

Retirement Villages Regulation 2009

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New South Wales

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Notes—

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New South Wales

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Retirement Villages Regulation 2009



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Retirement Villages Regulation 2009*.

2 Commencement

This Regulation commences on 1 March 2010 and is required to be published on the NSW legislation website.

3 Definitions

(1) 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).

form means a form set out in Schedule 1.

Note—

Section 80 of the *Interpretation Act 1987* provides that:

- (a) if an Act or a statutory rule prescribes a form, strict compliance with the form is not necessary but substantial compliance is sufficient, and
- (b) 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.

the Act means the *Retirement Villages Act 1999*.

(2) Notes included in this Regulation (other than in Schedule 1) do not form part of this Regulation.

4 Item of capital

For the purposes of paragraph (d) of the definition of **item of capital** in section 4 (1) of the Act, the following items in a retirement village, including those in residential premises

in the village, are prescribed:

- (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).

5 Capital maintenance

(1) For the purposes of the definition of **capital maintenance** in section 4 (1) of the Act:

- (a) (Repealed)
- (b) the following are prescribed as not being capital maintenance:
 - (i) work done to substantially improve an item of capital beyond its original condition,
 - (ii) work done to maintain or repair an item of capital in circumstances where it would have been more cost effective to replace the item of capital.

6 Operator

For the purposes of paragraph (b) of the definition of **operator** in section 4 (1) of the Act, 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.

7 Optional services

For the purposes of the definition of **optional services** in section 4 (1) of the Act, the following services are prescribed:

- (a) the provision of meals,
- (b) laundry services,

- (c) home cleaning.

8 Resident

- (1) For the purposes of paragraph (c) of the definition of **resident** in section 4 (1) of the Act, a person who is a resident of a retirement village only because he or she:

- (a) is the spouse or the de facto partner of another resident, and

- (b) occupies residential premises in the retirement village with that resident,

is prescribed if the person continues to occupy the residential premises concerned after the other resident dies or otherwise permanently vacates the premises.

Note—

“De facto partner” is defined in section 21C of the [Interpretation Act 1987](#).

- (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.

9 Retirement village

For the purposes of section 5 (3) (i) of the Act, **retirement village** does not include:

- (a) a place at which a designated service (within the meaning of the [Disability Services Act 1993](#)) is provided, or
- (b) a facility (within the meaning of the [Community Welfare Act 1987](#)).

Part 2 Information about retirement villages

10 Representations in promotional material

For the purposes of section 17 (5A) of the Act, the following representations in relation to a retirement village are prescribed:

- (a) that a person is likely to obtain a capital gain at the time of vacating the village,
- (b) any estimation of possible variations to future recurrent charges, except where the village contract provides for recurrent charges to be varied in accordance with a fixed formula,
- (c) any estimation of the future size of the village except in respect of development where construction is underway and a completion date is known,

- (d) any representation in respect of future ownership of the village, except if a contract to transfer ownership of the village has been entered into, in which case details about that contract may be provided,
- (e) that the village is an approved provider of residential care within the meaning of the [Aged Care Act 1997](#) of the Commonwealth,
- (f) that residents of the village have priority access to residential care by an approved provider under the [Aged Care Act 1997](#) of the Commonwealth.

Note—

Section 5 (3) (a) of the Act excludes from the definition of **retirement village** buildings that are commonly known as Commonwealth-subsidised hostels and nursing homes.

11 General inquiry document and disclosure statement

- (1) For the purposes of section 18 (2) (a) and (b) of the Act, a general inquiry document must be in the form, and contain the information, set out in Part 1 of Schedule 1.
- (2) For the purposes of section 18 (3A) (a) and (b) of the Act, a disclosure statement must be in the form, and contain the information, set out in Part 1A of Schedule 1.

12 Copies of certain documents to be available

For the purposes of section 20 (1) (k) of the Act, the following documents are prescribed:

- (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—each decision or order made in respect of the proceedings and any reasons given by the court or tribunal in respect of any such decision or order,
- (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",
- (g) certificates of currency of the insurance required under section 100 of the Act for the retirement village,
- (h) the most recent safety inspection report for the retirement village made pursuant to section 58A of the Act,
- (i) a detailed list of all currently available premises in the retirement village.

Part 3 Village contracts and village rules

13 Amount payable for legal and other expenses

For the purposes of section 31 (3) of the Act, the maximum amount payable by a resident for legal and other expenses incurred by the operator in connection with the preparation of a village contract is \$200.

14 Condition report

- (1) 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.

- (2) For the purposes of section 38 (2) of the Act, the condition report must be in the form set out in Part 2 of Schedule 1.
- (3) The report is to be completed in the presence of the prospective resident or a person nominated by the prospective resident, unless otherwise authorised in writing by the prospective resident.
- (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) No less than 14 days 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) For the purposes of section 38 (2A) of the Act, the condition report must be completed and provided to the prospective resident (or the prospective resident's nominee):
 - (a) at least 14 days before the operator and the prospective resident enter into a village contract, or
 - (b) if the premises are still being constructed, 14 days before the prospective resident occupies the premises.

15 Matter to be excluded from village contract

For the purposes of section 42 (1) of the Act, the matter that is to be excluded from a village contract is the matter set out in Schedule 3.

15A Standard form of village contract

- (1) For the purposes of section 43 (1) of the Act, the standard form of village contract is the form set out in Schedule 2.
- (2) The standard form of village contract is prescribed for all village contracts except the following:
 - (a) a contract under which a resident of a retirement village obtains the right to use a garage or parking space, or a storage room, in the village (other than a residence contract or a service contract),
 - (b) a residence contract relating to premises that are subject to a community land scheme, company title scheme or strata scheme.

Note—

A service contract relating to premises referred to in subclause (2) (b) must be in the standard form of village contract.

- (3) The operator of a retirement village must not enter into a village contract for which the standard form of village contract is prescribed, knowing that it is not in or to the effect of the standard form.

Maximum penalty: 50 penalty units.

16 Village rules

For the purposes of section 46 (2) (i) 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.

Part 4 Financial management

Division 1 Annual budget

17 Matters that must be dealt with in proposed annual budget

- (1) For the purposes of section 112 (3) (a) of the Act, the matters that must be dealt with in a proposed annual budget 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 approved annual budget 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 optional 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.

- (2) If the annual budget includes any costs associated with the operator's head office or any management or administration fees, these are to be broken down to show the goods and services to which they relate and the approximate cost of those goods and services.

18 Form of proposed annual budget

- (1) For the purposes of section 112 (3) (c) of the Act, a model proposed annual budget is set out in Schedule 4.
- (2) An operator of a retirement village may, but is not required to, use the model form of proposed annual budget.

19 Notice accompanying proposed annual budget

- (1) For the purposes of section 112 (4) (e) of the Act, the notice accompanying a proposed annual budget must contain the following statements:
 - (a) 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,
 - (b) the operator must not expend money received by way of recurrent charges otherwise than in accordance with the approved annual budget, except for:
 - (i) a minor variation, or
 - (ii) a variation between items in the approved annual budget if the variation does not reduce the level of services provided and does not cause total expenditure to be exceeded.
- (2) If the recurrent charges within the budget have been increased since the previous annual budget and section 106 (1) of the Act applies to that increase, the notice accompanying a proposed annual budget must also 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 proposed annual budget for the financial year of the village at least 60 days before the commencement of the financial year concerned,
 - (b) it is a requirement of section 114 of that Act that the residents advise the operator of whether or not they consent to the proposed budget (and, if they do not consent, they must specify the item or items in the proposed budget to which they object),
 - (c) if the operator is not advised one way or the other, the residents are taken to have refused consent.

- (3) If the recurrent charges within the budget have not been increased since the previous annual budget or if those charges have been increased but section 106 (1) of the Act does not apply to that increase, the notice accompanying a proposed annual budget must also contain whichever of the following statements is applicable in the particular case:
- (a) the residents are taken to have consented to the proposed annual budget as the recurrent charges have not been increased since the previous annual budget,
 - (b) the residents are taken to have consented to the proposed annual budget because the increase in the recurrent charges is in accordance with the formula set out in the village contract,
 - (c) the residents are taken to have consented to the proposed annual budget because the increase in the recurrent charges is not more than the increase in the Consumer Price Index.

20 Limit on contingencies in annual budget

For the purposes of section 115A of the Act, the maximum amount that may be allocated for contingencies in a proposed annual budget is \$100.

21 Transitional provision—first annual budget following commencement of Retirement Villages Amendment Act 2008

- (1) Section 114 (8) of the Act does not apply in respect of the first proposed annual budget for a retirement village following the commencement of that subsection except if the recurrent charges payable by the residents have been varied in accordance with section 104 (1) (a) of the Act.

Note—

This provision means that the consent of the residents will need to be obtained to the proposed annual budget even if the recurrent charges do not increase by more than the CPI (except where the village contract provides for recurrent charges to be varied in accordance with a fixed formula).

- (2) For the purposes of a proposed annual budget to which section 114 (8) of the Act applies, section 112 (4) and (5) of the Act do not apply in respect of that budget.

Note—

If the consent of the residents does not need to be obtained to the proposed annual budget as a consequence of subclause (1), the requirements relating to the provision of a notice with the statement of proposed expenditure do not apply.

Division 2 Recurrent charges

22 Notice of variation—fixed formula

For the purposes of section 105 (2) (c) of the Act, a notice of variation of recurrent charges given under section 105 of the Act must include the following:

- (a) the name of the resident and the address of the residential premises concerned,
- (b) the following statement as the first line of the notice and in at least 14 point bold Arial font:

This is a notice of a variation of recurrent charges in accordance with a fixed formula.

- (c) 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,
- (d) the signature of the operator of the retirement village (or an agent or employee of the operator) and the date of that signature.

23 Notice of variation—no fixed formula and not exceeding CPI

For the purposes of section 105A (4) (c) of the Act, a notice of variation of recurrent charges given under section 105A of the Act must include the following:

- (a) the name of the resident and the address of the residential premises concerned,
- (b) the following statement as the first line of the notice and in at least 14 point bold Arial font:

This is a notice of a variation of recurrent charges (otherwise than in accordance with a fixed formula). The increase in those charges does not exceed the increase in the Consumer Price Index (CPI) since those charges were last increased.

