



Western Australia

Retirement Villages Act 1992

Compare between:

[14 Nov 2024, 04-g0-02] and [01 Sep 2026, 04-h0-00]

Western Australia

Retirement Villages Act 1992

An Act to regulate retirement villages and the rights of residents in such villages and for related purposes.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Retirement Villages Act 1992*.

2. Commencement

The provisions of this Act shall come into operation on such day as is fixed by proclamation and in any event shall come into effect if not proclaimed, 6 months after Royal Assent.

3. Terms used

(1) In this Act —

administer a retirement village includes to manage or operate the retirement village;

amenity includes facility;

approved form means the form approved by the Commissioner under section 8(2);

authorised deposit-taking institution has the meaning given in the *Banking Act 1959* (Commonwealth) section 5(1);

code means any code of practice prescribed under the *Fair Trading Act 2010* which relates to retirement villages;

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

community arrangements statement means a statement under section 14B;

Department means the department of the Public Service principally assisting in the administration of this Act;

exit entitlement means any amount of money that is, under a residence contract, payable by an operator in connection with a resident permanently vacating residential premises in a retirement village;

ingoing contribution —

(a) means a payment, however described, made by or on behalf of a person in consideration for, or in contemplation of, the person becoming a resident in a retirement village; but

(b) does not include —

(i) a recurrent charge; or

(ii) a payment of a prescribed kind;

judicial member has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);

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

operator, in relation to a retirement village —

(a) means the person by or on behalf of whom the retirement village is administered; and

(b) includes a person, other than a resident, who is the owner of land used for the purposes of the retirement village;

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 operator 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;~~

permanently vacated has the meaning given in subsection (1A);

prospective resident information statement means a statement under section 14C;

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

Registrar of Titles has the meaning given to that expression by the *Transfer of Land Act 1893*;

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 operator 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 that person's 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 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 operator 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~~ person pays an ingoing contribution;

service contract means a contract between an operator or former operator of a retirement village and a resident for the provision to the resident of — services and amenities in the retirement village;

- ~~(a) hostel care; or~~
- ~~(b) infirmary care; or~~
- ~~(c) medical or nursing services; or~~
- ~~(d) meals; or~~
- ~~(e) administrative and management services; or~~

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- ~~_____ (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;~~

special resolution means a resolution passed at a meeting of the residents of a retirement village in accordance with section 41G;

Tribunal means the State Administrative Tribunal;

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

(1A) Residential premises in a retirement village are **permanently vacated** —

(a) if the residence contract with the operator of the retirement village with respect to the premises requires notice of an intention to vacate the premises — the later of —

(i) 28 days after the day on which the operator is given the notice in writing (regardless of the period of notice required by the contract); or

(ii) when vacant possession of the premises is given to the operator;

or

(b) if the residence contract with the operator of the retirement village with respect to the premises does not require notice of an intention to vacate the premises — when vacant possession of the premises is given to the operator.

- (2) For the purpose of determining whether a contract, agreement, scheme or arrangement is a residence contract as defined in subsection (1), it does not matter that the person granted the

right of occupation is a corporation if the premises are used (or intended for use) as a residence by a natural person.

[Section 3 amended: No. 57 of 1997 s. 39(10); No. 28 of 2003 s. 179; No. 55 of 2004 s. 1023; No. 28 of 2006 s. 139; No. 58 of 2010 s. 199; No. 36 of 2012 s. 4(1)-(3); No. 42 of 2024 s. 4, 32, 48(1) and 49.]

4. Act binds Crown

This Act binds the Crown.

5. Application of Act

- (1) Except as otherwise provided by or under this Act, this Act applies to retirement villages established either before or after the commencement of this Act.
- (2) This Act does not apply in relation to ~~a resident or prospective resident of residential premises in~~ a retirement village ~~or to the operator of that retirement village if~~ are used to provide —
 - (a) ~~the operator is an “approved provider” residential care~~ as defined in the *Aged Care Act 1997* ~~Schedule 1 of the (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 operator provides, or is to provide, the resident or prospective resident with “residential care” as defined in the *Aged Care Act 1997* section 41-3 of the Commonwealth; and; or~~
 - ~~(c) the resident or prospective resident is receiving, or is entitled to receive, residential care in respect of which the operator is eligible for a “residential care subsidy” as defined in the *Aged Care Act 1997* Schedule 1 of the Commonwealth.~~
 - (b) aged care of a prescribed kind.

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[Section 5 amended: No. 69 of 2006 s. 34; No. 42 of 2024 s. [5](#) and [48\(1\)](#).]

6. Contracting out

- (1) Subject to subsection (2) ~~and without affecting the operation of sections 23(4) and 24(6)~~, the provisions of this Act have effect despite any stipulation to the contrary in any contract, agreement, scheme or arrangement, and no residence contract or other contract, agreement or arrangement (whether oral or partly or wholly in writing) operates to annul, vary or exclude any of the provisions of this Act.
- (2) Unless this Act provides that this subsection does not have effect in relation to the provision concerned, a provision of this Act does not apply to a contract, agreement or arrangement made or entered into before the commencement of that provision.
- (3) A person must not enter into any contract, agreement or arrangement with the intention, either directly or indirectly, of defeating, evading or preventing the operation of this Act.
- Penalty for this subsection: a fine of \$2 000.

[Section 6 amended: No. 36 of 2012 s. 5; No. 42 of 2024 s. [6](#), [48\(1\)](#), 50 and 52.]

7. Effect of Act on other legislation

The provisions of this Act are, except as otherwise provided by this Act, in addition to and do not derogate from the provisions of any other written law.

Part 2 — Administration

7A. Commissioner

- (1) The Minister is required, by notice published in the *Gazette*, to designate a person who is an executive officer of the Department as the Commissioner for the purposes of this Act.
- (2) The Commissioner may be referred to by a title specified by the Minister by notice published in the *Gazette*.
- (3) In this section —
executive officer has the meaning given by section 3(1) of the *Public Sector Management Act 1994*.

[Section 7A inserted: No. 28 of 2006 s. 140.]

8. Functions of Commissioner

- (1) The Commissioner has the following functions for the purposes of this Act —
 - (a) to investigate and conduct research into matters relating to or affecting retirement villages;
 - (b) to publish reports and disseminate information on matters relating to retirement villages;
 - (c) to give advice to consumers on the provisions of this Act;
 - (d) to investigate and attempt to resolve complaints by residents and operators of retirement villages and to take action by negotiation, prosecution of any offence or otherwise;
 - (e) to make reports to the Minister on matters referred to the Commissioner by the Minister and matters of importance investigated by the Commissioner, whether referred to the Commissioner by the Minister or not.

- (2) The Commissioner may approve forms for use under this Act.

[Section 8 amended: No. 57 of 1997 s. 104; No. 28 of 2006 s. 141; No. 42 of 2024 s. 33 and 48(1).]

9. Commissioner may commence or defend proceedings for party

- (1) If a resident of a retirement village has made a complaint to the Commissioner and the Commissioner —

- (a) after investigating the complaint, is satisfied that the resident may have a right to commence or defend proceedings under this Act; and
- (b) is of the opinion that it is in the public interest that the Commissioner should commence, defend or assume the conduct of those proceedings on behalf of the resident,

the Commissioner may commence, defend or assume the conduct of those proceedings.

- (2) The Commissioner must not commence, defend, or assume the conduct of, any proceedings under subsection (1) on behalf of a resident without first obtaining the written consent of the resident which once given is irrevocable except with the consent of the Commissioner.

- (3) In relation to any proceedings referred to in subsection (1) the following provisions apply —

- (a) the Commissioner has, on behalf of the resident of the retirement village, in all respects the same rights in, and control over, the proceedings, including the right to settle any action or part of any action, as the resident would have had in the conduct of those proceedings; and
- (b) the Commissioner may, without consulting or seeking the consent of the resident, conduct the proceedings in such manner as the Commissioner thinks appropriate and proper; and

- (c) in the case of proceedings already commenced by or against the resident, the Tribunal or the court hearing the proceedings must, on the application of the Commissioner, order that the Commissioner be substituted for the resident as a party to the proceedings, and may make such other orders or give such other directions in that behalf as the Tribunal or the court thinks fit; and
 - (d) any moneys (excluding costs) recovered by the Commissioner are to be paid to the resident without deduction and any amount awarded against the resident is payable by and recoverable from the resident, but in all cases the costs of the proceedings are to be borne by or paid to and retained by the Commissioner as the case may require; and
 - (e) if any party to the proceedings alleges another cause of action, or if the resident on whose behalf the proceedings are being defended has another cause of action, the Tribunal or the court hearing the proceedings may, on the application of the Commissioner, order that the proceedings for the other cause of action be heard separately and that the party or the resident as the case may require be a party to those proceedings in the party's or the resident's own right and may make such other orders or give such other directions in that behalf as the Tribunal or the court thinks fit.
- (4) In any proceedings referred to in subsection (1), a document purporting to be signed by the Commissioner stating in respect of the proceedings that the Commissioner is satisfied that the resident may have a right to commence or defend proceedings under this Act and that it is in the public interest to commence, defend, or assume the conduct of, the proceedings, as the case may be, on behalf of the resident of the retirement village is, in the absence of proof to the contrary, proof that the Commissioner commenced, defended, or assumed the conduct

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of, the proceedings, as the case may be, in accordance with that subsection.

- (5) In any proceedings referred to in subsection (1) a document purporting to be the consent of the resident of the retirement village to the Commissioner commencing, defending, or assuming the conduct of, the proceedings, as the case may be, is, in the absence of proof to the contrary, proof of that consent.
- (6) Despite anything in this section, if the Tribunal or the court hearing the proceedings is satisfied whether on application by the resident or otherwise that any proceedings taken by the Commissioner under this section in the name of a resident are not in the interests of the resident the Tribunal or the court, as the case may be, must order that the proceedings are to be —
 - (a) discontinued; or
 - (b) continued so as not to affect the interests of the resident and only in accordance with such directions including directions as to costs, as the Tribunal or court, as the case requires, thinks just.
- (7) Any costs recovered by the Commissioner under subsection (3)(d) are to be credited to the Consolidated Account.
- (8) In this section **resident** includes a prospective resident or former resident.

[Section 9 amended: No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 55 of 2004 s. 1044; No. 77 of 2006 s. 4; No. 42 of 2024 s. 34, 49, 51, 52 and 53(1).]

10. Delegation by Commissioner

The Commissioner may by notice published in the *Gazette* delegate any of the Commissioner's functions under this Act (other than this power of delegation) to the holder of any

specified office in the public service of the State or to any specified officer of an agency or instrumentality of the Crown.

[Section 10 amended: No. 42 of 2024 s. 49.]

