (k) in the case of a residence contract that also entitles the resident to the use of a garage, parking space or storeroom—details of the garage, parking space or storeroom concerned.

Headings and additional matter required to be included in village contracts

A village contract must also include the following headings (printed in bold) and comply with the following requirements in relation to the matter appearing below each heading:

Cooling-off period

The contract must explain the resident's rights to rescind the contract free of any loss or penalty during the statutory cooling-off period. The contract must set out the length of the cooling-off period, the method by which the resident can rescind the contract and the time in which any money paid under the contract by the rescinding party is to be repaid. A residence contract must draw the resident's attention to the fact that the cooling-off period is waived if the resident begins to live in the premises.

Retirement village legislation

The contract must draw the resident's attention to the existence of the [Retirement Villages Act 1999](#) and the [Retirement Villages Regulation 2000](#). The contract must contain a statement to the effect that the contract is subject to the provisions of the Act and Regulation.

Ingoing contribution

If an ingoing contribution is to be paid by instalments the contract must set out the terms and conditions under which it is to be paid.

The contract must specify whether interest is payable to the resident while the operator has use of the ingoing contribution.

If part or all of the ingoing contribution is to be non-refundable, the contract must clearly specify that fact.

The contract must specify how much of the ingoing contribution the resident will get back if, after the cooling-off period, the resident:

- (a) dies before taking up residence in the residential premises concerned, or
- (b) after taking up residence, permanently vacates the premises within a period specified in the contract.

Recurrent charges

A village contract must set out the following:

- (a) the intervals or dates on which any recurrent charges are payable under the contract,
- (b) how they may be paid.

If recurrent charges payable by the resident are to be varied in accordance with a fixed formula, the contract must include the following:

- (a) the intervals or dates on which recurrent charges are to be varied,
- (b) the fixed formula used to determine variations in the amount of recurrent charges,
- (c) the amount of written notice that will be given to the resident to vary the amount of recurrent

charges (such notice being not less than 14 days).

If recurrent charges payable by the resident may be varied other than in accordance with a fixed formula, the contract must include the following:

- (a) the intervals or dates on which the operator may propose a variation in the amount of recurrent charges,
- (b) any upper limit by which the operator agrees not to propose an increase,
- (c) the amount of written notice that will be given to the resident if a variation is proposed (such notice being not less than 60 days),
- (d) a statement to the effect that the amount of recurrent charges cannot be varied unless affected residents consent to the variation or the Residential Tribunal orders the variation to take effect.

The contract must include a statement to the effect that if the resident is absent from the village for any reason for at least the period specified in the contract (not being a period of more than 28 consecutive days), the resident is not liable for recurrent charges for personal services in respect of the remainder (if any) of that period of absence.

The contract must specify whether the resident is liable to continue to pay recurrent charges after permanently vacating the premises, and, if so, for what period of time and under what conditions.

Services and facilities

The contract must list and describe all services provided or made available to the resident by, or on behalf of, the operator. The contract must list any additional or optional personal service available to the resident on a "user pays" basis, and the cost of such services as at the date of preparation of the contract. The contract must list all facilities within the village available for the use of the resident.

The contract must identify any services or facilities that the development consent for the village requires to be provided for the life of the village.

Any representations about proposed services or facilities made before the contract is entered into:

- (a) must be specified in the contract, and
- (b) must identify the service or facility concerned, and
- (c) must specify the date by which it is to be provided or made available.

The contract may distinguish between general services and personal services, but, if it does, must include a statement to the effect that the Residential Tribunal has the power to override this determination in the event of a dispute.

The contract must draw the resident's attention to the fact that services and facilities may be reduced or (except for those required by the development consent to be provided for the life of the village) withdrawn or otherwise varied, but only if the residents of the village pass a special resolution to the relevant effect in accordance with the provisions of the [Retirement Villages Act](#)

1999.

The contract must make it clear that the resident has no right to compensation if services or facilities are reduced or withdrawn or otherwise varied in accordance with a special resolution of the residents.

Fixtures, fittings and furnishings

A residence contract must list the fixtures, fittings and furnishings that are to be provided in the residential premises.

Repairs and maintenance

A residence contract must set out the process by which the resident can request the operator to carry out necessary repairs and maintenance.