- (c) the following statements:
 - (i) this variation does not require your consent as it does not exceed the increase in the CPI,
 - (ii) you are not required to pay any increase in your recurrent charges unless this notice complies with the requirements of section 105A of the [Retirement Villages Act 1999](#) and any regulations made under that section,
 - (iii) any increase in recurrent charges cannot commence until at least 14 days after this notice is received by you,
 - (iv) this notice may be cancelled by a later notice and the later notice may provide for a lesser increase than any increase specified in this notice.
- (d) the signature of the operator of the retirement village (or an agent or employee of the operator) and the date of that signature.

24 Notice of variation—no fixed formula and greater than CPI

For the purposes of section 106 (2) (e) of the Act, a notice of variation of recurrent

charges given under section 106 of the Act must include the following:

- (a) the name of the resident and the address of the residential premises concerned,
- (b) the following statement as the first line of the notice and in at least 14 point bold Arial font:

This is a notice of a variation of recurrent charges (otherwise than in accordance with a fixed formula). The increase in those charges exceeds the increase in the Consumer Price Index (CPI) since those charges were last increased.

- (c) the following statements:

- (i) you are not required to pay any increase in your recurrent charges unless this notice complies with the requirements of section 106 of the [Retirement Villages Act 1999](#) and any regulations made under that section,
- (ii) any increase in recurrent charges cannot commence until at least 60 days after this notice is received by you,
- (iii) this notice may be cancelled by a later notice and the later notice may provide for a lesser increase than any increase specified in this notice,
- (iv) 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,
- (v) 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 Tribunal orders that the variation take effect),
- (vi) 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,
- (vii) if the operator is not advised one way or the other within that 30 day period, the residents are taken to have refused consent,
- (viii) 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,
- (ix) if the residents do not consent to the proposed variation the operator may apply to the Tribunal for an order in respect of the proposed variation,
- (x) you may apply to the 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),

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

(d) the signature of the operator of the retirement village (or an agent or employee of the operator) and the date of that signature.

25 Provision of information regarding recurrent charge

(1) For the purposes of section 107 (6) (a) of the Act, the information that the operator of a retirement village is required to provide under section 107 (4) of the Act must be provided within 7 days after the information was first requested.

(2) For the purposes of section 107 (6) (b) of the Act, the operator of a retirement village is not required to provide the following information under section 107 (4) of the Act:

(a) information about the personal affairs of the operator, an employee of the operator or a contractor engaged by the operator,

(b) information that is unrelated to the operation of the village,

(c) information about individual sales or contracts that are not in the public domain,

(d) if the operator of a retirement village is an organisation that is subject to an approved privacy code or the National Privacy Principles under the [Privacy Act 1988](#) of the Commonwealth—information that would result in a breach of the code or those Principles if it were to be provided under that subsection.

26 Matters not to be financed by way of recurrent charges

For the purposes of section 112 (3) (b) of the Act, 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) any costs associated with marketing vacant units within a retirement village, including such costs that may have been included in wages or salaries,

(d) payroll tax unless:

(i) the wages paid by the operator in respect of operating the retirement village are more than the threshold amount within the meaning of Schedule 1 to the [Payroll Tax Act 2007](#), or

- (ii) before the commencement of this clause, the residents of the retirement village have consented to the financing of payroll tax by way of recurrent charges and the residents have continued to consent to such financing of payroll tax,
- (e) costs associated with the operator's head office or management or administration fees unless the costs or fees are associated with providing services to residents of the retirement village.

27 Transitional provision—variation in recurrent charges following commencement of Retirement Villages Amendment Act 2008

- (1) This clause applies to a variation in recurrent charges for a retirement village occurring on or after the commencement of Schedule 1 [66] to the [Retirement Villages Amendment Act 2008](#) and before the second annual budget is approved for the village after that commencement.
- (2) For the purposes of a variation in recurrent charges to which this clause applies, a reference in section 107 of the Act to section 106 of the Act is taken to be a reference to section 105A or 106 of the Act.

Note—

This provision means that the consent of residents of a retirement village will need to be obtained to a variation in recurrent charges in the first budget cycle of the village even if those charges do not increase by more than the CPI (except where the village contract provides for recurrent charges to be varied in accordance with a fixed formula).

Division 3 Other

28 Interest

For the purposes of sections 24 (4) (b), 43 (8) (b), 155 (3), 180 (4) (b) and (5) (b) and 181 (7) (b) of the Act, the prescribed rate of interest is the rate prescribed under section 101 of the [Civil Procedure Act 2005](#) with respect to the payment of interest on a judgment debt.

29 Matters that cannot be funded from capital works fund or recurrent charges

For the purposes of section 97 (3) (e) of the Act, anything prescribed under clause 5 (1) (b) as not being capital maintenance is not authorised to be funded from the capital works fund or recurrent charges of a retirement village.

30 Capital works fund

- (1) For the purposes of section 99 (3) of the Act, if the operator of a retirement village is a property trust or other corporation constituted by an Act, money in the capital works fund for the village may be held in any fund administered by the property trust or corporation concerned.

- (2) For the purposes of section 99 (5) (c) of the Act, the operator of a retirement village may use money from the capital works fund for any purpose (other than a purpose set out in section 99 (5) (a) or (b) of the Act) but only if:
- (a) the residents of the village have, by special resolution, consented to the money being used for that purpose, and
 - (b) the use of the money for that purpose does not involve the funding of any matter specified in section 97 (3) of the Act.

31 Minimum public liability insurance

For the purposes of section 100 (3) of the Act, the minimum amount of public liability insurance that the operator of a retirement village is required to obtain is cover of \$10,000,000.

32 Copies of audited accounts

For the purposes of section 119 (7) (a) of the Act, if there is no Residents Committee established in a retirement village a copy of the audited accounts for the village must be displayed on a notice board in a common area of the village for a period of at least 1 calendar month commencing no later than 4 calendar months after the end of the financial year to which the accounts relate.

33 Making good of deficit

- (1) For the purposes of section 120C (3) (c) of the Act, the operator of a retirement village may carry forward a deficit to a subsequent financial year to the extent that the deficit is caused by:
- (a) maintenance (but not replacement) of an item of capital in circumstances where the maintenance was for the purposes of rectifying any of the matters set out in section 92 (2) (a)-(k) of the Act, or
 - (b) an increase in the cost of the following:
 - (i) utilities (other than telephone),
 - (ii) statutory charges including rates and taxes,
 - (iii) wages and salaries increased under an award or an industrial agreement,
 - (iv) workers compensation and public liability insurance.
- (2) For the purposes of clause 20 (5) of Schedule 4 to the Act, an operator is prevented in all circumstances from making a proposal under clause 20 (1) (b) (i) or (ii) of that Schedule that residents make good the whole or any part of any outstanding deficit except in circumstances where the deficit or relevant part of the deficit resulted from a request by the residents for an additional item of capital or service.

Note—

This clause applies to a deficit that accrued on or before the end of a financial year of the village occurring most recently before 23 November 2006.

34 Transitional provision—capital replacement where no ongoing contribution payable

Section 94 (1) as in force immediately before its substitution by the [Retirement Villages Amendment Act 2008](#) continues to apply in respect of a village contract that was entered into before that substitution.

Note—

That provision provided that the operator of a retirement village could fund capital replacement and depreciation in the village from the recurrent charges payable by a resident of the village, but only if no ongoing contribution was payable by the resident.

Part 5 Meetings

35 Agenda at annual meeting

For the purposes of section 72A (6) of the Act, the agenda for an annual management meeting must include the following:

- (a) a report on any expenditure in the previous financial year that was a variation between items in the approved annual budget (other than a minor variation),
- (b) the future plans for the village, including any proposed improvements,
- (c) the management of the village, including any change or proposed change to the management arrangements,
- (d) safety issues,
- (e) any proposed maintenance plans,
- (f) any changes to the proposed annual budget that do not require the residents' consent,
- (g) any proposals to undertake capital works that have not been notified in the annual budget,
- (h) any proposed changes to the level of service provided to residents of the village,
- (i) time for questions, including questions raised from the floor.

36 Questions at annual meeting

(1) For the purposes of section 72B (3) (b) of the Act, the operator of a retirement village or a representative of the operator is not required to answer a question about the following:

- (a) the personal affairs of the operator, an employee of the operator or a contractor

engaged by the operator,

(b) any matter that is unrelated to the operation of the village,

(c) any matter in relation to individual sales or contracts that are not in the public domain.

(2) Subclause (1) (a) does not apply so as to prevent an operator or a representative of the operator from answering a question as to the operator's solvency or financial viability.

(3) If the operator of a retirement village is an organisation that is subject to an approved privacy code or the National Privacy Principles under the [Privacy Act 1988](#) of the Commonwealth, a representative of the operator is not required to answer a question to the extent that the answer would disclose personal information in breach of the code or those Principles.

37 Proxies

(1) For the purposes of section 77 (2) of the Act, 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 Part 3 of Schedule 1.

(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.

Part 6 Applications to Tribunal and orders

38 Time for making application to Tribunal

(1) An application to the Tribunal under a section of the Act specified in Column 1 of Schedule 5 may be made only within the time specified in Column 2 of that Schedule in relation to the section.

Note—

The 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 81 of the [Consumer, Trader and Tenancy Tribunal Act 2001](#).

(2) An application to the Tribunal under any other section of the Act may be made at any time.

39 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 to the application.
- (3) The consent of the residents under subclause (2) is to be obtained by the proposal being put to a meeting of the residents and the vote for the proposal being determined by a show of hands.
- (4) 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.

40 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.

41 Additional orders of Tribunal

For the purposes of section 128 (1) (l) 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.

42 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 7 Uncollected goods

43 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.

44 Disposal of perishable and certain other uncollected goods

- (1) For the purposes of section 147 (1) (b) of the Act, 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—immediately 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 immediately after the termination.

45 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 44 (1) in accordance with this clause.

Maximum penalty: 20 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).

46 Claiming of uncollected goods

- (1) A person who is entitled to possession of uncollected goods 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.