11. Protection of officers

- (1) In this section —

statutory manager means a person appointed under section 75B and includes an agent of, or a person employed or engaged by, a statutory manager who is assisting the statutory manager in the performance of the functions of the statutory manager under this Act.

- (2) No liability attaches to the Commissioner or any delegate of the Commissioner, or any officer of the Department or a statutory manager for any act or omission by the Commissioner, the delegate, the officer or the statutory manager that occurred in good faith and in the performance or discharge or purported performance or discharge of the functions of the Commissioner, the Department or the statutory manager under this Act but, except as stated in subsection (3), this section does not relieve the Crown of any liability that it might have for the actions of such persons but for this section.
- (3) The Crown is relieved of any liability that it might otherwise have had for any act or omission, as described in subsection (2), by a statutory manager.

[Section 11 amended: No. 36 of 2012 s. 6; No. 42 of 2024 s. 52.]

11A. Information officially obtained to be confidential

- (1) A person who misuses information obtained by reason of any function that person has, or at any time had, in the administration of this Act commits an offence.

Penalty for this subsection: a fine of \$20 000.

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- (2) A person misuses information if it is, directly or indirectly, recorded, used, or disclosed to another person, other than —
- (a) in the course of duty; or
 - (b) under this Act; or
 - (c) for the purposes of the investigation of any suspected offence or the conduct of proceedings against any person for an offence; or
 - (d) in a manner that could not reasonably be expected to lead to the identification of any person to whom the information refers; or
 - (e) with the consent of the person to whom the information relates, or each of them if there is more than one.

- (3) In this section —
information means information concerning the affairs of a person.

[Section 11A inserted: No. 28 of 2006 s. 142; amended: No. 42 of 2024 s. 50.]

11B. Powers of investigation

The *Fair Trading Act 2010* section 61 and Part 6 of that Act apply to this Act.

[Section 11B inserted: No. 58 of 2010 s. 190.]

12. Annual report

- (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Commissioner must prepare and forward to the Minister a report on the operation of this Act during that year.
- (2) The Minister must lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

[Section 12 amended: No. 42 of 2024 s. 52.]

Part 3 — Rights and obligations of residents, owners and operators

[Heading amended: No. 42 of 2024 s. 48(2).]

13. Residence contract

- (1) A residence contract must be in writing.
- (2) At least 10 working days before a person enters into a residence contract, the owner must cause to be given to that person —
 - (a) a community arrangements statement ~~in the prescribed form completed;~~ and ~~signed by the owner containing the~~
 - (aa) a prospective resident information ~~required by the regulations~~ statement; and
 - (b) a notice in the prescribed form of the person's rights under this section and section 14; and
 - (c) a copy of the residence rules; and
 - (d) a copy of any applicable code; and
 - (e) any other prescribed documents.

Penalty for this subsection: a fine of \$20 000.

(2A) A paragraph of subsection (2) does not apply in relation to a subsequent residence contract between the person and the owner if there have been no material changes to the document mentioned in the paragraph since the owner last gave the document to that person.

- (3) If the owner is not an operator, the operator must, upon written application by the owner, provide that owner with such information and documents in the possession of the operator as will enable the owner to comply with subsection (2).

Penalty for this subsection: a fine of \$20 000.

- (4A) A person must not demand or receive any fee or charge for any information or document given under subsection (2) or (3).

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Penalty for this subsection: a fine of \$5 000.

- (4) ~~If a person enters into a~~A residence contract,~~the contract entered into by a person~~ is taken to include a warranty on the part of the owner of the correctness of the information contained in the most recent community arrangements statement and prospective resident information statement given ~~under subsection (2)~~to that person.

(4AA) The warranty —

- (a)~~(a)~~ ~~is~~ subject to any written alteration ~~to the statement,~~ made by the owner with the consent of the prospective resident on or before the signing of the residence contract by the owner), ~~and that warranty,~~ to the most recent community arrangements statement or prospective resident information statement given to that person; and

- (b) prevails over any inconsistent contractual term.

- (5) A person, including an owner, must not, without the approval of the Commissioner —
- (a) make a representation to a person that is inconsistent with information contained in ~~a~~the most recent community arrangements statement or prospective resident information statement given to that person ~~under subsection (2)(a); or~~
- (b) give ~~to~~ a person a ~~statement under subsection (2)(a)~~community arrangements statement or prospective resident information statement that contains information that is inconsistent with a representation made by the owner to that person.

Penalty for this subsection: a fine of \$20 000.

- (6) In proceedings for an offence against subsection (5) it is a defence for the accused to prove —
- (a) being an owner, that any representation was made without the consent or knowledge of the owner;

- (b) being a person other than an owner, that the person believed the representation was true;
 - (c) in any case, that the consent of the Commissioner was given in relation to the representation.
- (7) In this section **owner** means owner of the residential premises to which the residence contract relates.

[Section 13 amended: No. 36 of 2012 s. 7; No. 42 of 2024 s. 8, 35, 48(1), 49, 50, 51, 52 and 54.]

14A13A. **Residence contracts enforceable against current operators**

A residence contract entered into with an operator, or a former operator, of a retirement village may be enforced against any operator, for the time being, of the retirement village as if the residence contract had been entered into by that operator.

[Section 13A inserted: No. 42 of 2024 s. 9.]

14A. **Residence contracts and service contracts to comply with prescribed requirements**

(1A) In this section —

village contract means —

- (a) a residence contract; or
- (b) a service contract.

- (1) The regulations may provide for provisions or matters that must be included, or provisions or matters that must not be included, in **residencevillage** contracts or in **residencevillage** contracts of a specified kind.
- (2) A person must not enter into a **residencevillage** contract with a **resident or a** prospective resident unless the **residencevillage** contract, otherwise than because of the operation of subsection (3) or (4), complies with any regulations made for the purposes of subsection (1).

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Penalty for this subsection: a fine of \$20 000.

- (3) If regulations made for the purposes of subsection (1) provide that ~~residence~~village contracts or ~~residence~~village contracts of a specified kind must contain a provision in the terms specified in those regulations, a ~~residence~~village contract to which those regulations apply that does not include a provision in the specified terms is to be taken to include that provision.
- (4) If regulations made for the purposes of subsection (1) provide that any provision or matter must not be included in ~~residence~~village contracts or ~~residence~~village contracts of a specified kind, a ~~residence~~village contract to which those regulations apply that includes any provision or matter contrary to those regulations is void to the extent of the provision or matter.
- (5) The regulations may provide that section 6(2) does not have effect in relation to any specified regulations, or any specified provisions of regulations, made for the purposes of subsection (1).

[Section 14A inserted: No. 36 of 2012 s. 8; amended: No. 42 of 2024 s. 10 and 50.]

14B. Community arrangements statements

- (1) The purpose of a community arrangements statement is to provide information about the services and amenities, and the residential premises, that are provided, or made available, to residents of a retirement village (**community arrangements**).
- (2) A community arrangements statement must —
 - (a) be in the approved form; and
 - (b) contain the prescribed information.
- (3) The operator of a retirement village must, within 14 days after the day on which the retirement village is established, and within 14 days after the day on which there is any change in the

community arrangements of the retirement village, ensure a current community arrangements statement is continuously available to the public —

(a) on a website of the operator or of the retirement village; or

(b) if neither the operator nor the retirement village has a website — in the prescribed way.

Penalty for this subsection: a fine of \$20 000.

(4) The operator must give a person the current community arrangements statement in the prescribed way within 7 days after the day on which the person asks for a community arrangements statement.

Penalty for this subsection: a fine of \$20 000.

(5) Subsection (4) does not apply if the operator believes on reasonable grounds that the person has not asked for the community arrangements statement for the purpose of considering or deciding whether the person is or might be interested in becoming a resident of the retirement village.

[Section 14B inserted: No. 42 of 2024 s. 11.]

14C. Prospective resident information statements

(1) The purpose of a prospective resident information statement is to give a person a summary of —

(a) the estimated costs of the person —

(i) entering into occupation of residential premises in a retirement village; and

(ii) living in the retirement village; and

(iii) permanently vacating the residential premises;

and

(b) the rights and obligations of a resident under this Act.

(2) A prospective resident information statement must —

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(a) be in the approved form; and

(b) contain the prescribed information.

(3) The operator of a retirement village must give a person a prospective resident information statement in the prescribed way —

(a) if the operator, within 7 days after the day on which the person asks for the statement, requests, in writing, information from the person reasonably necessary to prepare the statement — within 7 days after the day on which the person gives the operator the information; or

(b) otherwise, within 7 days after the day on which the person asks for the statement.

Penalty for this subsection: a fine of \$20 000.

(4) Subsection (3) does not apply if the operator believes on reasonable grounds that the person has not asked for the prospective resident information statement for the purpose of considering or deciding whether the person is or might be interested in becoming a resident of the retirement village.

[Section 14C inserted: No. 42 of 2024 s. 11.]

14D. Property condition report at start and end of occupation of residential premises

(1) An operator must, within 7 days after the day on which a resident enters into occupation of residential premises under a residence contract —

(a) prepare a report describing the condition of the premises; and

(b) provide 2 copies of the report to the resident.

Penalty for this subsection: a fine of \$5 000.

(2) A resident given copies of a report under subsection (1)(b) who disagrees with any information in the report must, within 7 days after the day on which the resident receives the copies —

- (a) mark a copy in a manner that shows the information with which the resident disagrees; and
 - (b) give the copy back to the operator.
 - (3) If the resident does not give a copy of the report back to the operator under subsection (2), the resident is taken to accept the contents of the report as a true and accurate description of the condition of the residential premises.
 - (4) An operator must, as soon as practicable, and in any event within 14 days, after the day on which a resident permanently vacates residential premises in a retirement village —
 - (a) conduct an inspection of the residential premises; and
 - (b) prepare a final report describing the condition of the premises; and
 - (c) provide a copy of the report to the resident.Penalty for this subsection: a fine of \$5 000.
 - (5) The resident must be given a reasonable opportunity to be present at the inspection conducted under subsection (4)(a).
 - (6) The regulations may prescribe information that must be included in a property condition report under subsection (1) or (4).
- [Section 14D inserted: No. 42 of 2024 s. 11.]

14. Cooling-off period

- (1) Subject to subsection (2) and section 75, a prospective resident is entitled to rescind a residence contract entered into by that person —
 - (a) at any time within 7 working days after the date of the contract; or
 - (b) if section 13(2) is not complied with — at any time before the expiration of 17 working days after the date

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on which the documents required under that section are given to the prospective resident.

- (2) A person is not entitled to rescind a residence contract under this section after entering into occupation of residential premises in a retirement village under the residence contract.

- (3) This section applies despite, and does not limit any other entitlement to rescind a contract under, the *Sale of Land Act 1970*.