Alterations and additions

A residence contract must specify the conditions under which a resident may alter or add to the residential premises. The contract must include a provision to the effect that the resident may, at any time before permanently vacating the premises, remove any fixture that the resident has added to the premises.

Operator's access to premises

The contract must set out the circumstances under which the operator, or a person authorised by the operator, may enter the residential premises.

Village rules

The contract must include a statement to the effect that if any term of the contract conflicts with a village rule, as amended from time to time, the village rule prevails over the conflicting term of the contract.

Dispute resolution

The contract must set out the resident's right to apply to the Fair Trading Tribunal if the resident considers a term of the contract to be harsh, oppressive, unconscionable or unjust. The contract must draw the resident's attention to the existence of the Residential Tribunal, and her or his ability to apply for a range of orders from that Tribunal, including the following:

- (a) an order that varies or sets aside a provision of the contract or a village rule that conflicts with the retirement village legislation,
- (b) an order that the operator comply with the retirement village legislation,
- (c) an order to enforce a provision of the contract or a village rule.

Changes in operator

The contract must include a statement to the effect that the terms of the contract are enforceable against any operator for the time being of the village. If a trustee is involved the contract must set out the terms or conditions on which the trustee is appointed and any rights the resident may have by virtue of that appointment.

Termination of contract

The residence contract must set out the methods by which the contract may be terminated, including a list of the grounds under which the resident or operator may apply to the Residential Tribunal to terminate the contract. The contract must contain a statement to the effect that the contract cannot be terminated by the operator unless the operator obtains an order from the Residential Tribunal.

Transfers

The contract must set out the conditions, if any, under which the resident may request a transfer to other residential premises within the retirement village, or to other accommodation for older people run by the same operator. The contract must disclose the general financial basis on which such a transfer may be effected.

If the operator of the retirement village has an associated facility in which residential care under the *Aged Care Act 1997* of the Commonwealth is provided, the contract must also include a statement to the effect that places in such facilities are allocated on a “needs” basis and entry is subject to an assessment for admission and a transfer to the associated facility cannot be guaranteed.

Departure fees

The contract must state whether a departure fee is payable by the resident on termination of the contract. If a departure fee is payable the contract must set out its method of calculation. The contract must include a statement to the effect that no departure fee is payable in respect of any period after the resident permanently vacates the premises.

Capital gain or loss

The contract must state whether any capital gain or loss, or increase in ingoing contribution paid by the incoming resident, is to be shared between the resident and the operator, and, if so, the percentages concerned.

Refund of payment to resident

The contract must set out in full the method of calculating any refund or payment due to the resident on terminating the contract, the time for its payment and any relevant conditions on its payment. In the event that two or more residents are a party to the contract, the contract must specify whether a partial refund is payable should one of them vacate and, if so, under what circumstances.

Changes to this contract

The contract must include a statement to the effect that the resident is not obliged to agree to amend the contract, or to terminate the contract and enter into a new one, because of changes in legislation (unless the legislation requires the amendment or termination) or for any other reason.

Annexures

The following must be annexed to the contract:

- (a) a copy of the disclosure statement provided to the resident,

- (b) a copy of the current village rules, if any,
- (c) a copy of the condition report, if applicable.

Schedule 4 Matter to be excluded from village contracts

(Clause 12 (2))

Matter to be excluded from village contracts

1 Dispute resolution

A village contract must not require the parties to attempt to resolve disputes between them by any process other than the process provided under the [Retirement Villages Act 1999](#).

2 Wills

A village contract must not require a resident to have a Will or to advise the operator of the location of any Will.

3 Insurance

A village contract must not contain a provision under which the resident is required, or agrees, to take out an insurance policy, including contents insurance, ambulance fund or other form of health insurance. The only exception to this is that the contract may require a resident who uses a motorised wheelchair to take out appropriate insurance in relation to the wheelchair.

4 Legal, accounting and other expenses

A village contract must not contain a provision enabling the resident to be charged individually for legal, accounting or other services incurred by the operator in corresponding with the resident or a person acting on the resident's behalf or in enforcing the contract.

5 Absences

A village contract must not restrict the period of time the resident may be absent from the village.

6 Penalty terms

A village contract must not provide that, if the resident breaches the contract or village rules, the resident is liable to pay an increased amount of recurrent charges, any amount as a penalty or any amount as liquidated damages.

