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FAIR TRADING ACT 2010

FAIR TRADING (RETIREMENT VILLAGES INTERIM CODE) REGULATIONS (No. 2) 2014

Western Australia

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014

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Defined terms

Fair Trading Act 2010

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014

Made by the deputy of the Administrator in Executive Council.

1. Citation

These regulations are the *Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on 1 October 2014.

3. Code of practice prescribed

(1) The code of practice set out in Schedule 1 and cited as the *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014* is prescribed under the *Fair Trading Act 2010* section 46 as a code of practice that applies in relation to retirement villages as defined in the *Retirement Villages Act 1992* section 3(1).

(2) The *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014* is to remain in force for the period of 6 months beginning on 1 October 2014.

4. Terms used in the code of practice

(1) Except where the contrary intention appears, words and expressions used in the *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014* have the same meaning as in the *Retirement Villages Act 1992*.

(2) Boxed and shaded paragraphs in the *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014* are not part of the Code and are included only to assist readers of the Code.

5. *Fair Trading (Retirement Villages Interim Code) Regulations 2014* repealed

The *Fair Trading (Retirement Villages Interim Code) Regulations 2014* are repealed.

Schedule 1 — *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014*

[r. 3(1)]

Foreword

An increasing number of retired people are finding the concept of retirement villages attractive. These villages exist in a number of forms with a range of tenures and accommodation types. Different financial arrangements and forms of contract include lease, licence, a right conferred by shares, strata title, or freehold title. Retirement villages also differ widely with regard to the nature of care and other amenities and services that may be available.

The Code, the *Retirement Villages Act 1992* and *Retirement Villages Regulations 1992* provide a package for the regulation of the retirement village industry that safeguards the rights of both the residents and the owners of retirement villages, and provides clear guidelines for the industry. The Code sets out the practices that apply to the promotion, sale and operation of retirement villages.

This Code has been prescribed as an interim code under the *Fair Trading Act 2010* section 46. It is, in substance, the same as the *Interim Code of Fair Practice for Retirement Villages 2014*, which lapsed on 30 September 2014. This Code will remain in force for 6 months from 1 October 2014, to allow time for consultation and development of a new revised Code, in accordance with the *Fair Trading Act 2010* section 44.

Division 1 of the Code deals with, and provides information on, general matters such as the meaning of terms used in the Code; the application, general principles and objectives of the Code; the basic rights of residents of a retirement village and the Code's relationship to other relevant legislation.

Division 2 sets out the approvals that must be obtained before any sales promotion of a retirement village is undertaken, and specifies the information that must be disclosed in any advertising or promotional material.

Division 3 sets out the information that must be provided to a prospective resident of a retirement village before the person enters into a residence contract or any service contract with the administering body of the village.

Division 4 specifies the information that must be included in the residence contract and any service contract.

Division 5 sets out the rights and obligations of the administering body and residents in relation to the management and operation of a retirement village, including consultation on the village operating budget, the provision of quarterly operating income and expenditure statements, the establishment of a residents' committee and the holding of residents' meetings.

Division 6 recognises that disputes may occur in a retirement village and outlines the processes that may be utilised to resolve them, including mediation.

Division 7 explains the rights and the obligations of the administering body and a resident of a retirement village, in relation to the termination of a residence contract.

Division 8 specifies the method of delivery of any written notice, correspondence or other document that must be given under this Code to a resident or the administering body of a retirement village.

Appendix 1 provides a list of questions that a prospective resident should carefully read and consider before deciding to enter any retirement village.

Compliance with this Code

The Code must be complied with and is enforceable by the Commissioner in the State Administrative Tribunal under the *Fair Trading Act 2010*.

Where it appears to the Commissioner that an administering body has not complied with the Code, the Commissioner may apply to the State Administrative Tribunal for an order, and the State Administrative Tribunal may make orders including that —

- the administering body cease contravening the Code; and/or
- the administering body rectify any consequence of that contravention.

An administering body that fails to comply with an order made by the State Administrative Tribunal commits an offence that is punishable by a fine of up to $50,000.

Division 1 — Preliminary

1.1 Citation

This Code is the *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014*.

Definitions in the *Retirement Villages Act 1992*

The following definitions from the *Retirement Villages Act 1992* have application to this Code —

administering body, in relation to a retirement village, means the person by whom, or on whose behalf, the retirement village is administered and includes a person (other than a resident) who is the owner of land within the retirement village;

Commissioner means the person for the time being designated as the Commissioner under section 7A;

levy means a single amount that the residents of a retirement village are required to pay to recover an unforseen operating expense of the retirement village not provided for in the recurrent charges;

owner, in relation to land under the operation of the *Transfer of Land Act 1893*, means a person who alone or with others is registered as the proprietor of an estate in fee simple;

premium means a payment (including a gift) made to the administering body of a retirement village in consideration for, or in contemplation of, admission of the person by or on whose behalf the payment was made as a resident in a retirement village (including any such payment made for the purchase of residential premises in a retirement village or for the purchase, issue or assignment of shares conferring a right to occupy any such residential premises) but does not include —

(a) any such payment excluded by regulation from the ambit of this definition; or

(b) a levy or recurrent charges;

recurrent charge means any amount (including rent) payable by a resident to the administering body of a retirement village on a recurrent basis;

residence contract means a contract, agreement, scheme or arrangement which creates or gives rise to a right to occupy residential premises in a retirement village, and may take the form of a lease or licence;

residence rules means the rules with which residents of a retirement village are expected by the administering body to comply, but does not include any prescribed subsidiary legislation (to which residents are subject) in force under any prescribed Act;

resident, in relation to a retirement village, means a person who has been admitted to occupation of residential premises in accordance with a retirement village scheme and includes a spouse or de facto partner of such a person who —

(a) is residing with that person; or

(b) was residing with that person at the time of his or her death;

residential premises means any premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence and includes a hostel unit;

residential tenancy agreement has the same meaning as in the *Residential Tenancies Act 1987*;

retired person means a person who has attained the age of 55 years or retired from full-time employment or a person who is or was the spouse or de facto partner of such a person;

retirement village means a complex of residential premises, whether or not including hostel units, and appurtenant land, occupied or intended for occupation under a retirement village scheme or used or intended to be used for or in connection with a retirement village scheme;

retirement village scheme or ***scheme*** means a scheme established for retired persons or predominantly for retired persons, under which —

(a) residential premises are occupied in pursuance of a residential tenancy agreement or any other lease or licence; or

(b) a right to occupation of residential premises is conferred by ownership of shares; or

(c) residential premises are purchased from the administering body subject to a right or option of repurchase; or

(d) residential premises are purchased subject to conditions restricting the subsequent disposal of the premises; or

(e) residential premises are occupied under any other scheme or arrangement prescribed for the purposes of this definition,

but does not include any such scheme under which no resident or prospective resident of residential premises pays a premium in consideration for, or in contemplation of, admission as a resident under the scheme;

service contract means a contract between an administering body or former administering body of a retirement village and a resident for the provision to the resident of —

(a) hostel care; or

(b) infirmary care; or

(c) medical or nursing services; or

(d) meals; or

(e) administrative and management services; or

(f) maintenance and repair services; or

(g) recreation services or amenities or entertainment services or amenities; or

(h) any other services,

and any collateral agreement or document relating to the provision of any such service;

working day means a day other than a Saturday, a Sunday or a public holiday.