47 Disposal of uncollected goods after storage

- (1) On the expiry of the 30 day period referred to in clause 45 (2), the operator of the retirement village concerned must deal with the uncollected goods in accordance with this clause.

Maximum penalty: 20 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 taking such steps as are reasonable to ensure the privacy of the former resident or any other person.
- (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.

48 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 47.
- (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 no address 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 8 Miscellaneous

49 Renovations and alteration of fixtures and fittings

For the purposes of section 41A (7) (b) of the Act, the consent of the operator of a retirement village is not required in order for a resident to make renovations to, or to add, remove or alter any fixtures or fittings in, residential premises that are owned by the resident under a community land scheme, company title scheme or strata scheme.

50 Liability of former occupant if village contract terminated during settling-in period

- (1) For the purposes of section 44B (1) (d) of the Act, if a village contract is terminated in accordance with Division 2 of Part 5 of the Act, the former occupant is liable to pay the reasonable costs incurred in adding, removing or altering any fixtures or fittings, or making any renovations, to the unit at the resident's specific request.
- (2) For the purposes of section 44B (4) of the Act, \$200 is the maximum administration fee that may be charged under section 44B (1) (c) of the Act.

51 Display of safety inspection report

For the purposes of section 58A (2) (e) of the Act, the safety inspection report must be placed on the notice board under section 58A (2) (d) of the Act for at least 1 calendar month.

52 Access to residential premises in village

For the purposes of section 67 (2) (g) of the Act, the operator of a retirement village and any person authorised by the operator may enter residential premises in the village to install a smoke alarm that is legally required to be installed in the residential premises and to replace a battery in any smoke alarm installed in the residential premises, but only if 2 days' notice has been given to the resident.

53 Membership of Residents Committee

- (1) For the purposes of section 70A (1) of the Act, a person may hold the same office on the Residents Committee of a retirement village for more than 3 consecutive years if the retirement village has less than 20 residents or the annual budget of the retirement village is less than \$50,000 (or both).
- (2) Subclause (1) does not permit a person to hold the same office on a Residents Committee for more than 3 consecutive years if the Director-General has written to the Residents Committee:
 - (a) objecting generally to any person holding the same office on the Committee for more than 3 consecutive years, or
 - (b) objecting to the particular person holding the same office for more than 3 consecutive years,

and the Director-General has not written to the Residents Committee to withdraw the objection.

- (3) In this clause:

hold the same office on a Residents Committee of a retirement village includes holding an office performing the same (or substantially the same) functions on the Committee.

54 Disputes between operator and resident

For the purposes of section 122 (2) of the Act, 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.

55 Termination notice

- (1) For the purposes of section 131 (2) of the Act, a termination notice is to be in the relevant form set out in Part 4 of Schedule 1.

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. See section 135 of the Act.

- (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.

56 Protection of ingoing contributions

For the purposes of section 182A (1) (b) of the Act, the amount of \$10,000 is prescribed.

57 Penalty notice offences

For the purposes of section 184 (6) of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 6 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 2 of Schedule 6.

58 Service of documents generally

- (1) For the purposes of section 201 (1) (c) and (2) (c) 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 [NSW Trustee and Guardian Act 2009](#)) or who has a guardian—is to be given to the NSW Trustee and Guardian 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 NSW Trustee and Guardian 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 NSW Trustee and Guardian, a guardian, a receiver, a receiver and manager or an administrator under subclause (2).

59 Conduct of written ballot

For the purposes of clauses 3 (1) (b) and 5 of Schedule 1 to the Act, a ballot is to be conducted in accordance with Schedule 7.

60 Savings

Any act, matter or thing that, immediately before the repeal of a regulation by this Regulation, had effect under that repealed regulation, continues to have effect under this Regulation.

61 Repeals

The following regulations are repealed:

- (a) The *Retirement Villages Regulation 2000*,
- (b) The *Retirement Villages Transitional Regulation 2000*.

Schedule 1 Forms

(Clause 3 (1))

Part 1 General inquiry document

(Clause 11 (1))

GENERAL INQUIRY DOCUMENT

Current as at:...(insert date)

This general inquiry document is required to be given to you as a prospective resident or as a person acting on behalf of a prospective resident.

Village details

Name of retirement village

Street address

Website

Residency in this village is available under (*tick one or more*):

- ☐ strata title
- ☐ leasehold
- ☐ non-registered lease/licence
- ☐ community title
- ☐ rental only
- ☐ company title
- ☐ other (*specify*)

Management details

Name of operator

How many retirement villages do we operate in NSW?

We have operated retirement villages in NSW since..(*insert year*)

Are we a member of any industry association? Yes/No

If Yes, name of association:

Contact person for further information about the village:

Name:

Position:

Phone:

Email:

Accommodation details

Has construction/development of the village been completed? Yes/No

There are currently/planned to be .. (*insert total*) residential premises in the village, made up of:

× bedsitters

× 1br premises

× 2br premises

× 3br premises

× other (*specify*):

The residential premises in the village are: (*tick all that are applicable*)

☐ Self-care premises/Independent Living Units

☐ Serviced apartments/Assisted Care Units

☐ Single storey and/or ☐ Multi-storey

Is there a residential aged care facility onsite or attached? Yes/No

Note—

Aged care facilities are not covered by the [Retirement Villages Act 1999](#) (NSW). Entry is not guaranteed and will be subject to availability and meeting the eligibility requirements set by Commonwealth government laws.

Financial matters

The asking price to enter the village is currently:

\$..or ranges from \$..to \$..

The amount of recurrent charges payable to live in the village is currently:

\$..per ..or ranges from \$..per ..to \$..per ..

Do residents pay a departure fee when they leave? Yes/No

Do residents share in any capital gains? Yes/No

(Other fees and charges may apply.)

Village facilities and services

Facilities and services available at the village include: (*tick all that are applicable*)

- | | |
|--|--|
| <input type="checkbox"/> on-site manager | <input type="checkbox"/> visiting hairdresser |
| <input type="checkbox"/> village bus | <input type="checkbox"/> swimming pool |
| <input type="checkbox"/> emergency call system | <input type="checkbox"/> tennis court |
| <input type="checkbox"/> restaurant | <input type="checkbox"/> bowling green |
| <input type="checkbox"/> dining room | <input type="checkbox"/> gym |
| <input type="checkbox"/> shop | <input type="checkbox"/> chapel/prayer room |
| <input type="checkbox"/> library | <input type="checkbox"/> workshop |
| <input type="checkbox"/> community room/centre | <input type="checkbox"/> storage area for boats/caravans |
| <input type="checkbox"/> arts and crafts room | <input type="checkbox"/> optional services (e.g. meals, laundry and home cleaning) |
| <input type="checkbox"/> activities/games room | <input type="checkbox"/> other (<i>specify</i>) |
| <input type="checkbox"/> medical consultation room | |

Village life

Are pets allowed in the village? Yes*/No

Can residents do their own gardening? Yes*/No

Are there organised social activities in the village? Yes/No

Does the village have a residents committee? Yes/No

If yes, Name of secretary or chairperson:

Phone No/email:

* Conditions and restrictions may apply

More information

This document gives a basic explanation about the village. It contains general information only and may be subject to change.

You should also read the NSW Fair Trading publication *Moving into a retirement village?* which gives an overview of the retirement village industry and contains a useful checklist for prospective residents. For more information on your rights and responsibilities, contact Fair Trading by visiting www.fairtrading.nsw.gov.au or calling 13 32 20. A disclosure statement and village contract will provide you with more information should you decide to become a resident.

Part 1A Disclosure statement

(Clause 11 (2))

DISCLOSURE STATEMENT

Retirement Villages Act 1999, section 18 (3A)

This disclosure statement is required to be given to you at least 14 days before you enter into a village contract. It contains important information about this village.

You should read this disclosure statement carefully. It is important that you understand this information and what it means for you. You should seek independent legal or financial advice if you are unsure about any details. Your village contract will contain more detail about some of the matters covered in this disclosure statement.

If you enter into a village contract, a 7 business day cooling-off period will generally apply, if you change your mind. The law also provides a 90-day settling-in period during which you may terminate the contract. Despite these protections, you should think carefully if living in a retirement village is right for you, and if so whether you have found the right premises, before you sign a contract.

For information on your rights and responsibilities under the retirement village laws, contact NSW Fair Trading by visiting www.fairtrading.nsw.gov.au or calling 13 32 20.

Name of village:

Premises in which you have expressed an interest No:..

Amount of ingoing contribution/purchase price for the premises \$

Current rate of recurrent charges for the premises \$..per..

Share of any capital gains payable to you on termination..%

Formula for departure fee payable by you on termination

* Other fees and charges may apply. For further details ask the operator or refer to the draft village contract.

Note—

If for any of the above the answer is not applicable, write NA in the box provided.

1 VILLAGE CONTRACTS

To become a resident you will need to enter into: *(tick those applicable)*

☐ a village contract

☐ a contract for sale of the premises

☐ other: *(specify, including the name of the contract and its purpose)*

Note—

An operator cannot by law enter into a village contract with you earlier than 14 days after you or your representative have been given a copy of the contract. You should use this time to read the contract carefully and seek independent advice, if needed.

2 DOCUMENTS YOU MUST PROVIDE

Will you have to provide any documents or reports before or at the time of signing a village contract? Yes/No

If yes, give details of what documents are required and who will have access to them:

3 VILLAGE DEVELOPMENT

Is the village fully or partially completed, or still to be built?

If the village is only partially completed or still to be built give particulars of all proposed stages, including the estimated date of completion, the number of premises and whether development consent has been obtained:

4 VILLAGE MANAGEMENT

Name of operator:

Does the entity who manages the village also own the land? Yes/No

If no, give details of who owns the land:

Is any operator currently subject to any form of insolvency administration, such as receivership or being operated by a court appointed administrator? Yes/No

If yes, give details:

The law requires operators to hold annual management meetings with residents. In what month are these meetings usually held at this village?

5 VILLAGE SERVICES AND FACILITIES

Are there any plans to introduce a new service or facility in the village? Yes/No

If yes, specify the service or facility concerned and the date by which it is to be provided or made available:

Does the development consent require that a particular service or facility be provided for the life of the village?