7 Exclusions

A village contract must not contain a provision to the effect that the resident will not have the benefit or advantage of any statute that may come into force and has the effect of relieving the resident of any obligation or liability under the contract.

8 Recurrent charges

A village contract that makes provision for the recurrent charges payable by a resident to be varied according to a fixed formula must not include a component relating to the actual or proposed expenditure of the village.

9 Disclaimers

A village contract must not contain a provision removing liability from the operator for any negligent act or omission by the operator, its employees or agents.

10 Entire agreement

A village contract must not contain a provision to the effect that the written contract represents the entire agreement between the parties.

Schedule 5 Model village rules

(Clause 14 (1))

Model Village Rules

These rules have been made to maintain a peaceful, comfortable and enjoyable village environment for all residents, staff, visitors and guests.

1 Definitions

In the following rules:

- (a) **common areas** means any part of the village other than residential premises,
- (b) **we, our** and **us** mean the operator of the village, and include employees, agents or representatives of the operator, and
- (c) **you** and **your** apply to any resident of the village.

2 Visitors and guests

- (1) We encourage residents to keep links with relatives, friends and other people from outside the village. Visitors or short-stay guests are welcome any time, and there is no need for you to get our consent or let us know they are coming. A visitor or short-stay guest is somebody who visits during the day or stays overnight for up to 2 weeks.

- (2) You must ask us beforehand and get our consent if you want to have a guest live with you on a temporary basis. A guest is somebody, other than a spouse or de facto, who intends to stay for more than 2 weeks. We will not unreasonably refuse such a request.
- (3) You must take all reasonable steps to see that your visitors and guests (including tradespeople) comply with the village rules. Any visitor or guest who seriously or repeatedly breaks the rules may be asked to leave the village immediately.

3 Noise

- (1) As with any other residential complex, a level of noise within the village is to be expected. However, you must not make any noise likely to unreasonably interfere with the quiet enjoyment of others within the village. This rule applies whether you are inside your premises or on common areas.
- (2) When listening to music or a radio, or playing computer games, or watching television, you should not have the volume turned high enough to be heard from outside your premises. Residents with hearing problems are encouraged to use headphones or other aids.

4 Parking

- (1) As parking spaces are limited within the village, you may park a vehicle only in your own garage, driveway, carport or other parking area allocated specifically to you or to all residents. You must not park or stand a vehicle on any other part of the village.
- (2) This rule does not prevent you from stopping to allow passengers to get out of or enter your vehicle.
- (3) However, under no circumstances may a vehicle be parked or driven on grassed areas.
- (4) In the interests of safety, drivers within the village must obey speed limits and other traffic signs at all times.
- (5) "Visitor Parking" spots are available for use only by visitors, tradespeople, visiting doctors, emergency vehicles or other people just visiting the village. They are not to be used by residents, guests staying overnight or longer, tenants or staff. *[delete if there is no visitor parking]*
- (6) In this rule, **vehicle** means a car, caravan, trailer, boat or other motor vehicle.

5 Pets

Note—

No single model applies to pets. Select option A, B or C.

Option A—no dogs or cats allowed

You may keep fish or a small caged bird (for example, a budgerigar or canary) in your premises at any time, without the need to let us know or get our consent. For the safety of other residents, no other animals (including cats or dogs) are to be kept in your premises or brought onto common areas at any time.

Option B—cats permitted, but not dogs

- (1) We recognise the important role pets play in the lives of many older people. You may keep fish or a small caged bird (for example, a budgerigar or canary) in your premises at any time, without the need to let us know or get our consent.
- (2) If you want to keep a cat as a pet you must obtain our prior consent. We will consider each case on its merits, and we will not unreasonably refuse such a request.
- (3) If we permit you to keep a cat it must be de-sexed, kept inside your premises after dark and wear a bell on a collar at all times. Cats are not allowed in any other building or any enclosed common area in the village.
- (4) If we permit you to keep a cat we may withdraw our permission only if your cat creates an unreasonable noise or nuisance, attacks or threatens people or other animals within the village, causes damage to village property, or if the rules set out above are broken.
- (5) For the safety of other residents, no other animals (including dogs) are to be kept as pets or brought onto common areas at any time.