1.2 Application

(1) Subject to subclause (2), this Code applies to the administering body and a resident or prospective resident of a retirement village, whether or not the village was established before or after the commencement of the Code.

(2) This Code does not apply to the administering body or a resident or prospective resident of a retirement village if —

(a) the administering body is an ***approved provider*** within the meaning of the *Aged Care Act 1997* (Commonwealth) in relation to the residential premises used or intended to be used as a place of residence by the resident or prospective resident; and

(b) the administering body provides, or is to provide, the resident or prospective resident with ***residential care*** within the meaning of the *Aged Care Act 1997* (Commonwealth); and

(c) the resident or prospective resident is receiving, or is entitled to receive, residential care in respect of which the administering body is eligible for ***residential care subsidy*** within the meaning of the *Aged Care Act 1997* (Commonwealth).

(3) Except as provided in subclause (4), Division 2 of this Code does not apply to any contract, agreement or arrangement made or entered into prior to the commencement of the Code.

(4) If a contract, agreement or arrangement made or entered into prior to the commencement of this Code is silent on a matter with which Division 2 of the Code deals, the provisions of Division 2 will apply to such matter.

This Code and the *Retirement Villages Act 1992* do not apply to residential care services provided by an administering body under the *Aged Care Act 1997* (Commonwealth).

Note that under the *Fair Trading Act 2010* section 10 this Code binds the Crown.

1.3 General principles

The general principles guiding all those involved in the provision of retirement villages and related services are that —

(a) the well-being and interests of residents, together with the rights of administering bodies, must be given due consideration; and

(b) the freedom of decision and action of each resident must be restricted as little as possible and must be recognised in the relationship between a resident and the administering body of a retirement village; and

(c) the relationship of residents with their family and past and present communities is important and must be recognised, taking into account the cultural, religious and linguistic background of each resident; and

(d) residents must be treated fairly and not subject to abuse or exploitation.

1.4 Objectives of the Code

The objectives of the Code are to —

(a) promote fair trading practices in the provision of retirement villages and related services by setting out the rights and obligations of residents and administering bodies in retirement villages; and

(b) encourage fairness in the promotion, sale or grant of rights in, and operation of, retirement villages; and

(c) require the disclosure of all relevant information to a person who is considering entering a particular retirement village; and

(d) require contracts for the occupation of residential premises and for the provision of amenities and services in a retirement village to contain full details of the obligations and entitlements of the resident and the administering body; and

(e) facilitate consultation between the administering body and the residents on the management of a retirement village; and

(f) establish appropriate mechanisms for the resolution of any dispute in a retirement village between the residents and the administering body or between residents.

1.5 Resident's basic rights

(1) The administering body of a retirement village must respect a resident's basic right to privacy in his or her residential premises, subject to the right of the administering body to inspect the premises as set out in the residence rules and the residence contract.

(2) The administering body must respect a resident's basic right to quiet enjoyment of his or her residential premises and any communal amenities.

(3) The administering body must respect a resident's basic right to complete autonomy over his or her property and personal and financial affairs, subject to any statutory restriction or any other restriction provided for in the residence contract.

Other relevant legislation

The provisions of this Code should be read in conjunction with other relevant legislation. The *Retirement Villages Act 1992* and the *Retirement Villages Regulations 1992* set out rights and obligations relating to retirement villages. The *Fair Trading Act 2010* is applicable to residence contracts and other contracts concerning retirement villages. Where residential premises in a retirement village are strata titled,

the provisions of the *Strata Titles Act 1985* and any applicable by-laws also apply.

The *Aged Care Act 1997* (Commonwealth) has application to residential care services provided under that Act by the administering body of a retirement village.

Division 2 — Advertising and promotion of retirement villages

2.1 General

All promotional or sales material provided by, or on behalf of, the administering body of a retirement village about that village, whether in written or oral form, must be —

(a) truthful, accurate and unambiguous; and

(b) entirely consistent with the provisions of this Code, the *Retirement Villages Act 1992* and the *Fair Trading Act 2010*.

2.2 Retirement village developments

(1) The owner of land upon which a retirement village is to be developed, must obtain all necessary consents to develop the retirement village from the relevant authorities before any sales promotion of the village is undertaken.

(2) Subclause (1) does not preclude the owner from carrying out a market survey or inviting expressions of interest in the proposed retirement village prior to any sales promotion.

(3) Where the consent to develop a retirement village includes a requirement for certain amenities or services to be provided for the life of the village, that requirement must be included in any promotional or sales material provided to a prospective resident.

2.3 Proposed amenities and services

Where the promotional or sales material provided by, or on behalf of, the administering body of a retirement village makes

reference to proposed amenities and services in the village, the promotional or sales material must —

(a) state —

(i) the latest date by which those amenities and services will be provided or made available to the residents of the village; or

(ii) the happening of an event upon which the provision or availability of those amenities and services depends;

and

(b) state any conditions upon which the provision or availability of those amenities and services to the residents depend.

2.4 Approvals for facilities that provide residential aged care services

The administering body must obtain all necessary consents from the relevant authorities to operate facilities that provide residential care services under the *Aged Care Act 1997* (Commonwealth), before such facilities are promoted as being available to, or associated with, a retirement village.

2.5 Access to residential aged care services

Where the promotional or sales material provided by, or on behalf of, the administering body of a retirement village makes reference to the availability of residential care services under the *Aged Care Act 1997* (Commonwealth), the following statement on the terms of access to such services printed in 16 point type and boxed must be included in the promotional or sales material —

You should be aware that current Commonwealth policy guidelines on admission to Commonwealth funded

residential aged care facilities require places to be allocated on a "needs" basis. It is not possible for an organisation providing services for older people to guarantee admission to Commonwealth funded residential aged care facilities.

Division 3 — Prospective resident's right to information before entering into a residence contract or service contract

3.1 Before entering into a residence contract

The owner of a retirement village must make the following information available, in writing, to a prospective resident of the retirement village at least 5 working days before the prospective resident enters into a residence contract for occupation of residential premises in the village —

(a) a copy of —

(i) if the retirement village is already operating, the audited or actual accounts of income and expenditure for the previous financial year of the village and the operating budget for the current financial year; or

(ii) in any other case, the proposed operating budget for the first year of operation;

(b) a copy of every contract required to be entered into in order to reside in the retirement village and details of any costs associated with entering into every such contract;

(c) if the residential premises are comprised in a strata plan or a survey-strata plan registered under the *Strata Titles Act 1985* —

(i) a copy of the by-laws of the relevant strata company; and

(ii) an authority to obtain information pursuant to the *Strata Titles Act 1985* section 43.