Yes/No

If yes, specify:

Are there any current proposals to reduce or withdraw a service or facility in the village? Yes/No

If yes, give details of the proposal:

Are there any services or facilities currently available in the village payable on a user pays basis and not covered by my recurrent charges? Yes/No

If yes, list the services or facilities and their current cost:

Are any facilities in the village available or proposed to be made available for use by non-residents? Yes/No

If yes, specify:

6 FINANCIAL MANAGEMENT

The financial year of the village is fromto.....

Have residents of the village consented to any of the following?: *(tick all applicable)*

- ☐ not receiving a proposed budget each year
- ☐ not receiving quarterly accounts of income and expenditure
- ☐ not having the annual accounts of the village audited

Note—

These consents can only be given if the total recurrent charges for the village for the year are less than \$50,000.

Details of the surplus/deficit in the annual accounts for the last three financial years:

Financial year ending	Amount
	\$ (surplus/deficit)
	\$ (surplus/deficit)
	\$ (surplus/deficit)

Note—

Under the retirement village laws any deficit must generally be made good by the operator.

Does the village have a capital works fund for capital maintenance? Yes/No

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

In which month/s are recurrent charges usually varied?

Are variations in recurrent charges linked to a fixed formula? Yes/No

If yes, give details of the formula:

If no, the recurrent charges for the premises you are interested in over the last 3 financial years have been as follows:

Financial year ending	Actual rate of recurrent charges	\$ change from previous year	% change from previous year

Note—

Previous increases are not necessarily an indication of future increases.

7 INSURANCE

The retirement village is insured as follows:

Type	Amount	Insurer	Period
Public liability			
Building (including reinstatement)			
Other—specify type			

8 PAYMENT FOLLOWING TERMINATION OF CONTRACT

Were all payments due to outgoing or former residents in the last financial year made in full and on time? Yes/No

If no, give reasons:

Will there be any mortgage, lien or other charge on or over the land that will apply when you first have a right to occupy your premises (excluding the statutory charge under the retirement village laws)? Yes/No

If yes, give details:

Note—

In strata and community title villages 'land' refers to the unit or lot. For non-strata villages, 'land' means the village land.

How many premises were vacant as at the end of the last financial year?

Comment:

How many premises were reoccupied during the last financial year?

Comment:

9 SECURITY AND SAFETY

Does the premises you are interested in have a security screen door? Yes/No

Are all the windows of the premises fitted with key operated locks? Yes/No

Does the premises have smoke alarm/s as required by law? Yes/No

Has the operator been notified of any residential premises in the village having been broken into over the last two years? Yes/No

Are the premises and common areas in the village accessible to persons with impaired mobility, including those in wheelchairs? Yes/No/Partially

Does the village have a village emergency system that enables residents to summon assistance in an emergency? Yes/No

If yes, provide details:

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

10 COMPLIANCE WITH LEGISLATION

Has the operator been convicted of an offence under the retirement village laws? Yes/No

If yes, give details of the offence and amount of penalty:

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

If no, give details:

Has the village been registered as required by the retirement village laws? Yes/No

If no, give details of the delay:

11 DISPUTE RESOLUTION

Does the village have an internal system for resolving disputes? Yes/No

If yes, specify:

Are there any outstanding orders of the Consumer, Trader and Tenancy Tribunal or a court involving the village which the operator has not complied with? Yes/No

If yes, specify:

12 MORE INFORMATION

You have the right to ask for a copy of, or to inspect, any or all of the following documents free of charge:

- a site plan for the village
- plans showing the location, floor plan and significant dimensions of residential premises available in the village
- examples of all contracts that you may be required to enter into
- the village rules (if any)
- the budgets for the last 3 financial years of the village, the current financial year, and the next financial year (if available)
- the annual accounts for the village for the last 3 financial years
- the most recent quarterly accounts of the income and expenditure of the village (unless the residents have consented to not receiving these)
- the trust deed for any trust fund into which money paid by residents is deposited
- the terms of any development consent, if the village is not complete or if the development consent requires a particular service or facility to be provided for the life of the village
- if the village has a capital works fund, statements showing the balance as at the end of each of the last 3 financial years of the village, and the most recent quarter
- the village's waiting list policy, if relevant
- court or Tribunal decisions from the last 5 years in which the operator and the Residents Committee were a party
- copies of certificates of currency of insurance
- the last annual safety inspection report for the village
- the company's constitution and replaceable rules (*company title villages only*)
- the management statement, management agreement and minutes of the most recent annual general meeting (*community land scheme villages only*)
- the by-laws, management agreement and minutes of the most recent annual general meeting (*strata scheme villages only*)
- a detailed list of all currently available/vacant premises in the village
- other (specify)

This disclosure statement was:

- ☐ given personally
- ☐ sent by post
- ☐ other (specify)

Date given/posted:

Name of prospective resident/s:

Was this statement given to a person acting on behalf of the prospective resident/s? Yes/No

If yes, name of acting person:

The operator warrants that, to the best of the operator's knowledge, the information contained in this statement is true and accurate at the time it is provided.

Signed by operator:

Print Name:

Date:

Part 2 Condition report

(Clause 14 (2))

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).
- 3** 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).
- 4** If a required date is not known, an approximate date must be given and identified as such.
- 5** No less than 14 days must be allowed for the prospective resident (or the prospective resident's nominee) to examine the report and suggest changes to it.
- 6** 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.
- 7** The condition report must be completed and provided to the prospective resident:
 - (a) at least 14 days before the operator and the prospective resident enter into a village contract, or
 - (b) if the premises are still being constructed, at least 14 days before the prospective resident occupies the

premises.

- 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 fly screens provided with the premises? Yes/No

If Yes, how many?

Are the fly screens 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

If 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

If 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

If other, specify:

Fire safety:

Are smoke alarms installed on the premises? Yes/No

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

If No, 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
-----------------------	---------------------------

Signature of operator or operator's nominee:

Printed name of operator or nominee:

Date of signature:

Note—

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

Signature of prospective resident or prospective resident's nominee:

Printed name of prospective resident or nominee:

Date of signature:

Part 3 Form of appointment of proxy

(Clause 37 (2))

Retirement Villages Act 1999

I, *[insert name of resident]* being a resident of *[insert address of resident]* appoint *[insert name of proxy holder]* of *[insert 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:

Date of signature:

Notes—

- 1 A person who may be appointed as a proxy includes a friend or relative of the resident, the resident's guardian, a member of the Residents Committee or another resident of the retirement village, but no person may hold more than 2 proxies at the same time.
- 2 The Act does not allow an operator, or a close associate of the operator to hold or exercise a proxy on behalf of a resident.
- 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.

Part 4 Form of notice of intention to seek termination of residence contract

(Clause 55 (1))

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

Retirement Villages Act 1999, section 131

To *[insert name of resident]*

of *[insert address of resident]*

This notice is to advise you that it is our intention to apply to the Consumer, Trader and Tenancy 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 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 *[insert term number]* of your village contract by *[insert details of alleged breach]*
- ☐ you have breached village rule number *[insert rule number]* by *[insert details of alleged breach]*

Note—

If notice is given on the grounds of a breach of a village contract or the village rules, the 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

Signature of operator or operator's nominee:

Printed name of operator or nominee:

Date of signature:

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 *[insert name of operator]*

of *[insert address of operator]*

This notice is to advise you that I/we *[insert name of each resident]* of *[insert address of resident/s]* intend to apply to the 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 *[insert term number]* of my/our village contract by *[insert details of breach]*
- ☐ you have breached village rule number *[insert rule number]* by *[insert details of breach]*

Note—

If notice is given on the grounds of a breach of a village contract or the village rules, the 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.

Signature of each resident or resident's nominee:

Printed name of each resident or nominee:

Date of signature:

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 2 Standard form of village contract

(Clause 15A (1))

Standard Form Village Contract

Retirement Villages Act 1999, section 43

Village:

Operator(s):

Resident 1:

Resident 2:

KEY TERMS

Operator(s):

Name of Operator(s):

(Where there is more than one operator, refer to the additional terms for the rights and responsibilities of each operator)

Address for service of notices:

Postcode:

Resident(s):

Name of Resident 1:

Name of Resident 2:

Address for service of notices:

Postcode:

Where there is more than one resident they are joint tenants unless a tenancy in common is indicated in the additional terms or in a separate contract (if applicable).

Your premises:

[Delete or cross out any of the below which do not apply]

Premises Number:

Title Details for Premises:

☐ Folio ID:

☐ Lease Folio ID:

☐ Part of lot as set out in attached plan

☐ Shown in the plan memorandum registered no:

Title Details for Leasehold Village:

Trading Name of Village:

Address of Village:

Postcode:

What is included with your premises?

[Delete or cross out which of the below does not apply]

[Registered interest holders except registered long-term lessees] Your premises include:

[Non-Registered interest holders and registered long-term lessees] We grant you the right to occupy or use:

- ☐ Garage (Number ..) ☐ Carport (Number ..) ☐ Parking Space (Number..)
- ☐ Storage Area (Number..)
- ☐ Furniture:
- ☐ Other:
- ☐ Attached list/plan

Is there a separate agreement dealing with any of the above inclusions?: Yes .. (name of agreement)/No

Is an additional fee payable for any of the above inclusions?: Yes/No

Note—

If yes, the fee payable is set out in the Financial Terms of this agreement.

What is not included with your premises?

(attach list if space is insufficient)

Fixtures/Fittings/Furnishings/Other:

Key dates:

Date you received a copy of this contract:

Date this contract is entered into:

Agreed date that you may occupy your premises (entry date):..(If known)

Date from which you must pay us recurrent charges:...(If known)

Nature of residence right

[Delete or cross out which of the below does not apply]

[Registered interest holders except registered long-term lessees] Your right to reside in your premises arises on the following basis, and the provisions in this contract which apply to the residence right type ticked below will apply to you and us:

[Registered interest holders who are registered long-term lessees and non-registered interest holders] You do not own the premises. We grant you the right to occupy the premises on the following basis. The provisions in this contract which apply to the residence right type ticked below will apply to you and us:

- ☐ **Registered interest holder**
(if above box is ticked, select one or more from ☐ **Non-registered interest holder**
the list below)

- ☐ Owner of a lot in a strata scheme
- ☐ Owner of shares in a company title scheme
- ☐ Owner of a lot in a community land scheme
- ☐ *Registered long-term lease with a term of:* Term (if any):
(Only tick the last box if the term is at least 50 years (including options to renew) or for the life of the lessee, the contract includes provision for the resident to be entitled to 50% or more of the capital gain, and the lease will be registered.)