Option C—cats and dogs permitted

- (1) We recognise the important role pets play in the lives of many older people. You may keep fish or a small caged bird (for example, a budgerigar or canary) in your premises at any time, without the need to let us know or get our consent.
- (2) If you want to keep a cat or a dog as a pet you must obtain our prior consent. We will consider each case on its merits, and we will not unreasonably refuse such a request. Big or heavy dogs, or known dangerous breeds of dogs, will not be allowed.
- (3) If we permit you to keep a cat it must be kept inside your premises after dark and wear a bell on a collar at all times. If we permit you to keep a dog it must be on a leash at all times when on common areas.
- (4) Pets are not allowed in any building (other than their owner's premises) or any enclosed common area in the village.
- (5) Cats and dogs kept as pets within the village must be de-sexed.

- (6) If we permit you to keep a cat or dog we may withdraw our permission only if your pet creates unreasonable noise or nuisance, attacks or threatens people or other animals within the village, causes damage to village property, or if the rules set out above are broken.
- (7) For the safety of other residents, no other animals are to be kept as pets or brought onto common areas at any time.

6 Gardening and landscaping

- (1) The state of the grounds is important to the overall appearance of the village for residents and visitors. It is our responsibility to maintain all the lawns and gardens on common areas in a presentable condition.
- (2) However, if you want to assist, such as by watering or weeding the common area near your premises, you are welcome to do so. You must not prune or remove plants, take cuttings or pick flowers from the common area gardens without our consent.
- (3) You must not use any part of common areas as your own garden without our consent. If we give consent it is your responsibility to keep the area in a presentable condition, until you tell us you are no longer able or willing to garden.
- (4) If your premises has its own garden it is your responsibility to keep it in a presentable condition. Care should be taken when buying new plants for your garden. You must not knowingly plant any trees, flowers, shrubs or vines that grow rapidly or commonly cause allergic reactions. Trees, shrubs or vines with the potential to grow in excess of 2 metres (that is, approximately 6ft 6in) in height must not be planted without our consent.

7 Garbage disposal

- (1) For health and safety reasons you must ensure that your garbage is securely wrapped before placing it in a bin.
- (2) You must not litter or leave rubbish on village property, other than in the bins provided.
- (3) Under no circumstances is the burning of garden waste permitted within the village.

8 Common area restrictions

- (1) The common areas are provided for the use and enjoyment of all residents. Signs posted on common areas, about such matters as hours of use, form part of these rules and must be obeyed.
- (2) You must not obstruct or permit the obstruction of walkways, entrances, stairways, corridors, fire escapes, lights, windows or other parts of the common areas. (For example, pot plants, hoses, brooms, rakes and other items may present a hazard if left

on common areas.)

- (3) When on common areas you, and your visitors and guests, must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to another person.
- (4) Smoking is not permitted in any building (other than your premises) or other enclosed parts of common areas.
- (5) It is our job to maintain and clean the common areas. However, this does not prevent you from sweeping or vacuuming the pathway or corridor immediately outside your premises.

9 External appearance of residential premises

- (1) We respect your right to privacy and autonomy over your possessions and domestic affairs.
- (2) However, you must not hang any washing, towels, bedding, clothing or other article on any balcony or other part of your premises in such a way as to be visible from the outside. Such items may be hung on any lines provided in the common areas but only for a reasonable period.
- (3) In the interests of safety you must not place any object, such as a pot plant, on any ledge, sill or elevated surface on the exterior of your residential premises in a position from which it may fall.

10 Village security

- (1) It is our job to ensure that the village generally is reasonably secure.
- (2) In particular, we are required to provide and maintain locks or other security devices to ensure your premises are reasonably secure (unless your premises are subject to a community land scheme, company title scheme or strata scheme and are not owned by the operator, or a close associate of the operator, of the village).
- (3) Chains and bolts must not be fitted to external doors of your premises because they could prevent emergency help.
- (4) If you change the locks on doors for any reason you must provide us with a copy of a key as soon as practicable. We will keep the key in a secure place and will only use the key in an emergency.
- (5) You must not interfere with the self-closing mechanisms of exterior doors that are designed to maintain security.
- (6) To help prevent theft you must ensure that all windows, doors and other openings to your premises are closed and securely fastened when your premises are not occupied.