[Section 14 amended: No. 36 of 2012 s. [99](#); No. 42 of 2024 s. [12](#).]

15. Owner to deliver memorial

- (1) A person or association of persons whether incorporated or not must not use land for the purposes of a retirement village unless the land is under the operation of the *Transfer of Land Act 1893*. Penalty for this subsection: a fine of \$20 000.
- (2) A breach of subsection (1) cannot be pleaded in bar to any claim for the [payment of an exit entitlement or](#) repayment of ~~a premium or~~ any moneys under a contract of sale relating to any interest in the land.
- (3) Subject to subsection (6), if land is, or is proposed to be, used for the purposes of a retirement village, a memorial in the form approved by the Registrar of Titles containing such information as is prescribed must be lodged with the Registrar of Titles.
- (4) The owner of land used for the purposes of a retirement village must cause a memorial referred to in subsection (3) to be lodged with the Registrar of Titles —
- (a) if the retirement village was established or if the plan and specifications of the retirement village were approved under the *Local Government (Miscellaneous Provisions) Act 1960* before the commencement of this section and paragraph (b) does not apply — within 3 months after the commencement of this section; and

- (b) in any other case — before entering into a contract which creates or gives rise to a right to occupy residential premises in the retirement village or inviting other persons to make applications, offers or proposals to enter into such a contract.

Penalty for this subsection: a fine of \$20 000.

- (5) Before a memorial is lodged under subsection (3) the owner must —

- (a) notify each person who holds a mortgage, charge or encumbrance over the land; and
- (b) if the memorial relates to a retirement village established, or for which the plan and specifications were approved under the *Local Government (Miscellaneous Provisions) Act 1960*, or for which a building permit was granted under the *Building Act 2011*, after the commencement of this section, obtain the consent of each such person to the registration of the memorial.

Penalty for this subsection: a fine of \$5 000.

- (6) A resident who has an interest in land used for the purposes of a retirement village either as a tenant in common or as an owner of a lot under the *Community Titles Act 2018* or the *Strata Titles Act 1985* is not required to lodge a memorial under subsection (3) so long as —

- (a) the interest of the resident is related only to the place in the retirement village occupied by the resident; and
- (b) the interest of the resident is not offered as security or the resident does not enter into a contract for the sale of that interest.

- (7) On receiving a memorial under subsection (3) and payment of the fee prescribed under the *Transfer of Land Act 1893*, the Registrar of Titles must register that memorial and endorse the Register within the meaning of that Act and, if appropriate, the

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relevant plan, to that effect in relation to the land to which the memorial relates.

- (8) If there is produced to the Registrar of Titles documents, if any, prescribed for the purposes of this subsection and the Registrar of Titles is satisfied that no part of the land to which a memorial relates is still used, or proposed to be used, for the purposes of a retirement village the Registrar of Titles must, upon application for cancellation of the memorial and payment of the fee prescribed under the *Transfer of Land Act 1893*, cancel the registration of the memorial and accordingly endorse the Register within the meaning of that Act and, if necessary, relevant plan, to that effect in relation to the land concerned.

[Section 15 amended: No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 24 of 2011 s. 171; No. 32 of 2018 s. 239; No. 42 of 2024 s. [13](#), 36, 50, 52 and 54.]

15A. Amendment of memorial

- (1) An owner of a lot may apply to the Tribunal for, and the Tribunal may make, an order directing the Registrar of Titles to amend the Register under the *Transfer of Land Act 1893* so that a memorial registered under section 15 is no longer registered against the lot.
- (2) The application may (but need not) be made and heard concurrently with an application for an order under Part 3D.
- (3) The Tribunal may make the order only if satisfied that —
- (a) the lot is not, or from a specified date will not be, used for the purposes of a retirement village; and
- (b) the value of the land used for the purposes of the retirement village, other than the lot, is sufficient to secure the right of each resident or former resident of the retirement village to the payment of any exit entitlement.
- (4) The Tribunal may amend an order made under this section.

(5) An order under this section takes effect on the later of the following —

(a) the day specified in the order;

(b) the day when the order is lodged for registration with the Registrar of Titles —

(i) in the form approved by the Registrar of Titles;
and

(ii) accompanied by the fee prescribed under the
Transfer of Land Act 1893.

(6) The Tribunal's powers under this section are exercisable only
by —

(a) a judicial member; or

(b) the Tribunal constituted by a judicial member and other
members.

[Section 15A inserted: No. 42 of 2024 s. 14.]

16. Occupation right not to be created unless memorial is lodged

- (1) A person must not invite other persons to make applications, offers or proposals to enter into a contract, which has or would have the effect of creating or giving rise to a right to occupy residential premises in a retirement village in respect of which a memorial is required to be lodged under section 15 and has not been so lodged.

Penalty for this subsection: a fine of \$20 000.

- (2) An owner must not enter into a contract which has or would have the effect of creating or giving rise to a right to occupy residential premises in a retirement village in respect of which a memorial is required to be lodged under section 15 and has not been so lodged.

Penalty for this subsection: a fine of \$20 000.

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- (3) Subject to section 75, a person who is a resident and has entered into a contract in respect of which there has been a contravention of subsection (1) or (2) may rescind the contract not later than 6 months after that person becomes aware of the contravention.

[Section 16 amended: No. 42 of 2024 s. 50 and s. 52.]

17. Termination of residence rights

- (1) A contract which is entered into between a resident and an owner of land used for the purposes of a retirement village and which creates or gives rise to a right to occupy residential premises in that retirement village binds the successors in title of the owners as if the successors had also entered into the contract and the right of occupation cannot be terminated unless —
- (a) the resident dies; or
 - (b) the residence contract is terminated by the resident in accordance with the residence contract or under this Act; or
 - (c) the resident abandons the residential premises; or
 - (d) the residence contract is terminated by the Tribunal under this Act; or
 - (da) without limiting paragraph (d), the residence contract is terminated by the Tribunal in connection with an order made under section 22; or
 - (e) the holder of a mortgage, charge or other encumbrance that was in existence before the commencement of this section becomes entitled to vacant possession of the premises in pursuance of rights conferred by the mortgage, charge or other encumbrance.
- (2) Sections 57, 65 to 70, the rights of termination of residence contracts under subsection (1)(a), (b), (c), (d) and ~~(da)~~ and of recovery of possession of residential premises under this Act are subject to any rights of a resident of a retirement village —

- (a) arising because the resident is the owner of residential premises; or
- (b) acquired under a contract between the operator and the resident.

(2A) This section does not apply in relation to a residence contract that creates or gives rise to a right to occupy residential premises in a retirement village —

(a) for a fixed term of 12 months or less; or

(b) on the basis of a periodic tenancy (other than a periodic tenancy following a fixed term greater than 12 months).

- (3) In this section **successor in title** includes a person who acquires any interest in or right affecting land or has a mortgage, charge or other encumbrance over land.

[Section 17 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 15, 48(1) and 53(1).]

18. **Premiums**Ingoing contributions

(1A) In this section —

operator includes a developer, or any other person, involved in the development or construction of a retirement village.

- (1) ~~Subject to subsection (2), a premium~~An ingoing contribution paid to ~~the~~an operator must be held in trust (in a bank account or invested as trust funds may be invested under Part III of the *Trustees Act 1962*) until —

- (a) the person by or on ~~whose~~of whom the ~~premium~~ingoing contribution was paid —
 - (i) enters into occupation of the residential premises; or
 - (ii) is entitled to enter into occupation of the residential premises and is no longer entitled to rescind the residence contract under section 14

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because the applicable period referred to in that section has expired,

whichever occurs first; or

- (b) it becomes apparent that that person will not enter into occupation of the residential premises.

(2A) ~~If~~ An operator commits an offence if —

- (a) ~~a premium~~ an ingoing contribution is paid to ~~an~~ the operator; ~~and subsection (2) does not apply; and~~
- (b) the ~~premium~~ ingoing contribution is not held in trust or invested as required by subsection (1); ~~).~~

~~the operator is guilty of an offence.~~

Penalty for this subsection: a fine of \$20 000.

~~(2) The Commissioner may, on the application of an operator, grant an exemption from subsection (1) if satisfied of the operator's capacity and willingness to provide residential premises in accordance with its obligations under the residence contracts.~~

~~(3) An exemption may be conditional or unconditional, and if an operator contravenes or fails to comply with a condition of an exemption the operator is guilty of an offence.~~

~~Penalty for this subsection: a fine of \$5 000.~~

[(2), (3) deleted]

- (4) If the ~~prospective resident~~ person by or on behalf of whom the ingoing contribution was paid does not enter into occupation of residential premises, any question affecting entitlement to or disposition of the ~~premium~~ ingoing contribution must be determined by reference to the residence contract subject to the following qualifications —
 - (a) if the ~~prospective resident's~~ person's failure to enter into occupation of residential premises is attributable to a failure on the part of the operator to carry out contractual obligations, interest and accretions arising from investment

of the ~~premium~~inggoing contribution must be paid to the ~~prospective resident~~person;

- (b) in any other case, the operator is entitled to retain any such interest and accretions.

(5) ~~If—~~An operator commits an offence if —

- (a) a question affecting entitlement to or disposition of the ~~premium~~inggoing contribution is required by subsection (4) to be determined by reference to the residence contract and the operator fails to act in accordance with that requirement; or
- (b) interest and accretions arising from investment of the ~~premium~~inggoing contribution are required by subsection (4)(a) to be paid to the ~~prospective resident~~person by or on behalf of whom the inggoing contribution was paid and ~~that the~~ interest and ~~those~~ accretions are not paid accordingly.

~~the operator is guilty of an offence.~~

Penalty for this subsection: a fine of \$20 000.

[Section 18 amended: No. 1 of 1997 s. 18; No. 36 of 2012 s. 10; No. 42 of 2024 s. 16, 37, 48(1), 50 and 52.]

~~19. Contractual rights of residents~~

19. Service contracts

- (1) A service contract entered into with an operator, or a former operator, of a retirement village may be enforced against ~~the any~~ operator, for the time being, of the retirement village as if the service contract had been entered into by that operator.
- (2) Every term relating to the provision of ~~a service~~services or amenities to a resident under a service contract binds a resident and each successor in title of the resident until the term is varied or cancelled by the Tribunal under this Act.