Note that under the *Retirement Villages Act 1992* section 13(2)(c) the owner of a retirement village is obliged to provide a prospective resident with a copy of the residence rules of that village. A full statement of the rights conferred under sections 13 and 14 of that Act is set out in the *Retirement Villages Regulations 1992* Schedule 1 Form 2.

Information statement by owner

Note that under the *Retirement Villages Act 1992* section 13(2)(a), an owner is required to provide a prospective resident with written answers to the questions set out in the *Retirement Villages Regulations 1992* Schedule 1 Form 1. The questions require the owner to disclose such things as —

- the premium (i.e. the ingoing contribution) and other costs payable by the resident to enter the retirement village; and
- the village operating costs payable by the resident and the method or calculation used to determine and vary those costs; and
- the amenities and services that are provided or made available to the resident and the charges or fees payable by the resident to access or use those amenities and services; and
- details of costs associated with moving to and living in alternative accommodation within the retirement village; and

- a clear explanation of the right of the resident to a refund of the whole or a part of the premium on the termination of the residence contract.

Appendix 1 — Checklist for residents

A prospective resident should carefully read and consider the list of questions provided in Appendix 1 to this Code before deciding to enter any retirement village.

3.2 Before entering into a service contract

The administering body of a retirement village must give the following information in writing to a prospective resident, or a resident, at least 10 working days before that person enters into a service contract with the administering body —

(a) the costs payable under the contract, including all ongoing village operating costs or charges; and

(b) details of the services to be provided under the contract; and

(c) details of the notice to be given to, and the costs payable by, the resident to terminate the provision of the services.

Division 4 — Residence contract and service contract

4.1 Legibility and presentation requirements

(1) The residence contract and any service contract between the administering body and a prospective resident, or a resident, of a retirement village must —

(a) be written in clear, concise and plain language; and

(b) be printed in a size not less than 12 point type.

(2) The following statement must appear in 16 point type and be included in the residence contract and any service contract —

I acknowledge that I have been given a copy of, and have had the opportunity to take independent advice on, this contract.

Residence contract cooling off period

Under the *Retirement Villages Act 1992* section 14, a residence contract entered into after the commencement of the Act must provide for a cooling-off period of not less than 7 working days after the date of the contract (i.e. the day on which the contract was signed by the last party to sign it).

If the information referred to in section 13(2) of that Act is not provided at least 10 working days before a residence contract is entered into, the cooling-off period for that contract is 17 working days after the day on which the information is provided.

During the cooling-off period, a person may withdraw from a residence contract by giving notice in writing to all other parties to the contract (unless the person has entered into residence in the retirement village during the cooling-off period).

On withdrawing from a residence contract a person is entitled, subject to the provisions of the *Retirement Villages Act 1992* sections 14(2) and 75, to the full repayment of all moneys paid.

4.2 Title and tenure

The residence contract must fully disclose —

(a) the legal basis of occupancy (e.g. whether the resident is purchasing or leasing the property or occupying the property under licence); and

(b) the type of occupancy (e.g. self-care or serviced unit); and

(c) the length of time the resident is entitled to reside in the retirement village in return for payment under the residence contract.

4.3 Residential premises

(1) The residence contract for residential premises in a retirement village that is proposed or under construction must include —

(a) a description of the fixtures, fittings and furnishings that are to be provided in the residential premises; and

(b) plans that show the location, floor plan and significant dimensions of the residential premises; and

(c) plans that show the location, size and other features of any separate carport, garage, storage or other area to be allocated to the resident; and

(d) a map that shows all buildings and grounds that will form the communal property of the retirement village.

(2) The residence contract for residential premises in an existing retirement village must —

(a) identify the specific address of the residential premises; and

(b) include a description of the fixtures, fittings and furnishings that are, or are to be, provided in the residential premises; and

(c) identify facilities such as a carport, garage, storage or other area allocated to the resident; and

(d) include a map that shows all buildings and grounds that form the communal property of the retirement village.

4.4 Amenities

The residence contract must state —

(a) all amenities that are, or are to be, provided or made available to the resident by the administering body; and

(b) any charges or conditions that apply to the resident's access to, or use of, those amenities; and

(c) the basis for the future determination of the costs of providing or making those amenities available.

4.5 Services

(1) A service contract must state —

(a) the nature of the services that are, or are to be, provided or made available to the resident by the administering body; and

(b) any charges or conditions that apply to the resident's access to, or use of, those services; and

(c) the basis for the future determination of the costs of providing or making those services available.

(2) A resident is not liable to pay for personal services that the resident does not receive, other than the reasonable costs incurred in making any service available, where —

(a) the residence contract has been terminated; or

(b) the resident has permanently vacated the residential premises; or

(c) the resident has temporarily ceased to reside in the residential premises.

(3) For the purposes of subclause (2), ***personal services*** means any amenity or service provided to a resident by the administering body, other than the provision of —

(a) residential accommodation; and

(b) communal amenities in the retirement village; and

(c) village management services.

Examples of personal services are the provision of meals, laundry services and the cleaning of the resident's residential premises.

4.6 Payment of premium and refund entitlement

The residence contract must state —

(a) any premium or rent payable by the resident to secure residential premises in the retirement village; and

(b) the right of the resident to a refund of the whole or a part of the premium on the termination of the residence contract, including —

(i) the method or calculation used to determine the refund and when it is to be paid; and

(ii) any fees or commissions charged by the administering body and the method or calculation used to determine those fees or commissions; and

(iii) any other costs or charges that may be deducted from the refund entitlement of the resident.

An example of a cost referred to in paragraph (b)(iii) above is the cost of any repair or refurbishment of the residential premises.

4.7 Charges for village operating costs

The residence contract must state —

(a) the items of the village operating costs to which the resident must contribute; and

(b) the actual or estimated operating costs for the current financial year of the retirement village and the basis for the future determination of those costs; and

(c) any ongoing village operating costs or charges that the resident will be liable for if —

(i) the resident permanently vacates the residential premises; and

(ii) another person has not been admitted to occupation of the premises under the retirement village scheme;

and

(d) who is responsible for the costs of maintaining the residential premises in a reasonable state of repair, including the replacement and maintenance of fixtures and fittings.

4.8 Reserve funds

(1) The residence contract must include details of —

(a) any reserve fund that is, or is proposed to be, established in the retirement village for the purpose of accumulating funds to meet the costs of repairs, replacements, maintenance and renovations within the village; and

(b) any contribution that a resident is required to make to the reserve fund, including the method or calculation used to determine the resident's contribution.

(2) If the retirement village is comprised in a strata plan or a survey-strata plan registered under the *Strata Titles Act 1985*, this clause applies to any reserve fund established by the relevant strata company under that Act.

4.9 Relocation

The residence contract must include the following information regarding the transfer or relocation of the resident to other residential premises within the retirement village —

(a) the circumstances under which the resident can transfer or be relocated;

(b) the financial arrangements which would apply on such a transfer or relocation;

(c) who is responsible for any ongoing village operating costs or charges levied against the residential premises from which the resident will have moved;

(d) the period for which the responsibility under paragraph (c) will continue.