Important notes about these rules—

- (1) Any of these rules may be changed or deleted or a new rule added if at least 75% of voting residents vote in favour of the proposal.
- (2) These rules, as amended, prevail over any inconsistent term of a village contract.
- (3) It is our job to enforce the village rules fairly and equitably.
- (4) You can apply to the Residential Tribunal to make us enforce the rules or if you think a rule is unjust, unconscionable, harsh or oppressive.
- (5) If you do not comply with these rules we may apply to the Residential Tribunal for an order that you comply or, in serious or persistent cases, an order to terminate your residence contract.

Schedule 6 Model statement of proposed expenditure

(Clause 21 (1))

NAME OF VILLAGE

STATEMENT OF PROPOSED EXPENDITURE FOR FINANCIAL YEAR ENDING

ESTIMATED INCOME FROM RECURRENT CHARGES FOR THE YEAR

Recurrent charges payable by residents based on the following calculation:

no. of residents	type of premises	rate of recurrent charges	total
.....	×	= \$.....
.....	×	= \$.....
Interest on recurrent charges			\$.....
Plus/minus projected surplus/deficit from current year			\$.....
ESTIMATED TOTAL INCOME			\$.....

PROPOSED EXPENDITURE FOR THE YEAR

Expenditure item	Proposed amount for coming year	Likely actuals for current year	Amounts proposed for current year in previous Statement
Occupancy			
Council rates	\$.....	\$.....	\$.....
Insurance premiums			
Property	\$.....	\$.....	\$.....
Public liability	\$.....	\$.....	\$.....
Pest control	\$.....	\$.....	\$.....
Garbage disposal	\$.....	\$.....	\$.....
Village security	\$.....	\$.....	\$.....

Utilities			
Water rates/charges	\$.....	\$.....	\$.....
Electricity	\$.....	\$.....	\$.....
Gas	\$.....	\$.....	\$.....
Repairs & Maintenance			
Wages and contractors	\$.....	\$.....	\$.....
Maintenance materials	\$.....	\$.....	\$.....
Plumbing repairs	\$.....	\$.....	\$.....
Electrical repairs	\$.....	\$.....	\$.....
Guttering repairs	\$.....	\$.....	\$.....
Air conditioning repairs	\$.....	\$.....	\$.....
Village emergency system	\$.....	\$.....	\$.....
Ground Care			
Wages and contractors	\$.....	\$.....	\$.....
Gardening materials	\$.....	\$.....	\$.....
Management & Administration			
Salaries	\$.....	\$.....	\$.....
Bank fees and charges	\$.....	\$.....	\$.....
Accounting fees	\$.....	\$.....	\$.....
Audit fees	\$.....	\$.....	\$.....
Name of auditor			
Workers compensation	\$.....	\$.....	\$.....
Staff training	\$.....	\$.....	\$.....
Superannuation	\$.....	\$.....	\$.....
Provision for annual leave	\$.....	\$.....	\$.....
Provision for long service leave	\$.....	\$.....	\$.....
Advertising	\$.....	\$.....	\$.....
Stationery	\$.....	\$.....	\$.....
Telephone	\$.....	\$.....	\$.....

Resident Transport			
Registration	\$.....	\$.....	\$.....
Comprehensive insurance	\$.....	\$.....	\$.....
Fuel	\$.....	\$.....	\$.....
Vehicle servicing	\$.....	\$.....	\$.....
Bus hire	\$.....	\$.....	\$.....
ESTIMATED TOTAL EXPENDITURE			
ESTIMATED SURPLUS OR DEFICIT			

Long-term maintenance fund

(delete if residents don't consent to establishing a fund)

It is further proposed to set aside \$..... of the coming financial year's income for the purpose of financing repairs and maintenance of items of capital beyond this year.

It is proposed to spend \$..... of the village's existing long-term maintenance fund during the financial year. This money is planned to be spent on the following projects:

work	estimated completion date	cost
.....	\$.....
.....	\$.....

Expenditure that is an apportionment of total expenditure relating to the village and another village or business

(delete if not applicable)

The amount of *(specify)* \$..... in respect of *(specify the nature of the expenditure)*

.....

is an apportionment of the total expenditure relating to *(specify the other village or business concerned)*

.....

and was apportioned according to the following method/calculation *(delete whichever is not applicable)*

.....