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- ~~— (3) If a premium is paid under a contract providing that it will be repaid in whole or in part on the happening of a contingency and the contingency occurs, the sum repayable must be paid —~~
- ~~— (a) if the place formerly occupied by the resident in the retirement village is subsequently occupied by another person — within 7 days of that other person taking occupation;~~
- ~~— (b) in any other case — within 45 days of the day on which the resident ceases to reside at that place in the retirement village.~~
- ~~— (4) Any amount not paid within the period referred to in subsection (3) may be recovered as a debt from the operator for the time being of the retirement village.~~
- ~~— (5) Subsection (3) does not apply to a residence contract unless —~~
- ~~— (a) the residence contract has been terminated in accordance with the terms of the residence contract; and~~
- ~~— (b) the resident does not have the right to appoint or nominate the resident's own agent for the purpose of disposing of the resident's interest in the retirement village.~~

~~[(3)-(5) deleted]~~

- (6) Proceedings cannot be commenced against the owner of land used for the purposes of a retirement village for the enforcement of rights under subsection (1) or (2) unless —
 - (a) the owner is a party to ~~the~~a contract under which ~~the premium~~an exit entitlement is ~~repayable~~payable in relation to the resident; or
 - (b) the owner is the sole operator of the retirement village; or
 - (c) an operator other than the owner has failed to satisfy a judgment given for the enforcement of those rights.
- ~~— (7) In subsection (2) **service** means a service referred to in the definition of **service contract** in section 3.~~

~~[(7) deleted]~~

[Section 19 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. [17](#), 38, 48(1), 49, 51, 52, 53(1) and 54.]

20. Charges

- (1) The rights of a resident to ~~repayment~~[payment](#) of ~~a premium, or part of a premium, under section 19~~[an exit entitlement](#) are a charge on land in the retirement village other than —
- (a) residential premises owned by a resident; or
 - (b) any other prescribed part of, or interest in, a retirement village.

- (2) Subsection (1) has effect whether or not the charge is registered.

- (3) ~~If the premium or part of a premium referred to in subsection (1) is paid after the time within which a memorial in respect of the land to which the charge relates is required to be lodged under section 15, the charge is a first charge on the land to which the charge relates, and has priority over all mortgages, charges or encumbrances created or arising after the creation of the charge, or created or arising before the creation of the charge but after the day on which a memorial in respect of the relevant land is registered under section 15.~~

- ~~— (4) — If the premium or part of a premium referred to in subsection (1) was paid before the time within which a memorial in respect of the land to which the charge relates is required to be registered under section 15, the charge on the land to which the charge relates~~[The charge](#) ~~has priority over all mortgages, charges and encumbrances created or arising in relation to that~~[the](#) ~~land after the day on which a memorial in respect~~[registration](#) ~~of the relevant land is registered~~[memorial](#) ~~under section 15.~~

~~[(4) deleted]~~

- (5) Land which is charged under this section continues to be liable to the charge despite any change in ownership, and, subject to subsection (1) and section 19(6), the charge is enforceable

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against any operator for the time being of the land, whether or not that operator has notice of the charge.

- (6) The —
- (a) interests and rights mentioned in the proviso to section 68 of the *Transfer of Land Act 1893*;
 - (b) interests and rights prescribed for the purposes of this subsection,

have priority over a charge under this section.

[Section 20 amended: No. 42 of 2024 s. [18 and](#) 48(1).]

21. Enforcement of charge

- (1) A resident of a retirement village in respect of which there is a charge protecting the resident's right to ~~repayment of a premium or part of a premium~~ [payment of an exit entitlement](#) may apply to the Supreme Court for an order for enforcement of the charge.
- (2) On application by a resident in accordance with subsection (1) the Supreme Court may make an order for enforcement of the charge if it is satisfied that —
 - (a) the resident has commenced proceedings against the operator for the time being of the land charged for the ~~recovery~~ [payment](#) of the ~~resident's premium or part of a premium~~ [exit entitlement](#), has obtained judgment and has attempted to execute the judgment but is unable to obtain payment of the whole of the judgment debt; and
 - (b) it is not contrary to the interests of any of the residents of the retirement village to make the order.
- (3) An order for enforcement of a charge may provide for the following matters —
 - (a) the sale of the land charged;
 - (b) a declaration that the charge is extinguished upon the completion of the sale of the land charged;

- (c) a determination of the amount secured by the charge;
 - (d) a determination of the entitlements of residents to payments out of the proceeds of the sale of the land charged, having regard to the amount of each resident's ~~refundable premium or part of a premium~~[exit entitlement](#) and the proportion which it bears to the total amount of ~~premiums or parts of premiums~~[exit entitlements](#) secured by the charge;
 - (e) the order in which the proceeds of sale are to be applied having regard to the matters set out in subsection (4).
- (4) Proceeds of sale are to be applied in the following order —
- (a) firstly, in payment of mortgages, charges and encumbrances which rank before the charge in priority unless the sale is subject to those mortgages, charges and encumbrances;
 - (b) secondly, in payments of the costs incurred in applying for and obtaining the order for enforcement of the charge and in selling the land charged;
 - (c) thirdly, in making payments to residents;
 - (d) fourthly, in payment of any mortgages, charges and encumbrances which rank after the charge in priority;
 - (e) fifthly, in payments to the person who owned the land charged immediately before an order was applied for.
- (5) An order for enforcement of a charge may contain such incidental and consequential provisions as the Court may decide.

[Section 21 amended: No. 42 of 2024 s. [19](#), 39, 48(1) and 51.]

21A. Rules of conduct for operators and residents

(1) In this section —

operator includes any employee, agent or other person acting on behalf of an operator.

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(2) The regulations may prescribe the following —

(a) rules of conduct for operators and residents of retirement villages;

(b) requirements for operators regarding professionalism, training, competencies, performance and behaviour in connection with the administration of retirement villages;

(c) consequences of (including remedies for) contraventions of regulations under paragraph (a) or (b).

(3) Without limiting subsection (2)(a) and (b), the regulations may prescribe requirements relating to the following —

(a) knowledge about —

(i) this Act; and

(ii) the provisions of the *Community Titles Act 2018* and the *Strata Titles Act 1985*, and of any other written law, relevant to the administration of retirement villages;

(b) conduct in relation to dealings with current or prospective residents of retirement villages (for example, by reference to standards of honesty, fairness and professionalism);

(c) conduct in relation to the marketing of retirement villages (including in relation to the use of terminology).

(4) Without limiting subsection (2)(c), the regulations may prescribe that an operator or resident may apply to the Tribunal for, and that the Tribunal may make —

(a) an order to remedy a contravention of the regulations under subsection (2)(a) or (b); and

(b) without limiting paragraph (a), an order requiring an operator to take, or refrain from taking, specified action.

(5) Subsection (2)(c) does not affect section 82(3).

[Section 21A inserted: No. 42 of 2024 s. 20.]

21B. Financial arrangements and budget obligations

- (1) The regulations may make provision about the obligations of the operator of a retirement village in relation to the retirement village's budget and financial arrangements.
- (2) Without limiting subsection (1), the regulations may make provision about the following —
- (a) preparation of proposed annual budgets by the operator;
 - (b) expenditure of funds in accordance with an annual budget;
 - (c) preparation of financial statements and related documents;
 - (d) provision of the financial statements and related documents, and other financial information, to residents of the retirement village;
 - (e) consultation with residents regarding the content of the annual budget;
 - (f) accounting for the expenditure of funds and auditing;
 - (g) the provision of information to residents about insurance in relation to the retirement village.

[Section 21B inserted: No. 42 of 2024 s. 20.]

22. Termination of retirement village scheme

- (1A) In this section —
- terminate**, in relation to a retirement village scheme, includes to suspend, or effectively suspend, the retirement village scheme so that all residents are required to relocate, even if only temporarily, from the residential premises occupied by them.
- (1) A retirement village scheme cannot be terminated without the approval of the ~~Supreme Court~~ Tribunal while a person who has been admitted to occupation of residential premises under the scheme remains in occupation of those premises.

- (2) ~~The~~For the purposes of the State Administrative Tribunal Act 2004 section 36, the Commissioner is a party to any proceedings in which the ~~Supreme Court's~~Tribunal's approval of the termination of a retirement village scheme is sought.
- (3) ~~If the Supreme Court approves~~The Tribunal must not approve the termination of a retirement village scheme ~~it~~unless the operator —
- (a) gives each resident a plan relating to termination of the scheme (a **termination plan**) —
 - (i) in the approved form; and
 - (ii) containing the prescribed information;and
 - (b) holds a meeting of the residents, at least 1 month after giving each resident the termination plan, to answer residents' questions, and provide further information, about the plan; and
 - (c) obtains for each resident, or takes all reasonable steps to assist each resident in obtaining, alternative accommodation —
 - (i) that is of approximately the same standard as, and requires no greater financial outlay on the part of the resident than, the residential premises occupied by the resident; and
 - (ii) that is acceptable to the resident or reasonably ought to be acceptable to the resident.
- (4) If the Tribunal makes an order approving the termination of a retirement village scheme, the Tribunal —
- (a) must fix in the order a date by which each resident must vacate the residential premises occupied by the resident; and
 - (b) may make such other orders as ~~it~~the Tribunal thinks necessary to protect the interests of existing residents. fit, including an order that the operator pay to a resident —

(i) the costs of vacating, or relocating from, the residential premises occupied by the resident; or

(ii) compensation for the resident's loss of rights under a residence contract or a service contract.

(5) The Tribunal's powers under this section are exercisable only by —

(a) a judicial member; or

(b) the Tribunal constituted by a judicial member and other members.

[Section 22 amended: No. 42 of 2024 s. [21](#) and 40.]

[23. — Recurrent charges payable by former residents

~~— (1) — In this section —~~

~~**former resident** means a former resident of a retirement village who has permanently vacated residential premises in the retirement village and who does not have an interest in the retirement village as a tenant in common or as an owner of a lot under the *Community Titles Act 2018* or the *Strata Titles Act 1985* in relation to the residential premises in the retirement village that he or she formerly occupied;~~

~~**permanently vacated**, in relation to a former resident and residential premises in a retirement village, means that —~~

~~(a) — if required by the residence contract — the operator has been given notice of the former resident's intention to vacate the residential premises; and~~

~~(b) — the goods and belongings of the former resident have been removed from the residential premises; and~~

~~(c) — the former resident has ceased to reside in the residential premises; and~~

~~(d) — the right to exclusively occupy the residential premises has been given up by the former resident (or, if the former resident is deceased, by the estate of the former~~

resident) by returning the keys to the residential premises to the operator;

~~recurrent charges~~, except in subsection (6), means recurrent charges—

(a) that are payable in respect of the residential premises in a retirement village that a former resident formerly occupied; and

(b) that arise—

(i) after those premises have been permanently vacated by the former resident; and

(ii) on or after the commencement of the *Retirement Villages Amendment Act 2012* section 11.

(2) This section applies to a former resident of residential premises in a retirement village, whether that former resident permanently vacated those premises before or after the commencement of the *Retirement Villages Amendment Act 2012* section 11.

(3) Subject to subsection (4), a former resident's liability to pay recurrent charges—

(a) begins when the residential premises have been permanently vacated by the former resident; and

(b) ceases in accordance with the regulations.