4.10 Termination of residence contract and fees payable on termination

(1) The residence contract must set out —

(a) the manner in which a resident may terminate a residence contract after the expiration of the cooling-off period, including who is to be responsible for ongoing village operating costs or charges during a period of vacancy of the residential premises; and

(b) all fees that are payable by a resident on the termination of the residence contract.

The conditions under which a residence contract can be terminated, and the cost of the termination, must also be specified in the answers to the questions set out in the *Retirement Villages Regulations 1992* Schedule 1 Form 1 that must be given to a prospective resident.

(2) The residence contract must include —

(a) a statement that the administering body cannot terminate the contract without the agreement of the resident or an order of the State Administrative Tribunal; and

(b) a summary of the powers of the State Administrative Tribunal to terminate a residence contract.

The legal rights and responsibilities of the administering body and the resident in relation to the termination of a residence contract are set out in the *Retirement Villages Act 1992* Part 4 Division 5 and clause 7.1 of this Code.

A summary of these rights and responsibilities and the powers of the State Administrative Tribunal to terminate a residence contract, is set out in the boxed and shaded information in Division 7 of this Code.

4.11 Residence contract to refer to this Code and the *Retirement Villages Act 1992*

(1) The residence contract must draw the resident's attention to the existence of this Code and the *Retirement Villages Act 1992*.

(2) The residence contract must clearly disclose the right of the resident to —

(a) be consulted on, and have access to information about, administrative and operating financial arrangements of the retirement village, as provided for under clause 5.2 of this Code; and

(b) have a dispute dealt with —

(i) within the retirement village, as provided for under clause 6.2 of this Code; and

(ii) by referring any matter in dispute to the Commissioner for investigation and attempted resolution; and

(iii) by requesting the Commissioner to refer any matter that remains unresolved to mediation, as provided for under clause 6.3 of this Code; and

(iv) in some cases, by making an application to the State Administrative Tribunal for a legally binding determination of any matter that remains unresolved.

Division 5 — Village management

5.1 Interpretation

(1) In this Division —

personal representative includes a resident's attorney, guardian, executor, administrator or trustee in bankruptcy;

registered company auditor means a person registered as an auditor, or taken to be registered as an auditor, under the *Corporations Act 2001* of the Commonwealth;

special resolution means a resolution passed at a meeting of residents called by the administering body in accordance with subclause (2).

(2) To pass a special resolution —

(a) the residents must have been given written notice of the meeting under clause 5.11; and

(b) there must be a quorum present (whether in person or by proxy) of —

(i) a minimum of 5 residents entitled to vote on the resolution or 30% of the number of residents entitled to vote on the resolution (whichever is the greater); or

(ii) if the retirement village has fewer than 10 occupied residential premises, a majority of residents entitled to vote;

and

(c) the resolution must be carried by at least 75% of the number of residents who are present (whether in person or by proxy) and entitled to vote and vote.

The voting entitlement of the residents is specified at clause 5.11(9) of this Code.

5.2 Management procedures and resident consultation

(1) The administering body of a retirement village must —

(a) provide prudential, efficient and economical management of the retirement village, having regard to the terms and conditions of the residence contract and any related contracts; and

(b) establish appropriate procedures for consulting with residents on the future planning and budgeting of the retirement village and any other proposed change to the administrative or operating financial arrangements of the village; and

(c) establish appropriate procedures to provide the residents with access to management information relating to the administrative or operating financial arrangements of the retirement village.

(2) The administrative or operating financial arrangements of a retirement village to which subclause (1)(b) and (c) apply, include but are not limited to —

(a) amenities or services provided or made available to the residents where any change may involve either increased costs to residents or the reduction or loss of an amenity or service; and

(b) the operating budget for each financial year of the retirement village (see clause 5.3); and

(c) any plans for the expansion of, or for substantial alterations to, the retirement village; and

(d) proposals for the upgrading of buildings, fixtures or fittings where the residents are financing either the whole or a part of the capital or ongoing costs of the work; and

(e) the establishment of, or changes to, the residence rules (see clause 5.9).

(3) The administering body must comply with any reasonable request made by a resident for information on a specific administrative or operating budget matter, and make available for inspection any documents that might reasonably be expected to be material to that request.

(4) The administering body must respond to a request made under subclause (3) within 10 working days, and in the case of any refusal or inability to comply with that request, give reasons in writing.

5.3 Village operating budget

(1) No later than one month before the end of each financial year of a retirement village, the administering body must display the following documentation (***budget documents***) in a central location in the retirement village and make the documentation available to each resident on request —

(a) a proposed operating budget for the next financial year of the retirement village;

(b) the operating budget information used in the preparation of the proposed budget that might reasonably be expected to be made available to a resident, including but not limited to —

(i) relevant accounts of actual expenditure; and

(ii) information explaining proposed fee changes or changes to the provision or availability of amenities or services.

(2) The administering body must give each resident written notice when the budget documents are available.

(3) The proposed operating budget must be presented in a consistent format from one financial year to the next and include —

(a) the amount of village operating costs or charges payable by residents during the year; and

(b) any other forms of income which are used to meet village operating costs; and

(c) all proposed categories of expenditure (without grouping together unlike categories); and

(d) the net of GST amount for any budget item that is a GST-taxable supply for which the administering body is entitled to an input tax credit; and

(e) the method or calculation used to apportion any expenditure item that is an apportionment of a total expenditure of more than one retirement village administered by the same administering body; and

(f) the total proposed expenditure for the year; and

(g) the expected surplus or deficit for the year.

(4) The administering body may, but is not required to, use the proposed operating budget form set out in Appendix 2.

(5) Where the administering body administers more than one retirement village, the administering body must provide separate budget documents for each village.

(6) The operating budget for the next financial year must not be finalised until —

(a) each resident has been given a minimum of 10 working days after service of the notice under subclause (2) to consider the proposed budget; and

(b) the administering body has held a meeting of the residents as required under clause 5.11(1)(b).

5.4 Quarterly operating income and expenditure statements

(1) For each quarter of a financial year of a retirement village and no later than one month after the end of each such quarter, the administering body must provide operating income and expenditure statements (***operating statements***) to the residents that show details of —

(a) the retirement village's actual operating costs, income and expenditure against projections of the same; and

(b) payments made to and from, and the amounts standing to the credit of, any reserve funds for the retirement village.

(2) The administering body may, but is not required to, use the form of operating statements set out in Appendix 3 and 4.

(3) Where the administering body administers more than one retirement village, the administering body must provide separate operating statements for each village.

(4) The administering body must —

(a) display the operating statements in a central location in the retirement village; and

(b) make the operating statements available to each resident on request.

5.5 Annual accounts

(1) At the annual general meeting called under clause 5.11(1)(a), the administering body must provide the residents with a clear written presentation of the operating financial position of the retirement village as at the end of the previous financial year, including —

(a) if the accounts of income and expenditure for that year have been independently audited by a registered company auditor, copies of the audited accounts; or

(b) if the accounts have not been so audited, copies of the actual accounts of income and expenditure for that year.

(2) If the accounts provided to the residents under subclause (1) have not been independently audited by a registered company auditor, the residents may request that the accounts be so audited, if agreed by a special resolution.