Expenditure that is an apportionment between categories of residents paying significantly higher recurrent charges than other residents in the village

(delete if not applicable)

category of resident	recurrent charges paid	apportionment of expenditure
.....	\$.....
.....	\$.....
.....	\$.....

The expenditure was apportioned according to the following method/calculation *(delete whichever is not applicable)*

.....

Amounts to be set aside for, or expended on, capital replacement under section 94 of the Retirement Villages Act 1999

(delete if not applicable)

Note—

Section 94 allows recurrent charges to be expended for the purposes of capital replacement only in limited circumstances.

amount	item of capital
\$.....
\$.....

Signed by or on behalf of the operator:
 *(print name)* *(signature)*
 Signed this day of, 20.....

Schedule 7 Time for making of applications to Tribunal

(Clause 24 (1))

Column 1	Column 2
Section	Time during which application may be made
36 (8) (a)	up to 3 months after date of rescission
36 (8) (b)	up to 3 months after date of rescission
37 (3)	up to 3 months after date of rescission
53 (3)	up to 30 days after notification of refusal to consent
108 (1)	up to 30 days after date of notification of refusal of consent or, if residents do not notify, up to 14 days after expiry of period under section 107 (2)
113	no earlier than 59 days immediately prior to commencement of the financial year and any time until end of the financial year
132 (3)	up to 7 days after date of notification of differing opinion as to condition of premises
134 (1)	up to 30 days after alleged breach became known to applicant (but no later than 14 days after service of a termination notice)
134 (2)	up to 30 days after alleged breach became known to applicant (but no later than 14 days after service of a termination notice)
135 (1)	up to 30 days after alleged incident became known to applicant
140 (1)	up to 30 days after date fixed for vacation by earlier Tribunal order
146 (1)	any time before goods are disposed of under section 147

147 (3)	no time limit, but application cannot be made earlier than 30 days after date of notice required under section 147 (2). If that notice cannot be given, application cannot be made earlier than 30 days after date on which: <ul style="list-style-type: none"> the former resident vacated premises concerned (if the residence contract was terminated by order of the Tribunal), or the residence contract was terminated (in any other case)
148 (2)	up to 12 months after date operator deals with the goods
163 (6) (a)	up to 3 months after date of receipt of claim
163 (6) (b)	up to 3 months after date resident indicates to operator that operator's claim is excessive
181 (5) (a)	no earlier than 1 month before expiry of period in section 181 (2) (f) and no later than 14 days after expiry of this period
181 (5) (b)	no earlier than 1 month before expiry of period in section 181 (2) (f) and no later than 14 days after expiry of this period
182 (1)	up to 14 days after due date for payment

Schedule 8 Penalty notice offences and short descriptions

(Clauses 35 and 36)

Column 1	Column 2	Column 3	Column 4
Offence	IPB Code	Prescribed expression	Penalty units
Section 18 (4)	4252	Not annex disclosure statement to contract	5
Section 18 (5)	4253	Enter into contract within 14 days of disclosure	5
Section 19 (1)	4254	Not give industry information	2
Section 20 (1)	4255	Not have documents available for inspection	2
Section 20 (3)	4263	Not supply documents on request	2
Section 21 (1) (a)	4264	Charge waiting list fee above \$200	5
Section 21 (1) (b)	4265	Charge waiting list fee without a written policy	5
Section 21 (1) (c)	4267	Not give policy/receipt to person paying waiting list fee	5
Section 27	4269	Enter contract within 14 days of copy contract	5
Section 39 (1)	4270	Not give resident contract within 14 days	5

Section 39 (2)	4271	Not give resident copy of contract signed by resident	5
Section 39 (3) (a)	4272	Not lodge lease for registration within time	5
Section 39 (3) (b)	4273	Not give resident copy of registered lease within time	5
Section 110 (1)	4275	Not give receipt for recurrent charges paid in person	1
Section 110 (2)	4276	Fail to make non personal receipt available	1
Section 112	4277	Not give residents statement of expenditure	5
Section 118	4279	Not have accounts audited	5
Section 119	4281	Not give residents audited accounts	5
Section 165 (1) (a)	4282	Not supply work schedule for refurbishment	2
Section 165 (1) (a)	4286	Not supply 3 quotations for refurbishment	2
Section 165 (1) (d)	4287	Former occupant not supplied account	2
Section 165 (1) (e)	4289	Accept/demand payment before completion	5
Section 180 (2)	4290	Not pay refund in time—owners	5
Section 180 (3)	8234	Not give statement explaining refund—owners	2
Section 181 (2)	8235	Not pay refund in time—non owners	5
Section 181 (4)	8236	Not give statement explaining refund—non owners	2
Section 197	8237	Charge for providing/giving access to documents	2