(4) If a former resident's residence contract provides for the former resident's liability to pay recurrent charges to cease at a time that would occur before the time provided for in regulations made for the purposes of subsection (3)(b), that liability ceases in accordance with that contract.

(5) The operator of a retirement village must pay recurrent charges, at the time when a former resident would have been required to pay those charges if the former resident were still liable to pay them, that are payable in respect of the period that—

(a) begins when the former resident's liability to pay the recurrent charges ceases in accordance with regulations

~~made for the purposes of subsection (3) or with the residence contract referred to in subsection (4), as the case requires; and~~

- ~~— (b) ceases when a new resident of the residential premises becomes liable to pay the recurrent charges.~~
- ~~— (6) The operator must not seek to recover from the residents of the retirement village, by increasing the recurrent charges payable by them or by demanding or receiving from them any additional fee or charge, any amount payable by the operator under subsection (5).~~
- ~~— Penalty for this subsection: a fine of \$20 000.~~
- ~~— (7) Section 6(2) does not have effect in relation to this section.~~
- ~~— [Section 23 inserted, **24.** Deleted: No. 36 of 2012 s. 11; amended: No. 32 of 2018 s. 240; No. 42 of 2024 s. 48(1) and 50.]~~

24. Recurrent charges may be deducted from premium repayable to former resident

- ~~— (1) In this section —~~
- ~~— **former resident** has the meaning given in section 23(1);~~
- ~~— **recurrent charges** means recurrent charges —~~
- ~~— (a) that are payable in respect of the residential premises in a retirement village that a former resident formerly occupied; and~~
- ~~— (b) that arise —~~
 - ~~— (i) after those premises have been permanently vacated by the former resident; and~~
 - ~~— (ii) on or after the commencement of the *Retirement Villages Amendment Act 2012* section 11.~~
- ~~— (2) If a premium is repayable in whole or in part to a former resident, the former resident may elect, by notice in writing given to the operator of the retirement village, to pay any~~

~~recurrent charges for which he or she is liable (including any interest payable in respect of those charges under subsection (4)) by their deduction from the amount of premium repayable.~~

~~— (3) — A former resident who elects to pay recurrent charges under subsection (2) may give the notice to the operator at any time after the former resident has permanently vacated the residential premises that he or she formerly occupied.~~

~~— (4) — Subject to subsection (6) and to any regulations made for the purposes of this subsection, a former resident who elects to pay recurrent charges under subsection (2) is liable to pay interest to the operator in respect of those charges if the effect of that election is to defer the payment of the charges.~~

~~— (5) — Interest is payable —~~

~~— (a) — from the time the recurrent charges would, apart from subsection (2), be payable by the former resident until their deduction from the premium repayable to the former resident; and~~

~~— (b) — at the rate determined in the prescribed manner.~~

~~— (6) — If —~~

~~— (a) — the operator and the former resident agree to a rate of interest that is lower than the rate referred to in subsection (5)(b); or~~

~~— (b) — the former resident's residence contract specifies a rate of interest for the purposes of this section that is lower than the rate referred to in subsection (5)(b),~~

~~— interest is payable by the former resident at that lower rate.~~

~~— (7) — If the effect of the election under subsection (2) is to defer the payment by a former resident of any recurrent charges, the operator —~~

~~— (a) — must pay the recurrent charges at the time when the former resident would have been required to pay those charges apart from subsection (2); and~~

- ~~———— (b) — may deduct the amount paid from the premium that is repayable to the former resident.~~
- ~~———— (8) — A former resident is to be taken to have paid any recurrent charges in respect of which a deduction is made from the premium that is repayable to the former resident.~~
- ~~———— (9) — If a former resident elects to pay any recurrent charges under subsection (2), the operator must not demand or receive payment of those charges otherwise than in accordance with that election.~~
- ~~———— Penalty for this subsection: a fine of \$20 000.~~
- ~~———— (10) — Section 6(2) does not have effect in relation to this section.~~
- ~~———— [Section 24 inserted: No. 36 of 2012 s. 11; amended: No. 42 of 2024 s. 48(1) and 50²².]~~

25. Operator not to require payment in respect of prescribed matters

- (1) The operator of a retirement village must not demand or receive payment from a resident or former resident in respect of any matter prescribed for the purposes of this section.
Penalty for this subsection: a fine of \$20 000.
- (2) Section 6(2) does not have effect in relation to this section.
[Section 25 inserted: No. 36 of 2012 s. 11; amended: No. 42 of 2024 s. 48(1) and 50.]

Part 3A — Leaving a retirement village

[Heading inserted: No. 42 of 2024 s. 23.]

Division 1 — General

[Heading inserted: No. 42 of 2024 s. 23.]

26. Term used: resident

In this Part (and in sections 20 and 21) —

resident includes former resident.

[Section 26 inserted: No. 42 of 2024 s. 23.]

27. Reinstatement and renovation of residential premises

(1) In this section —

capital gain, in relation to residential premises in a retirement village, means any increase between —

(a) the ingoing contribution paid by or on behalf of the resident permanently vacating the premises; and

(b) the ingoing contribution paid, or to be paid, by or on behalf of the next resident to occupy the premises;

reinstatement, of a resident's residential premises in a retirement village, means the return of the premises to the condition required by this section;

renovation, of residential premises, means improvement of the premises in excess of what is required for reinstatement.

(2) A resident must, on permanently vacating residential premises in a retirement village, leave the premises as nearly as possible in the same condition, fair wear and tear excepted, as they were in when the resident entered into occupation of the premises.

(3) In particular, if the resident accepts, or is taken to accept, a property condition report under section 14D as a true and accurate description of the residential premises, the resident

must leave the premises as nearly as possible in the same condition, fair wear and tear excepted, as set out in the report.

(4) The operator of the retirement village may require the resident to pay for reinstatement of the resident's residential premises only if —

(a) the resident did not leave the premises in the condition required by this section; and

(b) the residence contract between the operator and resident includes a term to the effect that the resident must pay for reinstatement of the premises; and

(c) the cost of the reinstatement has been —

(i) agreed between the operator and resident; or

(ii) determined by the Tribunal.

(5) The operator of the retirement village may require the resident to pay for renovation of the resident's residential premises only if all of the following apply —

(a) the operator and resident agree on a plan for the renovation (a **renovation plan**) on or after the date the residential premises are permanently vacated;

(b) the renovation is in accordance with the renovation plan;

(c) the residence contract between the operator and resident includes a term to the effect that the resident is entitled to a share of any capital gain that is at least in proportion to the amount of the renovation required by the operator to be paid for by the resident.

(6) A renovation plan must —

(a) be in the approved form; and

(b) contain the prescribed information.

(7) The operator of a retirement village must not demand or receive payment from a resident for reinstatement or renovation of

residential premises otherwise than in accordance with this section.

Penalty for this subsection: a fine of \$20 000.

- (8) The operator or resident may apply to the Tribunal for, and the Tribunal may make, an order in relation to the amount, if any, that the resident is required to pay for reinstatement or renovation of residential premises under this section.

[Section 27 inserted: No. 42 of 2024 s. 23.]

28. Liability for recurrent charges

- (1) The liability of a resident to pay recurrent charges arising after the resident has permanently vacated residential premises in a retirement village ends on the earliest of the following —

(a) the date on which a new resident becomes liable to pay recurrent charges in respect of the premises;

(b) the prescribed date;

(c) the date on which the operator is required to pay an exit entitlement in relation to the resident under section 29;

(d) the date on which the operator is required to enter into a contract for, and complete, the purchase of the residential premises under this Part;

(e) the date agreed between the operator and the resident;

(f) the date provided for in the residence contract between the operator and resident.

- (2) The operator must not seek to recover from the residents of the retirement village, by increasing the recurrent charges payable by them or by demanding or receiving from them any additional payment, any amount of recurrent charges —

(a) arising after a resident has permanently vacated residential premises in a retirement village; and

(b) for which the resident is not liable under this section.

Penalty for this subsection: a fine of \$20 000.

[Section 28 inserted: No. 42 of 2024 s. 23.]

Division 2 — Exit entitlements

[Heading inserted: No. 42 of 2024 s. 23.]

29. Payment of exit entitlements

(1) An operator must pay an exit entitlement in relation to a resident —

(a) on or before the earliest of the following —

(i) the date provided for in the residence contract between the operator and resident;

(ii) the date that is 7 days after the day on which another person, with the consent of the operator, enters into occupation of the residential premises occupied by the resident following the resident having permanently vacated those residential premises;

(iii) the date agreed between the operator and resident (or the person to whom the exit entitlement is payable);

(iv) the date that is 12 months after the day on which the resident has permanently vacated the residential premises occupied by the resident;

(v) for a residence contract terminated by the Tribunal — the date that is 10 days after the date fixed by the Tribunal as the date by which the resident must vacate the residential premises;

or

(b) if the resident grants the operator an extension under subsection (2) —

(i) the day after the end of the extended period; or

(ii) if the resident revokes the extension more than 3 months before the end of the extended

period — the day after the date that is 3 months after the date of revocation.

Penalty for this subsection: a fine of \$20 000.

(2) A resident may, by notice in writing to the operator —

(a) extend the period within which the operator would otherwise be required to pay an exit entitlement; and

(b) revoke the extension more than 3 months before the end of the extended period.

(3) The operator must, at the same time as paying the exit entitlement, give the resident (or the person to whom the exit entitlement is payable) a statement —

(a) setting out how the operator calculated the exit entitlement; and

(b) containing any other prescribed information.

Penalty for this subsection: a fine of \$20 000.

(4) If an operator calculates, or is required by a residence contract to calculate, an exit entitlement by reference to the ingoing contribution paid, or to be paid, by or on behalf of the next resident to occupy the relevant residential premises, the exit entitlement is to be as agreed or decided under section 37.

(5) An exit entitlement not paid as required by this section may be recovered as a debt from the operator, for the time being, of the retirement village.

(6) Subsection (1) does not apply for any period during which the operator has a relevant extension, or an exemption, under Division 4.

[Section 29 inserted: No. 42 of 2024 s. 23.]

30. Resident's payment of recurrent charges from exit entitlement

- (1) A resident may, by written notice to the operator of the retirement village, elect to pay, by way of a deduction from the resident's exit entitlement —
- (a) recurrent charges arising after the resident has permanently vacated residential premises in the village; and
- (b) interest on recurrent charges that, as a result of the election, are not paid by the resident as liability to pay them arises.
- (2) Unless the relevant residence contract specifies that interest is not payable, the operator may charge the resident the interest at the lowest of the following —
- (a) the prescribed rate;
- (b) the rate specified in the contract;
- (c) the rate agreed between the operator and the resident.
- (3) If a resident elects to pay any recurrent charges under subsection (1), the operator must not demand or receive payment of those charges otherwise than in accordance with that election.