(3) Where a request for an independent audit of the accounts has been made under subclause (2), the administering body must —

(a) arrange for the accounts to be so audited as soon as practicable; and

(b) provide a copy of the audited accounts to a resident on request.

5.6 Budget surplus

The administering body must apply any surplus in the operating budget of a retirement village towards the future operating expenses of that village, except where —

(a) the residence contract provides otherwise; or

(b) the residents, by a special resolution, approve the application of the whole or a part of the budget surplus to any other purpose or purposes that is, or are, generally of benefit to the residents of that retirement village.

5.7 Marketing of residential premises

Where the administering body is required by a residence contract to market residential premises, it must —

(a) take all reasonable steps to enable the residential premises to be placed on the market as expeditiously as possible; and

(b) commencing one month after the residential premises are first placed on the market, provide the resident, or the resident's personal representative, with a monthly

written marketing report that details the actions taken to market the premises.

5.8 Repair and refurbishment of residential premises

(1) Where a resident permanently vacates the residential premises and is required under the residence contract to pay for the cost of any repair or refurbishment of those premises, the administering body must —

(a) before the commencement of any repair or refurbishment work (the ***work***), give the resident or the resident's personal representative —

(i) written notice of the claim against the resident for the work; and

(ii) an estimated cost of the work;

and

(b) before accepting or making any demand for payment for the work —

(i) complete the work; and

(ii) give the resident, or the resident's personal representative, a fully itemised account for the final cost of the work.

(2) The resident, or the resident's personal representative, may apply to the State Administrative Tribunal for an order in relation to a claim made by the administering body under subclause (1), if the person is of the opinion that —

(a) before the work was carried out, the residential premises were in a condition required by the residence contract; or

(b) the cost of the work is excessive.

5.9 Residence rules

(1) The administering body must establish a set of residence rules covering the rights and obligations of the residents of the retirement village.

(2) The residence rules must be clear and consistent with this Code and the *Retirement Villages Act 1992*.

(3) The administering body must consult with the residents of all occupied residential premises, if any, prior to making, changing or revoking the residence rules.

(4) The residents may, by special resolution and with the agreement of the administering body, change or revoke the residence rules.

(5) The administering body must not unreasonably withhold agreement to a special resolution passed by the residents under subclause (4).

(6) Each resident of a retirement village must comply with the residence rules.

5.10 Residents' committee

(1) The residents of a retirement village may establish a residents' committee by an election conducted —

(a) among themselves; or

(b) in the absence of an election held under paragraph (a), by the administering body if requested by —

(i) a minimum of 5 residents or 10% of the residents, whichever is the greater; or

(ii) if the village has fewer than 10 occupied residential premises, residents from a majority of the occupied residential premises.

(2) Only one residents' committee (regardless of its name) may be established in the retirement village for the purposes of subclause (5), and only a resident of the village may be a member of the committee.

(3) A member of the residents' committee —

(a) holds office for not more than one year, but may be re-elected; and

(b) may be removed at any time, by a special resolution.

(4) The residents' committee may —

(a) decide its own procedures; and

(b) form subcommittees and decide a subcommittee's procedures.

(5) The function of the residents' committee is to consult with the administering body on behalf of the residents about the day-to-day running of the retirement village and any issues or proposals raised by the residents.

(6) Nothing in this clause prevents the residents of the retirement village from establishing other committees or bodies of residents for other purposes.

5.11 Residents' meetings

(1) The administering body of a retirement village —

(a) must hold an annual general meeting of the residents within 5 months after the end of each financial year of the retirement village; and

(b) must hold an annual budget meeting of the residents before the end of each financial year, at which the business to be transacted must be limited to dealing with matters relating to the final budget proposals for the next financial year of the retirement village; and

(c) may call a meeting of the residents at any time if it is reasonable to do so; and

(d) must call a meeting of the residents on the reasonable request of a residents' committee established under clause 5.10; and

(e) must call a meeting of the residents if requested to do so by —

(i) a minimum of 5 residents or 10% of the residents, whichever is the greater; or

(ii) if the retirement village has fewer than 10 occupied residential premises, residents from a majority of the occupied residential premises.

(2) Where the administering body administers more than one retirement village, the administering body must hold meetings under subclause (1)(a) and (b) for each village.

(3) Where a residents' committee has been established in the retirement village under clause 5.10, the committee may of its own volition call a meeting of the residents of the village for any purpose, other than a purpose for which this Code or the residence contract requires the administering body to call a meeting.

(4) Where a request for a meeting of the residents is made under subclause (1)(d) or (e), the administering body must hold the meeting within 20 working days of the request being made, or at a later date if agreed to by the residents' committee referred to in subclause (1)(d) or the majority of the residents referred to in subclause (1)(e), as the case may be.

(5) Subject to subclause (6), the administering body or the residents' committee, as the case may be, must give each resident at least 10 working days written notice of a meeting called under subclause (1) or (3).

(6) In extraordinary or urgent circumstances, the administering body may call a meeting of the residents by giving each resident written notice of the meeting that is reasonable in the circumstances but not less than 2 working days.

(7) A notice given under subclause (5) or (6) must set out —

(a) the time and place of the meeting; and

(b) the business to be transacted at the meeting, including any resolution that is to be put as a special resolution.

(8) The administering body must within 2 working days after a meeting of the residents give written notice to all the residents of any special resolution passed at the meeting.

(9) Unless otherwise provided in the residence contract, if 2 or more residents occupy the same residential premises in the retirement village, each of them may vote at a meeting of the residents on any matter that requires, or provides for, a vote of the residents.

(10) A meeting of the residents must not be held simultaneously with a meeting held under another law, such as a meeting held under the *Strata Titles Act 1985* if the retirement village is comprised in a strata plan or survey-strata plan registered under that Act.

5.12 Proxy voting

(1) This clause applies to a resident of a retirement village, or the resident's personal representative, subject to any provision in the residence contract.

(2) A resident who is entitled to vote at a meeting of the residents, or the resident's personal representative, may by signed notice (the ***proxy notice***) appoint a person (the ***proxy***) to vote for the resident by way of a proxy vote at a specific meeting of the residents stated in the notice.

(3) The appointment of the proxy is valid only if the proxy notice is given to the chairperson of the meeting at which the proxy is to vote before any vote is taken at that meeting.

(4) A proxy vote may be given for one meeting only.

(5) Where a proxy vote is given for more than one meeting, the proxy vote is valid for the first meeting stated in the proxy notice.

(6) A person who may be appointed as the proxy of a resident does not include a representative or close associate of the administering body or a person nominated by the administering body, other than where the resident is a relative of such a person.

(7) A resident, or the resident's personal representative, may, but is not required to, use the form for the appointment of a proxy set out in Appendix 5.

(8) A person appointed as the proxy of a resident cannot vote on behalf of the resident if the resident personally votes on the matter or matters concerned.

(9) If a person holds appointments as the proxy of 5 residents in any one retirement village at any one time, any appointment of the person as the proxy of another resident of the village, while the person continues to hold the 5 appointments, is void.