Does your residence right arise under an assignable lease? Yes ☐/No ☐

Registered interest holders: If the box is ticked indicating that you are a *registered interest holder*, you will not be a *registered interest holder* until, if the instrument under which you obtain your residence right requires registration, registration occurs (for example until your long-term lease has been registered) or you become the registered proprietor of land.

☐ **Contract subject to separate contract:** If this box is ticked, this contract will not apply until you have acquired the premises (or, for company title, the shares which entitle you to occupy the premises) under a separate contract.

Note—

If this box is ticked, title to the premises is proposed to be conveyed under a separate contract and nothing in this contract constitutes a warranty or representation by us that you will obtain title to the premises or any inclusions.

Additional terms:

Additional terms may be added to the standard terms prescribed under the *retirement village laws* at the end of the contract.

Retirement village laws:

This contract is subject to the provisions of the *retirement village laws*. For information on your rights and responsibilities under the *retirement village laws* contact NSW Fair Trading by visiting www.fairtrading.nsw.gov.au or calling 13 32 20.

Terms in *italics* are defined in clause 1.2 of this contract.

FINANCIAL TERMS

Note—

The additional terms may set out more detail about the *entry payment* and other amounts payable as detailed below and, where there is more than one operator, the additional terms may specify which operator is to receive or make a payment.

A Entry payment

Are you required to pay an *entry payment*? Yes (*continue to the remainder of item A*)/No [*delete or cross out the remainder of item A*]

You must pay an *entry payment* in total of \$..as your:

- ☐ Ingoing contribution
- ☐ Purchase price
- ☐ Assignment fee

[*Delete or cross out the below if the ingoing contribution is not divided into components*]

Where an ingoing contribution is payable, it consists of the following components:

- ☐ Loan \$
- ☐ Lease Premium \$
- ☐ Prepaid rent \$
- ☐ Other \$

The waiting list fee of \$..and/or the holding deposit of \$..which you have already paid will form part of this amount. [*delete or cross out if not applicable*]

When is the full *entry payment* due?

Can the *entry payment* be paid in instalments? Yes (*refer to additional terms for payment frequency/dates*)/No

Is any of the *entry payment* non-refundable? Yes (\$..)/No

Is any interest payable if the *entry payment* is not paid by the date due? Yes (*see additional terms*)/No

[*Delete or cross out the below if no separate additional fee applies for any inclusions*]

In addition to the *entry payment*, you must pay the following fees for the inclusions detailed in the Key Terms:

Parking Space \$

Garage \$

Carport \$

Storage Area: \$

Furniture: \$

Other: \$

B Deposit

Are you required to pay a deposit on signing this contract? Yes (\$..)/No

C Legal and other expenses payable on entry

You must pay to us on entry the following legal and other expenses incurred in connection with the preparation of this contract: (maximum \$200)

☐ Contribution to our legal expenses incurred in preparing this contract \$

☐ Other expenses (*specify*)

You must pay the following charges to third parties:

☐ Lease registration fee \$

☐ Other (*specify*)

[If "Contract subject to other contract box is ticked" (*delete or cross out if not applicable*)]

Additional fees may be payable under the separate contract you have entered into to acquire the premises (or, for company title, the shares which entitle you to occupy the premises).

D Recurrent charges

You must pay to us recurrent charges as follows:

Current frequency of payment: ☐ Weekly ☐ Fortnightly ☐ Monthly ☐ Other:

Current rate of recurrent charges for your premises: \$..per..

Note—

for a strata scheme, company title or community land scheme village (*delete or cross out if not applicable*)

You may also need to pay levies to the owners corporation (for strata schemes), community association (for community land schemes) or company (for company title). The amount of the levies for your premises as at the date of this contract is \$.. per ..

E Variation of recurrent charges

We may vary your recurrent charges as follows:

Method of Variation (*choose one method only*)

☐ **Fixed formula**

☐ **Non-fixed formula**

Your recurrent charges will be varied in accordance with:

- ☐ *variation in CPI*
- ☐ variations in (single/couple) [*delete or cross out whichever is not applicable*] age pension
- ☐ other (*specify*)

The first variation will be on:
After the first variation, variations will occur every:
The new amount of the recurrent charges will not take effect earlier than 14 days after we have given you notice of the new amount.

We may vary the amount of recurrent charges payable from time to time (no more than once in a 12 month period):

- (a) by giving you 14 days' notice in writing, if the increase does not exceed the *variation in CPI*, or
- (b) by giving you at least 60 days' notice in writing and seeking and obtaining the consent of residents affected by the proposed increase or an order of the *Tribunal*, if the increase exceeds the *variation in CPI*.

F Optional services

Do your recurrent charges include optional services? (optional services may include, for example, meals, laundry services and home cleaning) Yes/No

If yes, at the time of entry, the amount of recurrent charges attributable to the provision of optional services is \$..This amount may change in the future.

G Capital gains and losses

If you are entitled to a percentage of capital gain, or are responsible for a percentage of capital loss, this may form part of the termination payment calculated in accordance with item I.

Capital gain/capital loss structure

Are you entitled to a % of any capital gain? Yes (..%)/No

Are you responsible for a % of any capital loss? Yes (..%)/No

- ☐ **Different capital gain/capital loss structure** [*delete or cross out if not applicable*] (*insert full details if the calculation does not fit within the above structure*):

H Departure fee

Does a departure fee form part of the payment on termination of this contract? Yes (*continue to the remainder of item H*)/No (*delete or cross out remainder of item H*)

If yes, this may form part of the termination payment calculated in accordance with item I. The departure fee is calculated on a daily basis (but does not accrue and is not payable on a daily basis). The box below shows you how your departure fee is calculated:

What is the departure fee % based on?

- ☐ the *entry payment* ☐ the *new entry payment*
- ☐ other (provide details):

Departure fee structure

Time	Percentage	The maximum departure fee
Years..to ..(inclusive)	..% per year	percentage you will pay is..% if the period
Years..to ..(inclusive)	..% per year	between the entry date and the date you
Years..to ..(inclusive)	..% per year	<i>permanently vacate</i> is..years or more.

- ☐ **Different departure fee structure** *[delete or cross out if not applicable] (insert full details if the departure fee is not the above structure):*

I Calculation of payment on termination of residence right

[Delete or cross out which of the below does not apply]

[Registered interest holders except non-assignable registered long-term lessees]

We are not required to make any payments to you when your residence right is terminated. You are responsible for selling your premises and receiving the *new entry payment* from the person who buys your premises or your leasehold interest.

[Non-registered interest holders and non-assignable registered long-term lessees]

The amount payable on termination is calculated as follows:

Payment on termination calculation

After termination of this contract (refer to Item J for specific detail about timing):

1 We will repay you the:

- ☐ Unearned rent (refer to the additional terms for how this is calculated)
- ☐ Loan (Item A)
- ☐ Lease premium (Item A)

2 We will pay you:

- ☐ Your share of any capital gain (Item G)

☐

- ☐ Other (*specify*):

3 You must pay us (or we may set off and deduct from the amounts we must pay you described in 1 and 2 above):

- ☐ Departure fee (Item H)
- ☐ Your share of any capital loss (Item G)
- ☐ Any non-refundable component of the *entry payment* (Item A)
- ☐ Other (*specify*):

- ☐ Different payment on termination calculation *[delete or cross out if not applicable] (insert full details if the calculation does not fit within the above structure):*

[Items J, K, L & M below for registered interest holders]

J Timing for payment on termination of your residence right

[Delete or cross out which of the below does not apply]

[Non-assignable registered long-term lessees]

- ☐ We must pay you the amount of your payment on termination of your residence right within 14 days after the date on which we receive full payment of the *new entry payment* except where we are required to pay you earlier under the *retirement village laws*.
- ☐ **Different timing for payment** [*delete or cross out if not applicable*] (*insert full details if liability to make termination payment is to be made at a time that is earlier than that described above or in the retirement village laws*)

If more than one resident is a party to this contract, a payment will only be made after both residents have *permanently vacated* your premises.

[Registered interest holders except non-assignable registered long-term lessees]

You are responsible for obtaining the *new entry payment* from the person who buys your premises or leasehold interest.

K Liability for recurrent charges for optional services on termination

If you move out of your premises, your liability to pay recurrent charges for optional services ceases from the date you move out. If you die, your liability ends from the date we are notified. However, you will be liable for services provided before that date.

L Liability for recurrent charges for general services on termination

- ☐ Except as otherwise provided by the *retirement village laws*, you must pay the full rate of recurrent charges for general services until a new resident enters into a contract with us to occupy your premises or moves into your premises. However, if Item G provides that any capital gain is shared between you and us, then you will be liable for any recurrent charges arising in the 42 days immediately after the date on which you *permanently vacate* your premises but after that, liability for recurrent charges will be shared between you and us in the same proportion as our respective capital gain percentage.
- ☐ **Different provision** [*delete or cross out if not applicable*] (*insert full details if the liability to pay recurrent charges is to cease at a time that is earlier than that described in the above provision*)

Note—

This provision does not affect any levies payable by you in a strata scheme, company title or community scheme [*delete or cross out if not applicable*]

M Costs of sale

If you appoint a person other than us or a person chosen by us as a selling agent, you must pay the selling agent's commission (if any) in full.

All other costs of sale, including commission if you appoint us or our nominee as your agent, are to be shared between you and us in the same proportion as our respective capital gain percentage.

[Items J, K & L below for *non-registered interest holders*]

J Timing for payment on termination of your residence right

- ☐ We must pay you the amount of your payment on termination of your residence right:
 - (1) within 14 days after the date on which we receive full payment of the *new entry payment*, or
 - (2) within 14 days after the date on which an incoming resident takes up residence in your premises with our consent, or
 - (3) within 6 months after the date you *permanently vacate* your premises,whichever occurs first, except where we are required to pay you earlier under the *retirement village laws*.
- ☐ **Different timing for payment** [*delete or cross out if not applicable*] (*insert full details if liability to make*

termination payment is to be made at a time that is earlier than that described above or in the retirement village laws)

If more than one resident is a party to this contract, a payment will only be made after both residents have *permanently vacated* your premises.