Schedule 9 Form of appointment of proxy

(Clause 37 (1))

[Retirement Villages Act 1999](#)

I,

(name)

being a resident of

(address in village)

appoint

(name of proxy holder)

of

(address of proxy holder)

as my proxy to vote for me on my behalf at a meeting of residents, held for the purpose of considering and voting on:

- (a) any matter in respect of which the consent of residents is required under the *Retirement Villages Act 1999*, and
- (b) any other matter affecting the management and operation of the village.

I authorise my proxy to vote on my behalf in respect of (*tick whichever applicable*):

- all matters raised at the meeting at their discretion, or
- the following matters only:

[Specify the matters and any limitation on the manner in which you want your proxy to vote]

Signature of resident

Signed this day of, 20.....

Notes—

- 1** A person who may be appointed as a proxy includes a spouse, another resident, a relative, friend or other person, but no person may hold more than 5 proxies at the same time.
- 2** The Act does not allow an operator, or a close associate of the operator (including an agent or employee) or a person nominated by the operator to hold or exercise a proxy on behalf of a resident, unless the resident is a relative of the operator.
- 3** This appointment is effective only if this duly-completed form is given, before any vote is taken, to the chairperson of the meeting at which the proxy is to vote.
- 4** However, this form does not authorise voting on a matter if the person appointing the proxy is present at the relevant meeting and personally votes on the matter.
- 5** This appointment terminates after the first meeting at which it is exercised or 6 months from the date the appointment is made, whichever occurs first.
- 6** This form may be revoked at any time by the resident giving notice in writing to the person appointed as the resident's proxy.

Schedule 10 Form of notice of intention to seek termination of residence contract

(Clause 39 (1))

Notice of intention to seek termination (from an operator to a resident)

Retirement Villages Act 1999, section 131

To

(name of resident)

of

(address of resident)

This notice is to advise you that it is our intention to apply to the Residential Tribunal for an order terminating your residence contract.

This notice does not require you to vacate the premises. The decision as to whether your contract is terminated rests solely with the Residential Tribunal. You will have an opportunity to argue your case at a hearing of the Tribunal. The Registry of the Tribunal will notify you regarding the date and venue of the hearing.

If, however, you choose to move out after receiving this notice your contract will terminate on the date on which you deliver up vacant possession of the premises. You will not be liable to pay any recurrent charges that arise in respect of the premises after that date, and any refund of your ingoing contribution must be made no later than one month after that date.

The reason or reasons for seeking an order to terminate your residence contract are as follows (*tick whichever*

applicable):

- in our opinion the premises you currently occupy are no longer suitable for your continued occupation on the grounds of your physical or mental incapacity
- you have breached term of your village contract by
.....
.....
- you have breached village rule number by
.....
.....

Note—

If notice is given on the grounds of a breach of a village contract or the village rules, the Residential Tribunal may refuse to make an order terminating the residence contract if the breach is remedied. The Tribunal may also refuse to make an order if it does not agree that the breach was serious or persistent enough to justify terminating the contract.

- you have intentionally or recklessly caused or permitted, or are likely to intentionally or recklessly cause or permit: (*delete whichever not applicable*)
 - (a) serious damage to any part of the village
 - (b) injury to the operator
 - (c) injury to an employee of the operator
 - (d) injury to any other resident
- it is our intention to carry out such substantial works in the village that we require vacant possession of your residential premises
- it is our intention to use the land on which the village is situated for a purpose other than a retirement village

Signed by or on behalf of the operator:

..... (*print name*) (*signature*)

Signed this day of 20.....

This notice was given personally/sent by post (*delete whichever is not applicable*)

Note—

This notice lapses if the operator does not apply to the Tribunal for an order terminating your residence contract within 14 days after service of the notice.