(10) At any time prior to the exercise of a proxy vote by a person appointed as the proxy of a resident, the resident may revoke the appointment by giving written notice to —

(a) the proxy; and

(b) the chairperson of the meeting at which the proxy was to vote.

Division 6 — Dispute resolution

6.1 Interpretation

In this Division —

approved form means a form approved for that purpose by the Commissioner;

special resolution has the same meaning as it has in Division 5 of this Code.

6.2 Village dispute process

(1) Where a dispute occurs in a retirement village —

(a) the administering body must nominate a suitable person or body to deal with the dispute; and

(b) a resident who is a party to the dispute may be supported by another person at any stage in the dispute process, provided the other party is given prior notice of the name of that person; and

(c) the party making the complaint must give written notice to the party against whom the complaint is made (the ***second party***), stating the matters complained of and calling on the second party to rectify or otherwise attempt to settle these matters; and

(d) the second party must respond to the notice given under paragraph (c) within 10 working days after service of the notice, and give reasons in writing if any of the complaint matters are rejected; and

(e) the parties are to meet in the retirement village, or at any other place as mutually agreed, to attempt to resolve any matters that remain in dispute; and

(f) the meeting must be held within 20 working days after service of the notice under paragraph (c) or, if mutually agreed to by both parties, at a later date; and

(g) prior to the meeting, the parties must exchange all documents and information that might reasonably be expected to be material to the resolution of the matters in dispute; and

(h) other than for the resolution or determination of the matters in dispute, anything said, done or produced by a party during the dispute process must not be used for any purpose or disclosed or communicated to another person, except with the agreement of that party; and

(i) the administering body must advise any resident who is a party to the dispute of available avenues for the further review of any matter that remains in dispute, including the right to apply for the matter to be mediated under clause 6.3 of this Code or determined by the State Administrative Tribunal.

(2) The dispute process prescribed under subclause (1) may be varied if agreed to by the administering body and a special resolution of the residents.

(3) The administering body or the residents, as the case may be, must not unreasonably withhold agreement to any proposed variation to the dispute process.

(4) The administering body must document the dispute process and make the document, complete with any variations made under subclause (2), available to all the residents of the retirement village.

6.3 Mediation of dispute

(1) A party to a retirement village dispute may apply to the Commissioner, in the approved form, to have the dispute referred to mediation, other than where the matters in dispute —

(a) are the subject of an arbitration proceeding that has commenced; or

(b) have been the subject of an award (interim or final) in an arbitration proceeding; or

(c) are before, or have been decided by, a court or the State Administrative Tribunal or other tribunal of competent jurisdiction.

(2) The Commissioner may decline to accept the application if —

(a) no attempt has been made to resolve the dispute using the village dispute process established under clause 6.2; or

(b) the Commissioner considers that the matters in dispute could be adequately dealt with in some other way,

including by negotiation by the Commissioner under the *Retirement Villages Act 1992* section 8(1)(d); or

(c) any party has not agreed to have the dispute dealt with by mediation under this clause; or

(d) the Commissioner considers that the application should not be accepted for another reason.

(3) Within 10 working days after receiving the application, the Commissioner must —

(a) give written reasons for any decision made to refuse to accept the application; or

(b) appoint a mediator to mediate the dispute and give written notice to the parties to the dispute of —

(i) the appointed mediator; and

(ii) the time, date and place for the holding of the mediation.

(4) The notice under subclause (3)(b) must —

(a) be given at least 5 working days before the mediation is to take place; and

(b) where given to a party against whom the complaint has been made, include a copy of the application.

(5) A party to a dispute cannot be compelled to attend mediation.

(6) If a person who is given a notice under subclause (3)(b) notifies the Commissioner that the person does not wish to attend the mediation, the Commissioner must advise the appointed mediator and the other parties to the dispute of this fact.

(7) If the Commissioner is notified by any party that the mediator appointed under subclause (3)(b) is not the preferred mediator, the Commissioner may —

(a) appoint another mediator who is acceptable to all the parties; and

(b) issue an amended notice under subclause (3)(b).

(8) The mediator may permit a party to be represented or assisted in the presentation of the case by an agent, other than a person engaged as a legal representative, if the mediator is satisfied that —

(a) the party is unable to appear personally or conduct the proceedings properly himself or herself; and

(b) the agent has sufficient knowledge of the matters in dispute to represent the party effectively; and

(c) no other party will be unfairly disadvantaged by the fact that the agent is allowed to so act.

(9) If the parties reach a mediated agreement on the dispute, the mediator is to —

(a) record the agreement in writing and have it signed by or for the parties as soon as practicable after the mediation ends; and

(b) give a copy of the signed agreement to the parties and the Commissioner as soon as practicable after it is signed.

(10) If, at any time during the course of mediation, the mediator is of the opinion that the parties are not likely to settle the dispute, the mediator must —

(a) conclude the mediation; and

(b) notify the Commissioner that the mediation has been unsuccessful.

(11) Evidence of anything said, done or produced at a mediation may not be given in a court or before a person or body authorised by law to hear evidence, except with the agreement of the parties to the dispute.

(12) The mediator or a party or an agent of a party must not make a record of, or disclose or communicate to another person, anything said, done or produced at a mediation.

(13) The mediator does not contravene subclause (12) if —

(a) the mediator makes notes during the mediation that the mediator considers appropriate and destroys them at the end of the mediation; or

(b) the mediator records and provides a copy of a mediated agreement under subclause (9).

(14) Any party may, by written notice (the ***withdrawal notice***) given to the Commissioner, withdraw from the mediation before or after the mediation has commenced.

(15) The Commissioner must advise the appointed mediator and the other parties to the dispute of the withdrawal as soon as practicable after receipt of the withdrawal notice.

It is recognised that in any communal living situation, such as a retirement village where amenities are shared, disputes between residents and the administering body, or between residents, may occur from time to time. This Code places particular emphasis on providing easy access to an informal and inexpensive process to resolve disputes. The prevention of disputes through open communication and the provision of information, and democratic decision-making, is always preferable.

Many disputes are due to simple misunderstandings or lack of suitable information. Every attempt should be made by those involved in a dispute to resolve it between themselves. It may be useful to discuss the problem with a friend or advocate (for example, a member of the residents' committee) before using the dispute processes available under this Code.

If the dispute cannot be resolved within the retirement village, either party can seek the assistance of the Commissioner. The Commissioner can provide information and conciliation services to either party to assist in the

resolution of the dispute or refer the matter to an independent external mediator.

If the dispute remains unresolved, either party may apply to the State Administrative Tribunal for a hearing if the dispute is one in which the State Administrative Tribunal has jurisdiction.

The details of the State Administrative Tribunal's powers can be found in the *Retirement Villages Act 1992*, and any associated Act referred to in that Act.

Division 7 — Termination of residence contracts

7.1 Notice of intention to terminate

(1) Unless otherwise provided in the residence contract, the administering body of a retirement village must give a resident at least 10 working days written notice of its intention to apply to the State Administrative Tribunal for an order to terminate a residence contract under the *Retirement Villages Act 1992* section 58 or 59.