K Liability for recurrent charges for optional services on termination

If you move out of your premises, your liability to pay recurrent charges for optional services ceases from the date you move out. If you die, your liability ends from the date we are notified. However, you will be liable for services provided before that date.

L Liability for recurrent charges for general services on termination

- ☐ You must pay the full rate of recurrent charges for general services for 42 days immediately after the date you *permanently vacate* your premises, or until a new resident enters into a contract with us to occupy your premises or moves into your premises, or you *permanently vacate* the premises after receiving notice of our intention to apply to the *Tribunal* for an order terminating this contract, whichever occurs first.
- ☐ **Different provision** [*delete or cross out if not applicable*] (*insert full details if the liability to pay recurrent charges is to cease at a time that is earlier than that described in the above provision*)

GENERAL TERMS

1 INTERPRETATION AND DEFINITIONS

1.1 Interpretation

- (a) Except as otherwise provided for in the additional terms:
 - (i) When the words “you” or “your” appear in this contract, it refers to the Resident and includes his or her executors or administrators but only to the extent necessary to enable them to discharge their duties.
 - (ii) Where the Resident is more than one person, the words “you” or “your” apply jointly to the Residents and to each of them.
- (b) When this contract uses the words “we”, “us” or “our”, it refers to the Operator and where the context allows, its employees and agents. If there is more than one operator, use of the word “we”, “us” or “our” does not of itself imply any relationship between any of those operators, such as a partnership. The relationship of the operators to each other, and certain rights and obligations between each of them and you may be set out in the additional terms.
- (c) Expressions which are not defined in this contract but which have a defined meaning in the *retirement village laws* have the same meaning in this contract.
- (d) Headings are for convenience only and do not form part of this contract or affect its interpretation.
- (e) Unless expressly stated otherwise in this contract:
 - (i) If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
 - (ii) If the last day of a period of time prescribed or allowed by this contract for the doing of any thing falls on a day which is not a *business day*,

the thing may be done on the first day following that day which is not a *business day*.
- (f) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

- (g) The meaning of any general language is not restricted by any accompanying example, and the words “includes”, “including”, “such as”, “for example” or similar words are not words of limitation.

1.2 Definitions

business day means a day which is not:

- (a) a Saturday or Sunday, or
- (b) a public holiday or a bank holiday,

in New South Wales.

entry payment means the amount of the purchase price, ingoing contribution or assignment fee payable by you as set out in the Financial Terms section of this contract.

item of capital means any building or structure in the village; any plant, machinery or equipment used in the operation of the village; any part of the infrastructure of the village; fixtures (e.g. benches, built-in cupboards, floor coverings, hot water systems and stoves); fittings (for example, light fittings, taps and sanitary fittings); furnishings (for example, curtains and blinds); and non-fixed items (e.g. whitegoods, portable air conditioners, fans, tables and chairs).

new entry payment means the amount provided by the next resident in connection with your premises after you leave.

non-registered interest holder means a resident who is not a *registered interest holder*.

permanently vacate means the occurrence of one of the following:

- (a) you (or a person on your behalf) delivers up vacant possession of your premises to us following your vacation of the premises,
- (b) the executor or administrator of your estate delivers up vacant possession of your premises to us following your death,
- (c) the *Tribunal* makes an order declaring that your premises were abandoned by you (and you are taken to have permanently vacated your premises on the day specified in the order),
- (d) if you are a *registered interest holder*, you die or move out of your premises, or
- (e) if the residence right for your premises was obtained by another person for the purpose of allowing you to live at your premises, or by a corporation, and you live at your premises with their consent, when you die or move out of the premises.

registered interest holder means a resident who:

- (a) is the registered proprietor of the premises,
- (b) is the owner of a lot in a strata scheme,
- (c) is the proprietor of a lot in a community land scheme,
- (d) is the owner of shares in a company title scheme for the premises, or
- (e) has a *registered long-term lease* that includes a provision that entitles the resident to at least 50 per cent of any capital gain.

registered long-term lease means a lease registered under the [Real Property Act 1900](#) (NSW) that has a term of at least 50 years (including any option to renew), or is for the life of the lessee.

rescission notice means a notice given by you or your legal representative that says that you rescind this contract.

retirement village laws means:

- (a) the [Retirement Villages Act 1999](#) (NSW), and
- (b) the [Retirement Villages Regulation 2009](#) (NSW),

as amended or substituted from time to time.

settling-in period means the period between the date of this contract and the later of the following:

- (a) 90 days after the date on which you are entitled to occupy your premises under this contract (or other relevant contract which is a residence contract for the purposes of the *retirement village laws*), or
- (b) if you occupy the premises before you are entitled to do so under the contract described in (a), 90 days after you first occupy your premises, or
- (c) any other date that we may agree with you in writing.

Tribunal means the Consumer, Trader and Tenancy Tribunal.

variation in CPI means the difference between:

- (a) the Consumer Price Index (All Groups) for Sydney as published by the Australian Statistician most recently before the recurrent charges were last varied or, if the recurrent charges have never been varied, as published 12 months prior to (b), and
- (b) the Consumer Price Index (All Groups) for Sydney as published by the Australian Statistician most recently before the written notice of the proposed variation is given.

2 COOLING-OFF PERIOD

2.1 What is your right to terminate during the cooling-off period?

Before midnight on the 7th *business day* after the date you gave us a signed copy of this contract you are able to rescind this contract by giving us a *rescission notice*. You waive the right to rescind if you move into your premises.

2.2 What will we pay you if you terminate this contract during the cooling-off period?

If you rescind this contract during the cooling-off period, then this contract becomes void and we must repay you all money that has been paid to us under this contract by you as soon as is reasonably practicable (and no later than 1 month) after you give us the *rescission notice*.

3 SETTLING-IN PERIOD

3.1 What is your right to terminate during the *settling-in period*?

[Delete or cross out which of the below does not apply]

[All residence right types except *registered interest holders* where right to occupy the premises arises under a contract other than this contract (such as a contract for sale of land)]

You may terminate this contract during the *settling-in period* by *permanently vacating* your premises.

[*Registered interest holders* where right to occupy the premises arises under a contract other than this contract (such as a contract for sale of land)]

You may terminate this contract during the *settling-in period* by:

- (a) *permanently vacating* your premises, or
- (b) giving us written notice during the *settling-in period* that you want to terminate this contract for any reason.

3.2 What will we charge you if you terminate during the *settling-in period*?

[All residence right types]

If you terminate this contract during the *settling-in period*, we may only charge you:

- (a) the fair market rent, but only if you have occupied your premises,
- (b) the reasonable costs incurred by us in adding, removing or altering any fixtures or fittings, or making any renovations to your premises at your request, but only if you have occupied your premises, and
- (c) an administration fee of not more than \$200.

[Residents where the right to occupy the premises arises under this contract (*delete or cross out if not applicable*)]

- (d) the cost of any repairs for damage to your premises in excess of fair wear and tear.

3.3 What are we required to pay you?

[Delete or cross out which of the below does not apply]

[Non-registered interest holders and registered long-term lessees]

If you terminate the contract within the *settling-in period*, we must refund the *entry payment* and any recurrent charges you paid us.

[Registered interest holders except registered long-term lessees]

If you terminate the contract within the *settling-in period* we must refund the proceeds of the sale to which you are entitled under this contract and any recurrent charges you paid us.

3.4 When are we required to pay you?

[Delete or cross out which of the below does not apply]

[Non-registered interest holders]

We must pay you the amount you are entitled to under clause 3.3 within 14 days after you terminate this contract or within such time as the *Tribunal* may order.

[Registered interest holders]

We must pay you the amount you are entitled to under clause 3.3 within 14 days after the date on which we receive full payment of the *new entry payment*, except where we are required to pay you earlier under the *retirement village laws*.

4 DISCLOSURE STATEMENT

4.1 What if this contract is inconsistent with the disclosure statement?

If any term of this contract (other than those which have been prescribed in the *retirement village laws*) is inconsistent, to your detriment, with the disclosure statement provided to you in accordance with the *retirement village laws*, this contract is to be interpreted (as far as practicable) as if it contained the information in the disclosure statement instead of the inconsistent term.

4.2 Can I terminate if the disclosure statement is false or misleading?

If the information in the disclosure statement is false or misleading in a material particular, you may apply to the *Tribunal* within 3 months of commencing occupation of your premises, for an order allowing you to rescind this contract.

5 SERVICES AND FACILITIES

5.1 Meaning of required services and facilities

We must provide you with a particular service or facility which we are required to provide to the residents for the life of the village in accordance with the terms of our development consent (*required services and facilities*).

5.2 Can we change the services and facilities?

Other than the *required services and facilities*, we may add a new service or facility or reduce, withdraw or otherwise vary the services and facilities if residents pass the change by special resolution in accordance with the

retirement village laws.

5.3 What optional services will we provide you?

A list of optional services is included in the list of services and facilities annexed to this contract. Unless Item F in the Financial Terms section indicates that *recurrent charges* includes optional services, payment for these services and facilities is on a user pays basis.

6 ALTERATIONS AND ADDITIONS

6.1 Can you alter or renovate your premises?

[Delete or cross out which of the below does not apply]

[Non-registered interest holders and registered long-term lessees]

- (a) You may add, remove or alter any fixtures and fittings, or renovate your premises, but only with our prior written approval which we will not unreasonably refuse. We may include reasonable conditions in our consent. If we do not consent to your proposal, you may apply to the *Tribunal* to seek an order allowing you to proceed with your proposal.
- (b) Despite (a), our consent is not required to remove or alter any fixtures or fittings that were added by you unless the removal or alteration of the fixtures or fittings is likely to cause significant damage to the premises.

[All other registered interest holders]

You may add, remove or alter any fixtures and fittings, or renovate your premises provided that you obtain any other necessary consent required from any authority such as the local council or the owners corporation (for strata schemes), company (for company title) or community association (for community land schemes).