Notice of intention to seek termination (from a resident to an operator)

Retirement Villages Act 1999, section 131

To

(*name of operator*)

of

(*address of operator*)

This notice is to advise you that I/we

of

intend to apply to the Residential Tribunal for an order terminating the residence contract between us.

The reason or reasons for seeking an order to terminate the residence contract are as follows (*tick whichever applicable*):

- in my/our opinion the premises I/we currently occupy are no longer suitable for my/our continued occupation on the grounds of my/our physical or mental incapacity
- you have breached term of my/our village contract by
- you have breached village rule number by

Note—

If notice is given on the grounds of a breach of a village contract or the village rules, the Residential Tribunal may refuse to make an order terminating the residence contract if the breach is remedied. The Tribunal may also refuse to make an order if it does not agree that the breach was serious or persistent enough to justify terminating the contract.

Signed by or on behalf of the resident/s:
..... (*print name*) (*signature*)
..... (*print name*) (*signature*)

Signed this day of 20.....

This notice was given personally/sent by post (*delete whichever is not applicable*)

Note—

This notice lapses if the residents/s does/do not apply to the Tribunal for an order terminating the residence contract to which you and the resident/s are parties within 14 days after service of the notice.

Schedule 11 Provisions relating to the consent of residents

(Clause 41)

1 When written ballot required

- (1) The residents of a retirement village may decide, by a show of hands at any meeting at which a particular measure or action is discussed, whether or not the vote on the measure or action concerned is to be taken by means of a written ballot.
- (2) If 50% or more of the residents present at the meeting decide that the vote is to be taken by means of a written ballot, the vote must be taken by those means.

2 Conduct of written ballot

- (1) If a vote is to be taken by means of a written ballot, the chairperson of the meeting must put the motion relating to the measure or action concerned to the meeting in the form of a clear written question (for example, "Do you consent to the statement of proposed expenditure dated 20 April 2001?").
- (2) Each resident at the meeting who wishes to vote on the measure or action must:
 - (a) clearly indicate on a piece of paper the resident's vote on the measure or action (for example, "Yes", "Consent", "Agree" or "No", "Don't consent", "Disagree"), and
 - (b) give the paper to the chairperson of the meeting.

- (3) The paper must not identify the resident, or the premises of the resident, who is voting on the measure or action (or on whose behalf the vote is being cast).
- (4) The chairperson must, as soon as possible:
 - (a) sort the votes into those in favour of the measure or action and those against it, and
 - (b) count the votes in each category, and
 - (c) announce that the residents have consented or not consented (as the case may be) to the measure or action concerned.

Schedule 12 Savings and transitional provisions

(Clause 42)

1 Continuation of certain funds

- (1) Any fund established and maintained in a retirement village, before the commencement of Division 3 of Part 7 (Capital maintenance) of the Act, to meet expenses of a capital nature is taken to be a maintenance fund established under that Division.
- (2) This clause does not apply to a sinking fund:
 - (a) established by the relevant association in respect of a retirement village that is subject to a community land scheme, or
 - (b) established by the owners corporation in respect of a retirement village that is subject to a strata scheme.

2 References in other Acts and instruments

A reference in any other Act, or any instrument made under an Act, to the administering authority of a retirement village is taken to be a reference to the operator of the village.

3 Residents Committees

- (1) A group of residents of a retirement village that is known as a residents committee (or by a similar title) and is in existence on the commencement of section 70 of the Act is not a Residents Committee for the purposes of the Act.
- (2) A resident of a retirement village may convene a meeting of residents of the village for the purpose of establishing a Residents Committee under the Act.

4 Annual accounts

Division 6 of Part 7 of the Act applies in respect of the accounts of a retirement village with a financial year ending on or after 30 June 2000.

5 Expenditure provided for in budgets developed under Code of Practice

(1) If:

- (a) a final budget of a retirement village developed under clause 41 of the Code of Practice (within the meaning of Part 2 of Schedule 4 to the Act) provides for expenditure out of recurrent charges on a particular matter, and
- (b) that matter is a matter in respect of which expenditure out of recurrent charges is prohibited by or under the Act,

the final budget does not authorise expenditure, after the commencement of this clause, on the matter concerned.

- (2) Any money allocated in the final budget for expenditure on the matter concerned and not expended before the commencement of this clause is to be carried forward as a surplus in the annual accounts of the retirement village.