(2) The notice given under subclause (1) must —

(a) if the application is sought under section 58 of the Act, specify the reasons why the residential premises occupied by the resident are unsuitable for occupation by the resident; and

(b) if the application is sought under section 59 of the Act —

(i) specify the breach of the residence contract or residence rules, as the case may be; and

(ii) give the resident a reasonable and specified time to rectify a breach that may be rectified;

and

(c) clearly state that the residence contract cannot be terminated without an order by the State Administrative Tribunal; and

(d) advise the resident of his or her right to occupy the residential premises until the State Administrative Tribunal fixes a termination date.

Retirement villages are clearly marketed by the industry as permanent accommodation for residents of such villages. Accordingly, a residence contract may be terminated only in a limited number of circumstances, as set out in the residence contract or the *Retirement Villages Act 1992*.

The administering body of a retirement village cannot terminate a residence contract on its own; that is, without the agreement of the resident. However, a resident or the administering body may apply to the State Administrative Tribunal to terminate a residence contract under circumstances as specified in the *Retirement Villages Act 1992*.

Termination by a resident

The manner in which a resident may terminate a residence contract after the expiration of the cooling-off period is as set out in the contract or the *Retirement Villages Act 1992*.

Termination by the State Administrative Tribunal

As set out in the *Retirement Villages Act 1992* Part 4 Division 5, an administering body may apply to the State Administrative Tribunal to terminate a residence contract on the grounds that —

- the resident's physical or mental health is such as to make the residential premises unsuitable for occupation by the resident (section 58 of the Act);

- the resident has breached the residence contract or the residence rules and has failed to rectify that breach (section 59 of the Act);
- the resident has intentionally or recklessly caused or permitted, or is likely intentionally or recklessly to cause or permit, serious damage to the residential premises or injury to the administering body, an employee of the administering body or another resident (section 62 of the Act); or
- the administering body would, in the special circumstances of the case, suffer undue hardship if the residence contract were not terminated (section 63 of the Act).

Under section 57 of the Act, a resident may apply to the State Administrative Tribunal for an order in respect of a dispute with the administering body as to whether the resident should be transferred to another kind of accommodation in the village. The State Administrative Tribunal may make an order that —

- restrains the administering body from transferring the resident to another kind of accommodation in the village;
- requires the resident to transfer, or the administering body to transfer the resident, to another kind of accommodation in the village; or
- terminates the residence contract of the resident.

Notice of termination

As required under the *Retirement Villages Act 1992* sections 58 and 59, the State Administrative Tribunal must not make an order terminating a residence contract on medical grounds or for a breach of the contract or residence

rules, unless satisfied that the administering body has complied with the procedures in clause 7.1 of this Code or the contract for giving notice of the intention to terminate the contract.

Section 61 of the Act gives the State Administrative Tribunal the power to waive the requirement to give this notice if considered appropriate to do so having regard to any special circumstances of a particular case.

Payments on termination

Where a residence contract has been terminated under the residence contract or the *Retirement Villages Act 1992* on the happening of an event or circumstance which requires the repayment of the whole or a part of the premium paid by the resident to enter the village, the administering body must pay the resident any money due under the contract —

- within 7 days of the succeeding resident taking occupation of the residential premises; or
- in any other case within 45 days of the day on which the resident ceases occupation of the residential premises.

Where the State Administrative Tribunal has terminated a residence contract, the State Administrative Tribunal is to fix a date by which the resident must vacate the residential premises.

This in no way affects the rights of the administering body to set terms and conditions on the disposal of the resident's interest in the residential premises pursuant to the residence contract where the resident has the right to appoint his or her own agent.

When ordering the termination of a residence contract, the State Administrative Tribunal may make any order for the payment or refund of money by the administering body to the resident or by the resident to the administering body.

Division 8 — Miscellaneous

8.1 Service of documents

(1) Any written notice, correspondence or other document that must be given under this Code to a resident of a retirement village must be —

(a) delivered by hand to —

(i) the resident; or

(ii) the resident's mailbox; or

(iii) the resident's personal representative;

or

(b) addressed to the resident and sent by prepaid post to —

(i) the residential premises occupied by the resident; or

(ii) if the resident has temporarily or permanently vacated the residential premises, another address as notified by the resident to the administering body; or

(iii) the address of the resident's personal representative.

(2) Any written notice, correspondence or other document that must be given under this Code to the administering body of a retirement village must be —

(a) delivered by hand to —

(i) the administering body's usual place of business on any working day; or

(ii) the administering body's mailbox;

or

(b) addressed to the administering body and sent by post to the administering body's usual place of business.

(3) Subject to any evidence to the contrary, any written notice, correspondence or other document referred to in this clause that is sent by post, is taken to have been received at the expiration of the second working day after the day of posting.

(4) In this clause —

personal representative has the same meaning as it has in Division 5 of this Code.

Appendix 1 — Checklist for prospective resident

It is important for you to carefully read and consider the following questions before deciding to enter any retirement village. If, after reading through the list, you are uncertain as to any aspects of the village, or its suitability for you, seek further advice.

1. Have I fully discussed my decision to enter a retirement village with my family, friends or adviser?
2. Can I afford to move into the village I have chosen and meet the current and future ongoing costs of living in this village? What are the financial consequences for me if I wish to move out of the village? Have I sought independent advice from a licensed financial adviser on these matters?
3. If I am considering moving to a retirement village because the housework, gardening and general maintenance has become too much, have I fully considered other options? For example, obtaining home help or handyperson help, or moving to a smaller unit in the same neighbourhood.
4. If I am considering moving to a retirement village because I have recently lost my partner, have I given myself enough time to grieve before I make a major lifestyle change?
5. Have I received adequate information about the retirement village I have chosen? Have I shown the documents to a solicitor? Am I satisfied that I fully understand the contract that I am signing?
6. Am I comfortable that the lifestyle of the village (including social activities and religion) will suit me? Have I spoken to any residents of the village?

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014
Checklist for prospective resident **Appendix 1**

7. Will the village and my unit be readily accessible if I become disabled and need a wheelchair or walking aid? What alternatives do I have if I am no longer able to live alone?
8. Does the village provide personal care or nursing care, an emergency call system and other amenities that are likely to meet my present or future needs?
9. Have I looked at a number of villages to compare the amenities (e.g. recreational, transport, gardens etc.) and financial arrangements?
10. Is the village I have chosen accessible to my friends and family?
11. Can I take my own furniture to the village and, if so, will it be suitable?
12. Before I sign the contract, have I received and considered all the information required to be given to me under the *Interim Code of Fair Practice for Retirement Villages (No. 2) 2014* and the *Retirement Villages Act 1992*?