7 REPAIRS, MAINTENANCE AND CAPITAL REPLACEMENT

7.1 Can you request repairs?

You may request us to carry out necessary repairs and maintenance to your premises if we are responsible for those repairs and maintenance under the *retirement village laws* or the terms of this contract.

7.2 What repairs and maintenance are we responsible for?

Subject to clause 7.3, we must maintain each *item of capital* for which we are responsible in a reasonable condition, having regard to:

- (a) the age of the item,
- (b) the prospective life of the item,
- (c) the money paid to us by the residents under a village contract (including entry payments), and
- (d) the amount of money available to be used for the purpose of maintenance in accordance with the approved annual budget for recurrent charges.

7.3 What repairs and maintenance are we not responsible for?

We are not responsible for *items of capital* that:

- (a) you own, or
- (b) require repair because of damage (fair wear and tear excepted) caused by you or a person that you invited to the village, or
- (c) are association property under a community land scheme, or
- (d) are common property under a strata scheme.

7.4 What general obligations do you have in relation to repairs and maintenance?

- (a) You must notify us of the need for maintenance to be carried out on, or the replacement of, an *item of capital* for which we are responsible and that is located within your premises as soon as you become aware of the need for the maintenance or replacement of the item.
- (b) You must reimburse us in respect of any damage (other than fair wear and tear) caused by you or a person you invited to the village to an *item of capital* for which we are responsible.
- (c) You must not hinder or obstruct us or a person authorised by us from carrying out capital maintenance or capital replacement in respect of an *item of capital* for which we are responsible.

7.5 Who is responsible for the replacement of items of capital?

We must bear the cost of capital replacement in respect of an *item of capital* for which we are responsible under the *retirement village laws*.

8 OPERATOR'S ACCESS TO PREMISES

8.1 When may we access the premises?

[All residence right types]

We (or anyone authorised by us), may access your premises at any reasonable time in the following circumstances:

- (a) if you consent, or
- (b) in an emergency, or if we have reasonable cause for concern about the health or safety of a person that we believe is on your premises, or
- (c) to carry out urgent repairs, or
- (d) to carry out general maintenance, but only if we have given you 7 days' notice, or
- (e) if the *Tribunal* orders you to give us access, or
- (f) to install a smoke alarm that is legally required to be installed or to replace a battery in any smoke alarm, but only if we have given you 2 days' notice, or
- (g) in any other circumstances that may be prescribed from time to time under the *retirement village laws*.

[Non-registered interest holders (delete or cross out if not applicable)]

- (h) to carry out a general inspection of your premises, but only if:
 - (i) we have given you 7 days' notice, and
 - (ii) a general inspection has not been carried out more than once in the immediately preceding 12 months.

9 VILLAGE RULES

9.1 How do the village rules apply?

If there are village rules:

- (a) you must comply with the village rules and use your best endeavours to ensure compliance with the village rules by any person who is lawfully in your premises or who you invite to the village, and
- (b) we must comply with the village rules and use our best endeavours to ensure compliance with the village rules by our residents, our tenants, employees and any other person that we invite to the village.

9.2 What if a village rule is inconsistent with this contract?

If a village rule is consistent with the *retirement village laws* but inconsistent with a term of this contract, the village rule prevails to the extent of the inconsistency.

10 GENERAL BEHAVIOUR OF OPERATOR AND RESIDENT

10.1 What are your general obligations?

You must:

- (a) not interfere or cause or permit interference, with the reasonable peace, comfort or privacy of another resident, and
- (b) respect our rights and the rights of our agents and employees, to work in an environment free from harassment or intimidation, and
- (c) not act in a manner that adversely affects the health and safety of persons working in the village.

10.2 What are our obligations?

We must:

- (a) not interfere or cause or permit interference, with the reasonable peace, comfort or privacy of a resident, and
- (b) take all reasonable steps to ensure that all residents meet their obligations under their contracts, the village rules and the *retirement village laws*, so that a resident does not unreasonably interfere with the peace, comfort and quiet enjoyment of his or her residents, and
- (c) not interfere with the right of any resident to autonomy over his or her personal, financial and other matters and over his or her possessions, and
- (d) not inhibit any resident from exercising self-reliance in matters relating to his or her personal, domestic and financial affairs, and
- (e) use our best endeavours to ensure that each resident lives in an environment free from harassment and intimidation.

11 TERMINATION

11.1 When does your right to occupy your premises end?

[Delete or cross out which of the below does not apply]

[Non-registered interest holders and non-assignable registered long-term lessees]

This contract terminates and your right to occupy your premises ends on the earliest of the following dates:

- (a) the date on which you *permanently vacate* your premises,
- (b) the date of disclaimer (for example, if we accept your renunciation of this contract),
- (c) the date of the death of the last surviving resident under this contract,
- (d) the date specified by the *Tribunal*,
- (e) if we give you a notice that we are terminating this contract because it has been frustrated (for example, because the premises become uninhabitable), on the 8th day after the date specified in the notice, or
- (f) any earlier date of termination specified in the additional terms.

[Registered interest holders (other than registered long-term lessees)]

This contract terminates and your right to occupy your premises ends on completion of the sale of your premises.

[Assignable registered long-term lease]

Your right to occupy your premises ends on the assignment of your lease.

11.2 When can we terminate this contract?

[Delete or cross out if registered interest holder (other than registered long-term lessees)]

- (a) We can only terminate this contract, for the following reasons, if we obtain a decision from the *Tribunal* to allow the termination:
- (i) on the grounds of your physical or mental incapacity, or
 - (ii) for breach of contract or a village rule, or
 - (iii) if you are causing serious injury or damage to any part of the village, our employees or to any other resident, or
 - (iv) for upgrade or change of use of the village.
- (b) We may give you a notice of termination if this contract has been frustrated (i.e. if your premises are, otherwise than as a result of a breach of this contract, destroyed or rendered wholly or partly uninhabitable or cease to be lawfully usable for the purpose of a residence or are appropriated or acquired by any authority by compulsory process). You may seek an order of the *Tribunal* preventing the termination of the contract on this basis if you consider that the premises have not been rendered wholly or partly uninhabitable (as the case may be).

12 FINDING A NEW RESIDENT WHEN YOU LEAVE

12.1 Who sets the asking *new entry payment*?

[Delete or cross out which of the below does not apply]

[Non-registered interest holders]

Unless the additional terms provide otherwise, the amount we ask the next resident to pay as a *new entry payment* will be determined by us, we may appoint an agent of our choice and the process of finding a new resident for your premises will be handled by us.

[Registered interest holders]

You may set the asking *new entry payment* and if you do, you must notify us as soon as reasonably practicable of:

- (a) the amount you set as the asking *new entry payment*, and
- (b) any changes you make to the amount you have set as the asking *new entry payment*.

[Registered interest holders]

12.2 Are you entitled to appoint a selling agent of your choice?

You may appoint a selling agent of your choice provided that the selling agent is licensed as a real estate agent in New South Wales if required by law. You may appoint us if we are eligible to be appointed.

13 ASSIGNMENT AND SUBLETTING YOUR PREMISES

13.1 Can you assign this contract?

[Delete or cross out which of the below does not apply]

[Assignable leases]

You may assign your contract by completing a deed of assignment and consent with the new resident(s) and us and a transfer of lease with the new resident(s).

[All residence right types except assignable leases]

You may not assign this contract without notifying us and obtaining our consent.

13.2 Can you sublet your premises?

[Delete or cross out which of the below does not apply]

[Registered interest holders]

- (a) You may let or sublet your premises under a residential tenancy agreement provided that:
- (i) the tenant is a retired person who is eligible under the *retirement village laws* to move into a retirement village, and
 - (ii) the term, together with any option to renew, is not more than 3 years, and
 - (iii) you have given us written particulars of:
 - (A) the name and age of the proposed tenant or subtenant, and
 - (B) the term of the proposed residential tenancy agreement, and
 - (C) such other matters in relation to the proposed agreement as we may reasonably require,
- and we have consented in writing to the residential tenancy agreement.
- (b) We must apply for an order of the *Tribunal* if we refuse to give you consent.

[Non-registered interest holders]

You agree that you may not assign, sublet or let others move in to your premises without notifying us and obtaining our consent. This does not apply to temporary visitors and guests.

14 TEMPORARY ABSENCE

14.1 What happens if you are temporarily absent from your premises?

If you plan to be away from the village for more than 28 days you must let us know. You will not be liable to pay recurrent charges for optional services for the days you are away after 28 days of absence.

15 CONDITION OF PREMISES ON TERMINATION

15.1 In what condition must you leave the premises?

[Delete or cross out which of the below does not apply]

[Registered interest holders]

You are not liable to pay for the cost of any improvement to your premises in excess of that required to reinstate your premises to the condition it was in when you commenced occupation (fair wear and tear excepted).

[Non-registered interest holders]

- (a) You must leave your premises as nearly as possible in the same condition (fair wear and tear excepted) as set out in the annexed condition report, allowing (subject to the reasonable conditions of our consent) for any renovations or alterations to fixtures or fittings made with our consent. If you do not, we may require you to bear the cost of any repairs required.
- (b) You are not required to refurbish your premises or pay for the cost of any improvement to your premises in excess of that required to reinstate your premises to the condition it was in (fair wear and tear excepted) at your entry date.

16 NOTICES

16.1 How are notices given and received?

- (a) A notice or other document given to you under this contract may be given:
- (i) by delivering it personally to you, by sending it by post to the residential premises occupied by you and addressed to you, or in such other manner as may be approved by the *Tribunal*, and

- (ii) provided that it is not a termination notice, by delivering it to you by hand (rather than sending it by post) to your letterbox or by facsimile or other electronic means.
- (b) A notice or other document given to us under this contract may be given:
 - (i) by delivering it personally to us, by sending it by post to our usual place of business, or in such other manner as may be approved by the *Tribunal*, and
 - (ii) provided that it is not a termination notice, by delivering it by hand (rather than sending it by post) to our letterbox or by facsimile or other electronic means.
- (c) The *retirement village laws* set out the specific requirements for the giving of notices to protected persons within the meaning of the *NSW Trustee and Guardian Act 2009* and to operators in receivership or administration and those requirements also apply to this contract.
- (d) A notice given to a person in accordance with this clause is treated as having been given and received:
 - (i) if delivered in person, by hand or by facsimile or other electronic means, on the day of delivery, or
 - (ii) if sent by post (unless evidence sufficient to raise doubt is adduced to the contrary), on the second *business day* after it was posted, or
 - (iii) if given in a manner approved by the *Tribunal*, when the *Tribunal* deems it to have been given and received.
- (e) A party may change its address for service by giving notice of that change to each other party.
- (f) A notice given to a person you have appointed as your agent to receive notices in accordance with the *retirement village laws* will be deemed to have been given to you, if given in accordance with this clause.