Penalty for this subsection: a fine of \$20 000.

[Section 30 inserted: No. 42 of 2024 s. 23.]

31. Operator's payment of exit entitlement for aged care

- (1) The regulations may make provision about payment, at the request of a resident, of some or all of an exit entitlement to a person other than the resident for the purpose of funding the resident's residence, or proposed residence, in an aged care facility.
- (2) Without limiting subsection (1), the regulations may make provision about the following —

- (a) a resident's entitlement to make a request;
- (b) how the request may be made and the matters it must address or the information or evidence it must include;
- (c) an operator's obligation to comply with the request;
- (d) when and how multiple payments of part an exit entitlement must be made (including in advance of an exit entitlement becoming payable in full under section 29);
- (e) the persons to whom payments can be made.

[Section 31 inserted: No. 42 of 2024 s. 23.]

Division 3 — Buybacks

[Heading inserted: No. 42 of 2024 s. 23.]

32. Residential premises to which Division applies

- (1) This Division applies only in relation to —
 - (a) residential premises a right to occupation of which is conferred by ownership of shares; or
 - (b) residential premises purchased from the operator subject to a right or option of repurchase; or
 - (c) residential premises purchased subject to conditions restricting the subsequent disposal of the premises; or
 - (d) residential premises prescribed for the purposes of this paragraph.
- (2) In this Division and Division 4, a reference to residential premises is, for residential premises referred to in subsection (1)(a), a reference to the shares that confer the right to occupy the residential premises.

[Section 32 inserted: No. 42 of 2024 s. 23.]

33. Buyback of residential premises that are owned

- (1) The operator of a retirement village must enter into a contract for the purchase of a resident's residential premises in a retirement village, and complete the purchase, as required by this Division.

Penalty for this subsection: a fine of \$20 000.

- (2) Subsection (1) does not apply —

(a) if the residential premises are sold to a person other than the operator before the day on which the operator is required to complete the purchase; or

(b) for any period during which the operator has a reasonable excuse.

- (3) Without limiting subsection (2)(b), the operator has a reasonable excuse —

(a) for any period during which the operator has a relevant extension, or an exemption, under Division 4; and

(b) for any extended period ordered by the Tribunal under section 44; and

(c) for any period during which the operator cannot enter into the contract, or complete the purchase, because of an act or omission of the resident.

[Section 33 inserted: No. 42 of 2024 s. 23.]

34. Requirements for buyback

- (1) The operator must enter into the contract and complete the purchase within the time required under section 35.

- (2) The contract must comply with section 36.

- (3) The purchase price under the contract is the value of the residential premises as agreed or decided under section 37.

[Section 34 inserted: No. 42 of 2024 s. 23.]

35. Timing of purchase

- (1) The operator must enter into the contract in sufficient time for the purchase to be completed under subsection (2).
- (2) The operator must complete the purchase under the contract on or before the day after the period of 12 months beginning on the day on which the resident has permanently vacated the residential premises.

[Section 35 inserted: No. 42 of 2024 s. 23.]

36. Terms of contract

- (1) The regulations may provide for terms that —
- (a) must be included in the contract (a **required term**); or
- (b) must not be included in the contract (a **prohibited term**).
- (2) The contract must —
- (a) be in the approved form; and
- (b) include each required term; and
- (c) not include any prohibited term; and
- (d) comply with any other prescribed requirements; and
- (e) otherwise be in the terms, consistent with this Act, that are —
- (i) agreed between the operator and resident; or
- (ii) determined by the Tribunal.
- (3) The operator or resident may apply to the Tribunal for, and the Tribunal may make, an order determining terms of the contract.

[Section 36 inserted: No. 42 of 2024 s. 23.]

Division 4 — Miscellaneous

[Heading inserted: No. 42 of 2024 s. 23.]

37. Valuations — exit entitlements and buybacks

(1) For the purposes of Divisions 2 and 3, an exit entitlement, or the value of residential premises in a retirement village, is —

(a) the exit entitlement, or value, agreed between the operator and the resident; or

(b) if the operator and the resident cannot, within the prescribed time, agree — the exit entitlement, or value, determined by a licensed valuer (as defined in the *Land Valuers Licensing Act 1978* section 4) who meets the requirements of this section.

(2) The licensed valuer —

(a) must have appropriate experience or expertise; and

(b) must not have a pecuniary or other interest that could be reasonably regarded as capable of affecting the licensed valuer's ability to determine, in good faith, the exit entitlement or value of the residential premises.

(3) The licensed valuer must be appointed by —

(a) agreement between the operator and the resident; or

(b) if the operator and the resident cannot, within the prescribed time, agree — the Commissioner.

(4) The operator or the resident may apply to the Tribunal for a review of a decision by the Commissioner to appoint a licensed valuer.

(5) The regulations may make provision in relation to valuations for the purposes of this section.

(6) The operator and the resident are to pay the costs of the licensed valuer's determination in equal shares.

[Section 37 inserted: No. 42 of 2024 s. 23.]

38. Extensions — exit entitlements and buybacks

(1) The Commissioner may, on application made by an operator in the approved form and within the prescribed time, extend, by up to 12 months, the period within which the operator would otherwise have to comply with —

(a) the requirement to pay an exit entitlement in relation to a particular resident under Division 2; or

(b) the requirement to enter into a contract for, and complete, the purchase of residential premises in relation to a particular resident under Division 3.

(2) The Commissioner —

(a) must, when granting an extension, specify a later date on or before which the operator must comply with the requirement; and

(b) may, if satisfied that any condition to which the extension is subject has not been complied with, bring forward the later date by written notice to the operator.

(3) The operator must comply with the requirement on or before the date so specified or brought forward.

Penalty for this subsection: a fine of \$20 000.

(4) The Commissioner —

(a) may grant an extension unconditionally or subject to conditions; and

(b) may, by written notice to the operator, vary the conditions to which an extension is subject.

(5) Without limitation, the conditions to which an extension may be subject include conditions —

(a) requiring part payment, or payment in instalments, of an amount in advance of the specified date; and

(b) requiring payment of interest at the prescribed rate.

(6) An operator must comply with any condition of an extension.

Penalty for this subsection: a fine of \$20 000.

(7) The Commissioner may only grant an operator an extension if the Commissioner —

(a) has not previously granted the operator an extension in respect of the requirement in relation to the particular resident; and

(b) is satisfied that exceptional circumstances make it unreasonable for the operator to have to comply with the requirement.

(8) Without limiting the matters the Commissioner may consider in deciding whether to grant an extension, or to impose or vary conditions of an extension, the Commissioner must consider the following —

(a) the operator's financial capacity to comply with the requirement;

(b) the impact, including the financial impact, on residents of the retirement village (and, for a resident who has died, on the beneficiaries of the resident's estate);

(c) whether the operator or the particular resident has unreasonably delayed —

(i) the entry into occupation of the relevant premises by the next resident; or

(ii) the sale of the premises;

(d) submissions, if any, made to the Commissioner by the operator or the particular resident;

(e) any other prescribed matter.

(9) The operator may apply to the Tribunal for a review of a decision by the Commissioner —

(a) not to grant an extension; or

(b) to impose or vary conditions of an extension; or

(c) to bring forward the later date on or before which the operator must comply with the requirement.

(10) The particular resident may apply to the Tribunal for a review of a decision by the Commissioner —

(a) to grant an extension; or

(b) to impose or vary conditions of an extension.

[Section 38 inserted: No. 42 of 2024 s. 23.]

39. Exemptions — exit entitlements and buybacks

(1) The Commissioner may, on application made by an operator in the approved form, exempt, for up to 5 years, the operator from —

(a) any requirement to pay an exit entitlement under Division 2; or

(b) any requirement to enter into a contract for, and complete, the purchase of residential premises under Division 3.

(2) The Commissioner —

(a) must, when granting an exemption, specify later dates on or before which the operator must comply with any requirements that would otherwise apply, or have applied, during the period of the exemption; and

(b) may, if satisfied that any condition to which the exemption is subject has not been complied with, bring forward a later date by written notice to the operator.

(3) The operator must comply with the requirements on or before the dates so specified or brought forward.

Penalty for this subsection: a fine of \$20 000.

(4) The Commissioner —

(a) may grant an exemption unconditionally or subject to conditions; and

(b) may, by written notice to the operator, vary the conditions to which an exemption is subject.

(5) An operator must comply with any condition of an exemption.

Penalty for this subsection: a fine of \$20 000.

(6) The Commissioner may only grant an operator an exemption if the Commissioner is satisfied that the exemption is in the public interest.

(7) Without limiting the matters the Commissioner may consider in deciding whether to grant an exemption, or to impose or vary conditions of an exemption, the Commissioner must consider the following —

(a) the number of residential premises in the retirement village;

(b) the nature of the residents' interests in the land of the retirement village (for example, as owners or lessees);

(c) whether residents are required to reinstate or renovate residential premises;

(d) whether the operator makes a profit from fees or charges payable by residents;

(e) whether the operator's assets and ability to generate income are likely to be sufficient to comply with any requirements that would otherwise apply during the period of the exemption;

(f) submissions, if any, made to the Commissioner by the operator or residents;

(g) any other prescribed matter.

(8) The operator may apply to the Tribunal for a review of a decision by the Commissioner —

(a) not to grant an exemption; or

(b) to impose or vary conditions of an exemption; or

(c) to bring forward a later date on or before which the operator must comply with a requirement that would otherwise apply, or have applied, during the period of the exemption.

(9) A resident may apply to the Tribunal for a review of a decision by the Commissioner —

(a) to grant an exemption; or

(b) to impose or vary conditions of an exemption.

[Section 39 inserted: No. 42 of 2024 s. 23.]

40. Resident's remedies for contraventions of Part

(1) A resident may apply to the Tribunal for, and the Tribunal may make, an order requiring an operator to comply with any requirement in this Part.

(2) The Tribunal's power to make the order is not affected by —

(a) the commencement of proceedings against the operator for an offence under this Part; or

(b) the conviction of the operator in proceedings for the offence.

[Section 40 inserted: No. 42 of 2024 s. 23.]

Part 3B — Capital items

[Heading inserted: No. 42 of 2024 s. 23.]