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014
Appendix 2 Model proposed operating budget form

Appendix 2 — Model proposed operating budget form

[cl. 5.3(4)]

..... (*insert name of village*)

PROPOSED BUDGET FOR ..... (*insert next year*)

	BUDGET ..... **(*insert current year*)**	**ACTUAL** ..... **(*insert current year*)**	**PROPOSED BUDGET** ..... **(*insert next year*)**
INCOME			
Residents' fees			
Donations			
Other (*insert as appropriate*)			
TOTAL INCOME			
EXPENDITURE			
Amenities:			
Council rates			
Insurance			
Pest control			
Rubbish removal			
Village security			
Utilities:			
Water rates			
Electricity			
Gas			
Repairs & Maintenance:			
Staff costs			
Materials			
Contractors			

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014

Model proposed operating budget form **Appendix 2**

	BUDGET **.....** **(*insert current year*)**	**ACTUAL** **.....** **(*insert current year*)**	**PROPOSED BUDGET** **.....** **(*insert next year*)**
Grounds Maintenance:			
Staff costs			
Materials			
Contractors			
Management & Administration:			
Staff costs			
Management fees			
Bank fees			
Accounting fees			
Audit fees			
Advertising			
Printing & stationery			
Telephone			
Miscellaneous			
Vehicles:			
Registration			
Insurance			
Repairs			
Fuel			
TOTAL EXPENDITURE			
PROPOSED SURPLUS/DEFICIT			

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014
Appendix 2 Model proposed operating budget form

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*) —

.....

.....

.....

(*specify the method or calculation used to apportion the expenditure*)

Appendix 3 — Model quarterly income and expenditure statement

[cl. 5.4(2)]

..... (*insert name of village*)

INCOME AND EXPENDITURE STATEMENT FOR QUARTER ENDED ..... (*insert date*)

	QUARTER	YEAR-TO-DATE	ANNUAL BUDGET
INCOME			
Residents' fees			
Donations			
Other (*insert as appropriate*)			
TOTAL INCOME			
EXPENDITURE			
Amenities:			
Council rates			
Insurance			
Pest control			
Rubbish removal			
Village security			
Utilities:			
Water rates			
Electricity			
Gas			
Repairs & Maintenance:			
Staff costs			
Materials			
Contractors			

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014

Appendix 3 Model quarterly income and expenditure statement

	QUARTER	YEAR-TO-DATE	ANNUAL BUDGET
Grounds Maintenance:			
Staff costs			
Materials			
Contractors			
Management & Administration:			
Staff costs			
Management fees			
Bank fees			
Accounting fees			
Audit fees			
Advertising			
Printing & stationery			
Telephone			
Miscellaneous			
Vehicles:			
Registration			
Insurance			
Repairs			
Fuel			
TOTAL EXPENDITURE			
SURPLUS/DEFICIT			

Appendix 4 — Model reserve fund quarterly income and expenditure statement

[cl. 5.4(2)]

..... (*insert name of village*)

RESERVE FUND INCOME AND EXPENDITURE STATEMENT FOR QUARTER ENDED ..... (*insert date*)

	BALANCE
OPENING BALANCE (as at ..... (*insert date*)**)**	
INCOME	
Residents' contributions	
Interest	
Other (*insert as appropriate*)	
TOTAL INCOME	
Sub Total	
EXPENDITURE	
Units:	
Painting	
Plumbing	
Electrical	
Replacements	
Other (*specify*)	
Amenities:	
Painting	
Plumbing	

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014

Appendix 4 Model reserve fund quarterly income and expenditure statement

Electrical	
Replacements	
Other (*specify*)	
Infrastructure:	
Power	
Sewerage	
Roads	
Landscaping	
Other (*specify*)	
TOTAL EXPENDITURE	
CLOSING BALANCE (as at ..... (*insert date*)**)**	

Appendix 5 — Form of appointment of proxy

[cl. 5.12(7)]

I, ...
(*insert name*)

being a resident of / the personal representative of ..... ,
(*insert name of resident*)

a resident of (*delete whichever is not applicable*)

.....

.....

.....
(*insert address in village*)

appoint

.....
(*insert name of proxy holder*)

of

.....

.....

.....
(*insert address of proxy holder*)

as my proxy to vote on my behalf at the meeting of residents on .....
(*insert date of meeting*)

I authorise my proxy to vote on my behalf in respect of (*delete whichever is not applicable*) —

- All matters raised at the meeting that require, or provide for, a vote of the residents, at my proxy's discretion.
- The following matters only —

  .....

  .....

  .....

Fair Trading (Retirement Villages Interim Code) Regulations (No. 2) 2014
Appendix 5 Form of appointment of proxy

.....

.....
(*specify the matters and any limitations on the manner in which you want your proxy to vote*)

.....
Signature of resident / resident's personal representative
(*delete whichever is not applicable*)

Signed this ..... day of ..... 20 .....

Notes:

1. A person who may be appointed as a proxy includes a spouse, another resident, a relative, friend or other person, but no person may hold more than 5 proxies at the same time.
2. The Code does not allow a person who is a representative or close associate of the administering body, or a person nominated by the administering body, to hold or exercise a proxy on behalf of a resident, unless the resident is a relative of such a person.
3. This appointment is effective only if this form is completed and given to the chairperson of the meeting at which the proxy is to vote before any vote is taken.
4. 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 meeting at which the proxy is authorised to vote.
6. The person who made this appointment may, at any time prior to the exercise of a proxy vote, revoke the appointment by giving written notice to —

    - the person appointed as the resident's proxy; and
    - the chairperson of the meeting at which the proxy was to vote.

N. HAGLEY, Clerk of the Executive Council.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
administering body	Sch. 1 cl. 1.1
approved form	Sch. 1 cl. 6.1
approved provider	Sch. 1 cl. 1.2(2)
budget documents	Sch. 1 cl. 5.3(1)
Commissioner	Sch. 1 cl. 1.1
levy	Sch. 1 cl. 1.1
operating statements	Sch. 1 cl. 5.4(1)
owner	Sch. 1 cl. 1.1
personal representative	Sch. 1 cl. 5.1(1), cl. 8.1(4)
personal services	Sch. 1 cl. 4.5(3)
premium	Sch. 1 cl. 1.1
proxy	Sch. 1 cl. 5.12(2)
proxy notice	Sch. 1 cl. 5.12(2)
recurrent charge	Sch. 1 cl. 1.1
registered company auditor	Sch. 1 cl. 5.1(1)
residence contract	Sch. 1 cl. 1.1
residence rules	Sch. 1 cl. 1.1
resident	Sch. 1 cl. 1.1
residential care	Sch. 1 cl. 1.2(2)
residential care subsidy	Sch. 1 cl. 1.2(2)
residential premises	Sch. 1 cl. 1.1
residential tenancy agreement	Sch. 1 cl. 1.1
retired person	Sch. 1 cl. 1.1
retirement village	Sch. 1 cl. 1.1
retirement village scheme	Sch. 1 cl. 1.1
scheme	Sch. 1 cl. 1.1
second party	Sch. 1 cl. 6.2(1)
service contract	Sch. 1 cl. 1.1
special resolution	Sch. 1 cl. 5.1(1), cl. 6.1
withdrawal notice	Sch. 1 cl. 6.3(14)
work	Sch. 1 cl. 5.8(1)
working day	Sch. 1 cl. 1.1