17 CHANGES IN CONTRACT

17.1 Can our rights and your rights under this contract be changed?

- (a) You are not obliged to agree to amend or terminate this 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.
- (b) If we propose a change to this contract we must pay the reasonable costs of a legal practitioner of your choosing to explain the proposed change to you and to provide a certificate in accordance with the requirements of the *retirement village laws*.
- (c) Your rights and responsibilities and our rights and responsibilities under this contract may change if the *retirement village laws* are amended.

18 DISPUTE RESOLUTION

18.1 How are disputes resolved?

If a dispute arises between you and us or between you and another resident we encourage you to notify us so we can try to resolve it but you do not have to do so if you do not wish to. If there is a dispute you have the right under the *retirement village laws* to apply to the *Tribunal* and you are not required to notify us before you do so.

18.2 Where can I get information if I have a dispute?

If a dispute arises, you may seek information from NSW Fair Trading by visiting www.fairtrading.nsw.gov.au or by calling 13 32 20.

ADDITIONAL TERMS

NOTE—

ANY ADDITIONAL TERMS ARE NOT REQUIRED BY LAW AND ARE NEGOTIABLE BEFORE YOU SIGN THIS CONTRACT.

Additional terms may be inserted here, but only if:

- (a) they do not contravene the *retirement village laws* or any other law, and
- (b) they are not inconsistent with the standard terms prescribed under the *retirement village laws*.

ANNEXURES

The following documents are annexed to this contract (*tick whichever applicable*):

- ☐ a copy of the disclosure statement that we gave you (mandatory)
- ☐ your premises condition report (mandatory unless your premises are not yet constructed, you are a *registered interest holder* or you are moving into premises with a current resident)
- ☐ a list of services and facilities we provide (mandatory)
- ☐ the village rules (if any) (mandatory)
- ☐ a list of inclusions
- ☐ a list of exclusions
- ☐ the village site plan
- ☐ your premises floor plan
- ☐ other (*specify*):

EXECUTED as an agreement/deed [*delete or cross out whichever does not apply*]

[*Appropriate signing clause for the operator to be inserted*]

Signed by the Resident(s)

Resident 1

- ☐ I have obtained independent legal advice on this contract
- ☐ I have decided not to obtain independent legal advice on this contract

Signature of Resident 1

Print Name

Date

Signature of Witness (Resident 1)

Print Name

Resident 2

- ☐ I have obtained independent legal advice on this contract
- ☐ I have decided not to obtain independent legal advice on this contract

Signature of Resident 2

Print Name

Date

Signature of Witness (Resident 2)

Print Name

[*Appropriate signing clause for any other parties to be inserted if applicable*]

Schedule 3 Matter to be excluded from village contracts

(Clause 15)

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 the 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 4 Model proposed annual budget

(Clause 18 (1))

NAME OF VILLAGE:

PROPOSED ANNUAL BUDGET 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	\$	\$	\$
Miscellaneous			
Contingencies	\$	\$	\$
ESTIMATED TOTAL EXPENDITURE			
ESTIMATED SURPLUS OR DEFICIT			

Long-term capital works 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 capital works 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)*:

Signature of operator or operator's nominee:

Printed name of operator or nominee:

Date of signature:

Schedule 5 Time for making of applications to Tribunal

(Clause 38 (1))

Column 1 Column 2

Section Time during which application may be made

18 (6)	no earlier than 14 days after date of request for disclosure statement
36 (3)	no earlier than 1 month after service of rescission notice
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 date of notification of refusal to consent
107 (5)	no earlier than 14 days after date of request by Residents Committee under section 107 (4)
108 (1)	up to 30 days after date of notification of refusal to 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 the 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)	no later than 14 days after service of termination notice
134 (2)	no later than 14 days after service of termination notice
135 (1)	up to 30 days after alleged incident became known to operator
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
	no 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:
147 (1)	(a) the former resident vacated premises concerned (if the residence contract was terminated by order of the Tribunal), or
	(b) 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 of receipt of claim
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) (a) up to 14 days after due date for payment

Schedule 6 Penalty notice offences

(Clause 57)

Column 1	Column 2
Provision of Act	Amount \$
Section 17 (5A)	1,100
Section 18 (3)	440
Section 18 (4)	220
Section 18 (5)	2,200
Section 19 (2)	220
Section 20 (1)	550
Section 20 (3)	550
Section 21 (1) (a)	1,100
Section 21 (1) (b)	1,100
Section 21 (1) (c)	1,100
Section 24A (1)	2,200
Section 27	2,200
Section 29 (1A)	2,200
Section 39 (1)	1,100
Section 39 (2)	1,100
Section 39 (3) (a)	550
Section 39 (3) (b)	550
Section 59A	440
Section 72A (1)	440
Section 72A (4)	440
Section 99 (5)	2,200
Section 101 (1)	440
Section 106A	1,100
Section 110 (1)	110

Section 110 (2)	110
Section 112 (1)	2,200
Section 118 (1)	1,100
Section 118 (3)	440
Section 119 (1)	1,100
Section 147 (5)	440
Section 165 (1) (a)	220
Section 165 (1) (c)	220
Section 165 (1) (d)	220
Section 165 (1) (e)	220
Section 180 (2)	1,100
Section 180 (3)	220
Section 181 (2)	1,100
Section 181 (4)	220
Section 182C (1)	2,200
Section 197	1,100

Column 1	Column 2
Provision of this Regulation	Amount \$
Clause 45 (1)	440
Clause 47 (1)	440

Schedule 7 Provisions relating to consent of residents

(Clause 59)

1 Definitions

In this Schedule:

ballot means a ballot conducted at a meeting of residents.

qualified voter means a resident of the retirement village.

returning officer means a resident (who is not a member of the Residents Committee and is not standing for election to the Residents Committee) selected by a show of hands at a meeting of the residents.

2 Notice of special resolution

If a measure or action requires a special resolution:

- (a) a resolution concerning the action or measure must be put to a meeting of residents of the retirement village, and
- (b) at least 21 days' written notice of the meeting must be given to all residents of the village, and
- (c) the notice must:
 - (i) set out the resolution, and
 - (ii) specify that the resolution is to be put as a special resolution, and
 - (iii) specify that residents of the village may submit their vote prior to the meeting in writing (and give directions as to the manner in which such a vote is to be recorded and submitted), and
 - (iv) be accompanied by a ballot paper initialled by the returning officer.

3 Postal votes

- (1) A qualified voter may, prior to a meeting in respect of a special resolution, submit his or her vote in writing (**postal vote**) to:
 - (a) the Residents Committee, or
 - (b) if there is no such Committee established in the retirement village, to the operator of the village.
- (2) The Residents Committee (or, if there is no such Committee established in the retirement village, the operator of the village) must keep all postal votes received prior to the meeting in a safe and secure location.
- (3) At the meeting in respect of a special resolution, each postal vote must be accounted for against a current list of residents and be handed to the returning officer.
- (4) If a qualified voter has submitted a postal vote in accordance with this clause, that voter may not change or withdraw his or her postal vote or vote in person or by proxy at the meeting in respect of the special resolution.

4 Quorum required for special resolution

- (1) A special resolution submitted at a meeting of the residents of a retirement village must not be considered unless there is a quorum present to consider and vote on the resolution.
- (2) There is a quorum for considering and voting on such a resolution only if:

(a) a minimum of 5 qualified voters, or 25% of qualified voters (whichever is the greater), or

(b) where the village has fewer than 10 occupied residential premises—the qualified voters from a majority of the occupied residential premises,

is able to vote on the resolution at the meeting, either personally, by postal vote or by proxy.

(3) If a quorum, as provided by subclause (2), is not present within the next half hour after the relevant resolution arises for consideration at the meeting, the meeting stands adjourned for at least 7 days.

(4) If a quorum, as provided by subclause (2), is not present within the next half hour after the time fixed for the adjourned meeting, the qualified voters present personally or by proxy or postal vote constitute a quorum for considering that resolution.

5 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.

6 Conduct of written ballot

(1) If a vote is to be taken by means of a written ballot (including a vote on a special resolution), the returning officer must cause sufficient ballot papers to be prepared so that a ballot paper can be given to each qualified voter.

(2) The ballot paper must contain details of the measure or action requiring a vote and directions as to the manner in which a vote is to be recorded and returned to the returning officer.

Note—

For example, the ballot paper may have the question to be answered followed by a yes box and a no box and instructions that the voter clearly mark one of the boxes with a tick or a cross.

(3) The returning officer must provide to each qualified voter (or if the qualified voter has a proxy, to the voter's proxy) at the meeting a ballot paper initialled by the returning officer.

(4) In order to vote on the resolution at the meeting, a qualified voter (or if the qualified voter has a proxy, the voter's proxy):

(a) must record a vote on the ballot paper in accordance with the directions shown on it, and

- (b) must fold the completed ballot paper so that the vote cannot be seen, and
- (c) must place the ballot paper in the ballot box.

7 Count of votes

- (1) The result of a vote is to be ascertained by the returning officer as soon as is practicable.
- (2) The returning officer is to count the votes (whether by written ballot or show of hands) and any postal votes received (in respect of a special resolution) to ascertain the result of the vote.

8 Returning officer's decision final

If the returning officer is permitted or required to make a decision on any matter under this Schedule, the decision of the returning officer on that matter is final.

9 Report of result

- (1) When he or she first ascertains the result of the vote, the returning officer is to announce the result and is then to prepare a written report of the result.
- (2) Copies of the report are to be given to the Residents Committee (if there is one) and placed on a notice board in a common area of the retirement village.