41. Terms used

In this Part —

capital item —

(a) includes —

(i) any building or structure in a retirement village;
and

(ii) any plant, machinery or equipment used in the
administration of the retirement village; and

(iii) any part of the infrastructure of the retirement
village;

but

(b) does not include —

(i) anything owned by a resident; or

(ii) common property as defined by the *Community
Titles Act 2018* section 3(1) or the *Strata Titles
Act 1985* section 3(1); or

(iii) the following, but only if provided for the
exclusive use of a resident and required under a
residence contract to be maintained, repaired or
replaced by the resident —

(I) fittings;

(II) fixtures;

(III) contents of residential premises;

capital maintenance —

(a) means works carried out for the purpose of repairing or
maintaining a capital item; but

(b) does not include anything prescribed by the regulations;

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capital replacement —

(a) means works carried out for the purpose of replacing a capital item; but

(b) does not include —

(i) capital maintenance; or

(ii) anything else prescribed by the regulations.

[Section 41 inserted: No. 42 of 2024 s. 23.]

41A. Capital items generally

(1) The operator of a retirement village must maintain each capital item in the village in a reasonable condition having regard to the following —

(a) the age of the item;

(b) the prospective life of the item;

(c) the money paid to the operator by the residents under residence contracts and service contracts (including ingoing contributions).

Penalty for this subsection: a fine of \$20 000.

(2) The operator may replace a capital item if it is not practical to maintain it.

(3) The operator must carry out capital maintenance, or capital replacement, in relation to a capital item within a reasonable time after becoming aware of the need for the capital maintenance or capital replacement.

Penalty for this subsection: a fine of \$20 000.

(4) A resident must notify the operator of the need for capital maintenance, or capital replacement, in relation to a capital item in the resident's residential premises as soon as the resident becomes aware of the need for the capital maintenance or capital replacement.

[Section 41A inserted: No. 42 of 2024 s. 23.]

41B. Plans for capital maintenance and capital replacement

- (1) The operator of a retirement village must, in accordance with the regulations, prepare, and keep up to date, a plan for capital maintenance and capital replacement.

Penalty for this subsection: a fine of \$20 000.

- (2) The regulations may make provision about plans for capital maintenance and capital replacement.

- (3) Without limiting subsection (2), the regulations may make provision about the following —

(a) the preparation, content, duration and revision of plans for capital maintenance and capital replacement;

(b) notifying, or consulting or engaging with, residents about the matters referred to in paragraph (a);

(c) the information to be recorded in plans for capital maintenance and capital replacement, including information concerning any of the following —

(i) the costs associated with capital maintenance or capital replacement;

(ii) the reasons for decreases or increases in costs associated with capital maintenance or capital replacement;

(iii) the frequency with which costs are incurred in respect of capital items;

(d) the capital items for which a plan for capital maintenance and capital replacement must be prepared.

- (4) Subsection (1) does not apply to the operator of a retirement village if there are no capital items in the retirement village.

[Section 41B inserted: No. 42 of 2024 s. 23.]

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41C. Capital maintenance

- (1) The operator of a retirement village must maintain a fund for capital maintenance (a **capital maintenance fund**).

Penalty for this subsection: a fine of \$20 000.

- (2) The operator must ensure the capital maintenance fund is held —

(a) in an account with an authorised deposit-taking institution; or

(b) as otherwise prescribed.

Penalty for this subsection: a fine of \$20 000.

- (3) The operator must ensure the following are paid into the capital maintenance fund —

(a) any amount of recurrent charges that is, or is required to be, allocated to pay for capital maintenance under a budget prepared for the retirement village (including any budget required under section 21B);

(b) any other amount a resident is required to pay in connection with capital maintenance;

(c) without limitation, any amount that is, or is required by a residence contract between a resident and operator to be —

(i) paid by the resident in connection with entering into occupation of, or permanently vacating, residential premises in the retirement village; and

(ii) allocated to pay for capital maintenance;

(d) any interest received from investment of the fund.

Penalty for this subsection: a fine of \$20 000.

- (4) The operator must not use money from the capital maintenance fund otherwise than to pay for capital maintenance.

Penalty for this subsection: a fine of \$20 000.

- (5) This section does not apply to the operator of a retirement village if there are no capital items in the retirement village.

[Section 41C inserted: No. 42 of 2024 s. 23.]

41D. Capital replacement

- (1) The operator of a retirement village must not —

- (a) use, or set aside, any amount of recurrent charges paid by a resident to pay for capital replacement; or
- (b) demand or receive from a resident any other fee or charge to pay for capital replacement.

Penalty for this subsection: a fine of \$20 000.

- (2) Subsection (1)(b) does not prohibit an operator from demanding or receiving any amount that is required by a residence contract between the resident and operator to be —

- (a) paid by the resident in connection with entering into occupation of, or permanently vacating, residential premises in the retirement village; and
- (b) allocated to pay for capital replacement.

[Section 41D inserted: No. 42 of 2024 s. 23.]

41E. Excessive or insufficient money in capital maintenance fund

- (1) The Commissioner, or the residents of a retirement village, may apply to the Tribunal for, and the Tribunal may make, an order that, having regard to the operator's obligations under section 41A and the content of any plan for capital maintenance and capital replacement under section 41B, the money in the capital maintenance fund referred to in section 41C —

- (a) exceeds what is necessary for capital maintenance; or
- (b) is insufficient for capital maintenance.

- (2) An order under subsection (1)(a) is to direct that an amount that exceeds what is necessary for capital maintenance is, if paid by (or deriving from money paid by) the residents of the retirement

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village, to be paid to the residents in the proportion determined by the Tribunal.

(3) An order under subsection (1)(b) is to direct the operator of the retirement village to ensure that the money in the capital maintenance fund is sufficient for capital maintenance.

(4) An order under this section may specify —

(a) the amount that is excessive or insufficient; and

(b) a date by which an operator is required to comply with the order; and

(c) any other ancillary matter.

(5) The residents of a retirement village may only make an application under this section if authorised to do so by a special resolution passed at a residents' meeting.

[Section 41E inserted: No. 42 of 2024 s. 23.]

Part 3C — Residents' participation

[Heading inserted: No. 42 of 2024 s. 23.]

41F. Residents' meetings

- (1) The regulations may make provision about meetings of the residents of a retirement village.
- (2) Without limiting subsection (1), the regulations may make provision about the following —
 - (a) the functions of meetings, including the conferral of functions on meetings;
 - (b) when meetings may or must be held;
 - (c) notice of meetings;
 - (d) meeting procedures, including quorum requirements;
 - (e) attendance and voting at meetings, including —
 - (i) entitlement to attend or vote at meetings; and
 - (ii) procedures for voting; and
 - (iii) proxies and remote attendance;
 - (f) matters or requirements in relation to special resolutions.

[Section 41F inserted: No. 42 of 2024 s. 23.]

41G. Special resolutions

- (1) To pass a special resolution at a meeting of the residents of a retirement village subsections (2) and (3) must be complied with.
- (2) First, there must be a quorum present (whether in person or by remote communication or by proxy) of —
 - (a) if the retirement village has fewer than 10 occupied residential premises — a majority of residents entitled to vote on the resolution; or
 - (b) otherwise, the greater of the following —

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- (i) 5 residents entitled to vote;
 - (ii) 30% of the number of residents entitled to vote.
 - (3) Second, the resolution must be carried by at least 75% of the number of residents who —
 - (a) are present (whether in person or by remote communication or by proxy); and
 - (b) are entitled to vote; and
 - (c) vote on the resolution.
- [Section 41G inserted: No. 42 of 2024 s. 23.]

41H. Residents' committee

- (1) The residents of a retirement village may establish a residents' committee whose function is to consult with the operator on behalf of the residents about —
 - (a) the day-to-day running of the retirement village; and
 - (b) any issues or proposals raised by the residents.
- (2) A residents' committee may be established by an election conducted among the residents of a retirement village.
- (3) In the absence of an election conducted under subsection (2), a residents' committee may be established by an election conducted by the operator on the request of —
 - (a) if the retirement village has fewer than 10 occupied residential premises — residents from a majority of the occupied residential premises; or
 - (b) otherwise, at least the greater of the following —
 - (i) 5 residents;
 - (ii) 10% of the residents.
- (4) Only 1 residents' committee may be established in a retirement village at any time.

- (5) Membership of a residents' committee is available only to the residents of the retirement village in which it is established.
- (6) A residents' committee may be, but is not required to be, an association incorporated under the *Associations Incorporation Act 2015*.
- (7) If more than 1 body or committee, regardless of its name, purports to be the residents' committee in a particular retirement village, the operator or a resident of the village, or the Commissioner, may apply to the Tribunal for, and the Tribunal may make, an order determining which body or committee, if any, is the residents' committee for the village.
- (8) A member of the residents' committee —
 - (a) holds office for not more than 1 year, but may be re-elected; and
 - (b) may be removed at any time by a special resolution.
- (9) Subject to the regulations, the residents' committee may —
 - (a) decide its own procedures; and
 - (b) form subcommittees and decide a subcommittee's procedures.
- (10) The regulations may make provision about residents' committees, including the election, functions and procedures of residents' committees and sub-committees.

[Section 41H inserted: No. 42 of 2024 s. 23.]

Part 3D — Modifications of retirement villages

[Heading inserted: No. 42 of 2024 s. 23.]

41I. Terms used: modification and modification plan

In this Part —

modification, of a retirement village, means the following —

(a) redevelopment of the land used for the retirement village, including —

(i) a change to the boundaries of the land (including by subdivision and excision); and

(ii) the construction, demolition or change of use of a building or structure (including residential premises); and

(iii) the expansion or reduction of greenspace or parkland;

(b) a change to the services or amenities that are provided, or made available, to residents by the operator, including by way of the following —

(i) a reduction or an increase in, or the withdrawal of, the services or amenities;

(ii) the provision of new services or amenities;

(c) anything else prescribed as a modification;

modification plan has the meaning given in section 41N.

[Section 41I inserted: No. 42 of 2024 s. 23.]

41J. Prohibition on modifications

An operator must not carry out a modification of a retirement village.

Penalty: a fine of \$20 000.

[Section 41J inserted: No. 42 of 2024 s. 23.]

41K. Exception to prohibition: prescribed modifications

An operator does not commit an offence under section 41J if the modification is —

- (a) of a prescribed kind; or
- (b) carried out in prescribed circumstances.

[Section 41K inserted: No. 42 of 2024 s. 23.]

41L. Exception to prohibition: disclosed modifications

An operator does not commit an offence under section 41J if the nature and extent of the modification was disclosed to each resident before the resident's entry into a residence contract with the operator.

[Section 41L inserted: No. 42 of 2024 s. 23.]

41M. Exception to prohibition: non-detrimental modifications

An operator does not commit an offence under section 41J if the modification —

- (a) does not reduce the range or quality of services or amenities provided, or made available, to residents; and
- (b) does not result in any additional cost to residents.

[Section 41M inserted: No. 42 of 2024 s. 23.]

41N. Exception to prohibition: modifications in accordance with approved modification plans

(1) An operator does not commit an offence under section 41J if subsections (2) to (5) are complied with.

(2) First, the operator must, in accordance with the regulations, give each resident a plan relating to the modification (a ***modification plan***) —

- (a) in the approved form; and
- (b) containing the prescribed information.

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- (3) Second, the modification plan must be approved by —
(a) a special resolution passed at a residents' meeting; or
(b) an order under section 41O(1).
- (4) Third, if the modification plan requires a resident to vacate residential premises in the retirement village —
(a) the resident must consent to vacating the residential premises; or
(b) the Tribunal must have made an order under section 41O(4) declaring that the resident has unreasonably withheld consent.
- (5) Fourth, the operator must carry out the modification in accordance with the approved modification plan.
- (6) Regardless of the terms of any residence contract or service contract, an operator does not breach the contract by carrying out the modification if subsections (2) to (5) are complied with.
- [Section 41N inserted: No. 42 of 2024 s. 23.]

41O. Tribunal orders relating to modification plans

- (1) An operator may apply to the Tribunal for, and the Tribunal may make, an order approving a modification plan.
- (2) The Tribunal must not make an order under subsection (1) unless —
(a) the modification plan —
(i) is in the approved form; and
(ii) contains the prescribed information;
and
(b) a special resolution to approve the plan —
(i) has not been passed at a residents' meeting within the prescribed time; or

- (ii) is voted on at a residents' meeting but does not pass;
- and
- (c) the Tribunal is satisfied that, in the circumstances of the case —
 - (i) the failure to pass the special resolution is unreasonable; or
 - (ii) it is otherwise appropriate to make the order.
- (3) The Tribunal may approve a modification plan with any amendments specified in the order (and in that case the approved modification plan is the plan as amended by the order).
- (4) An operator may apply to the Tribunal for, and the Tribunal may make, an order declaring that a resident has unreasonably withheld consent to vacating residential premises in a retirement village as required by a modification plan.
- (5) If the Tribunal makes an order under subsection (4), the Tribunal —
 - (a) must fix in the order a date by which the resident must vacate the residential premises occupied by the resident; and
 - (b) may make such other orders as the Tribunal thinks fit, including an order that the operator pay to the resident —
 - (i) the costs of vacating, or relocating from, the residential premises occupied by the resident; or
 - (ii) compensation for the resident's loss of rights under a residence contract or a service contract.

[Section 41O inserted: No. 42 of 2024 s. 23.]

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41P. Tribunal orders to remedy operator's contraventions of Part

A resident may apply to the Tribunal for, and the Tribunal may make —

(a) an order to remedy a contravention of this Part by an operator; and

(b) without limiting paragraph (a), an order requiring an operator to take, or refrain from taking, specified action.

[Section 41P inserted: No. 42 of 2024 s. 23.]

41Q. Applications for Tribunal orders

An application for an order under this Part may (but need not) be made and heard concurrently with an application for —

(a) any other order under this Part; or

(b) an order under section 15A.

[Section 41Q inserted: No. 42 of 2024 s. 23.]

Part 4 — Resolution of disputes

Division 1 — General

[Heading inserted: No. 55 of 2004 s. 1024.]

~~{26. Deleted: No. 55 of 2004 s. 1025.}~~

[Divisions 2 and 3 (s. 27-37) deleted: No. 55 of 2004 s. 1026.]

~~——— *[Heading* Division 4 heading deleted: No. 55 of 2004 s. 1027.]~~

~~{38-41. Deleted: No. 55 of 2004 s. 1028.}~~

~~42. Use of other means of~~ 41R. Dispute resolution

~~——— The State Administrative otherwise than by Tribunal
may decline to entertain an application if it considers that
the matter in dispute could be adequately dealt with under
an applicable code or applicable residence rules or by
negotiation by the Department under section 8(1)(d).~~

(1) The regulations may make provision about the resolution of
disputes —

(a) between a resident and the operator of a retirement
village; or

(b) between residents of a retirement village.

(2) Without limiting subsection (1), the regulations may establish a
procedure that may or must be followed to resolve a dispute.

(3) The Commissioner may appoint a mediator to resolve a
dispute —

(a) on the Commissioner's own initiative; or

(b) on application by a party to the dispute.

(4) The Commissioner may require a party to a dispute to attend the
mediation.

(5) A person must comply with the requirement.

Penalty for this subsection: a fine of \$5 000.

(6) The parties to a dispute must participate in a dispute resolution procedure, or a mediation, in good faith.

(7) The regulations may make provision about mediations.

[Section ~~42 amended~~41R inserted: No. ~~55~~ 42 of ~~2004~~ 2024 s. ~~1029~~24.]

[42. Deleted: No. 42 of 2024 s. 25.]

[43. Deleted: No. 55 of 2004 s. 1030.]

44. Extension of time

(1) Despite any other provision of this Act, the Tribunal may, on application by any person, extend or reduce the period of time for the doing of anything under an applicable code, this Act or the regulations.

(2) An application referred to in subsection (1) may be made even though the relevant period of time has expired.

[Section 44 amended: No. 55 of 2004 s. 1031; No. 8 of 2009 s. 110; No. 42 of 2024 s. 41 and 53(1).]

[45-47. Deleted: No. 55 of 2004 s. 1032.]

48. Reference of certain matters concerning operators

The Tribunal may, if it considers it appropriate, bring or cause to be brought to the attention of the Commissioner the conduct of the operator of a retirement village in a particular matter before the Tribunal.

[Section 48 amended: No. 55 of 2004 s. 1033 and 1044; No. 42 of 2024 s. 48(1), 53(1) and 54.]

[49-51. Deleted: No. 55 of 2004 s. 1034.]

Division 5 — Orders by Tribunal

[Heading amended: No. 55 of 2004 s. 1035; No. 42 of 2024 s. 53(2).]

[52. Limits on order by Tribunal]

- ~~— (1) The Tribunal must not make orders under this Act that are —~~
~~— (a) inconsistent with any applicable code; or~~
~~— (b) inconsistent with a residence contract.~~
~~— (2) Subsection (1) does not apply to a provision of a residence contract that contravenes section 6.~~
~~— (3) Subsection (1)(b) does not apply to —~~
~~— (a) an order made under section 55(3) or 57A(4) or Part 5A; or~~
~~— (b) if the order is made in relation to a residence contract — an order made under section 56(4).~~
~~— [Section 52 amended Deleted: No. 55 of 2004 s. 1044; No. 36 of 2012 s. 12; No. 42 of 2024 s. 52 and 53(1).]26.]~~

[53. Deleted: No. 55 of 2004 s. 1036.]

54. Jurisdiction of Tribunal if title to land in question

Except as provided in section 75, the Tribunal does not have jurisdiction under this Act to determine any question as to the title of land.

[Section 54 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 53(1).]

54A. Jurisdiction of Tribunal under *Community Titles Act 2018*

Section 54 does not derogate from the jurisdiction of the Tribunal under the *Community Titles Act 2018* in respect of a retirement village that is also a community titles scheme.

[Section 54A inserted: No. 32 of 2018 s. 241.]

54B. Jurisdiction of Tribunal under *Strata Titles Act 1985*

Section 54 does not derogate from the jurisdiction of the Tribunal under the *Strata Titles Act 1985* in respect of a retirement village that is also a strata titles scheme.

[Section 54B inserted: No. 30 of 2018 s. 184.]

55. Disputes in relation to residence contracts

- (1) If a dispute arises between the parties to a residence contract as to the residence contract's compliance with a requirement of regulations made for the purposes of section 14A(1) —
 - (a) either party to the residence contract; or
 - (b) if the dispute has been brought to the attention of the Commissioner — the Commissioner,may make an application in relation to the matter to the Tribunal.
- (2) If the Tribunal is of the opinion that an order, if made under subsection (3), may be relevant to other residence contracts (including residence contracts that relate to another retirement village), the Tribunal —
 - (a) may order the operator of a retirement village or other person to provide the Tribunal with specified information or documents in relation to any residence contract; and
 - (b) on its own initiative or at the request of the operator or other person — may order that the operator or other person be joined as a party to the proceedings.
- (3) The Tribunal may, on an application made under this section, order —
 - (a) the variation or cancellation of any of the terms of the residence contract, as specified in the order;

- (b) specific performance of the residence contract;
- (c) the payment of a sum of money,

and may make such other orders as the Tribunal considers appropriate and may declare that the order applies to any residence contracts specified in the order, and the order is to have effect accordingly.

- (4) Subsection (2) does not limit the *State Administrative Tribunal Act 2004* section 35 or 38.

[Section 55 inserted: No. 36 of 2012 s. 13; amended: No. 42 of 2024 s. 48(1), 51 and 53(1).]

56. Disputes in relation to service contracts

- (1A) A reference in this section to a service contract includes a reference to a residence contract but only to the extent that the residence contract provides for the provision to a resident of a service or amenity that may be provided to the resident under a service contract.

- (1) If —
 - (a) a party to a service contract proposes a variation or cancellation in relation to any of the terms of a service contract, whether during or on the expiry of its term; or
 - (b) a dispute arises between the parties to a service contract,either party to the service contract may make an application in relation to the matter to the Tribunal.

[(2) deleted]

- (3) If the Tribunal is of the opinion that an order, if made under subsection (4), may be relevant to other service contracts (including service contracts that relate to another retirement village), the Tribunal —
 - (a) may order the operator of a retirement village or other person to provide the Tribunal with specified

information or documents in relation to any service contract; and

- (b) on its own initiative or at the request of the operator or other person — may order that the operator or other person be joined as a party to the proceedings.

- (4) The Tribunal may upon application made under this section order —

- (aa) the variation or cancellation of any of the terms of the service contract, as specified in the order;
(a) specific performance of the service contract;
(b) the payment of a sum of money,

and make such other orders as the Tribunal considers appropriate and may declare that the order applies to such service contracts as are specified in the order and the order has effect accordingly.

- (5) Subsection (3) does not limit the *State Administrative Tribunal Act 2004* section 35 or 38.

[Section 56 amended: No. 55 of 2004 s. 1037 and 1044; No. 36 of 2012 s. 14; No. 42 of 2024 s. 48(1), 51, 52, 53(1) and 54.]

57A. Disputes in relation to recurrent charges or levy payable by residents

- (1) This section applies if a dispute arises between the residents of a retirement village and the operator of the retirement village regarding an increase in recurrent charges or the imposition of a levy.
- (2) If the residents pass a special resolution that authorises the application to be made, the residents may make an application in relation to the matter in dispute to the Tribunal.

~~(3)~~ ~~*In subsection (2) —*~~ ~~*deleted*~~

~~**special resolution** means a resolution passed at a meeting of the residents of a retirement village that is held in accordance with the requirements in an applicable code for passing a special resolution.~~

- (4) The Tribunal may, on an application made under this section, make such orders as the Tribunal considers appropriate.
- (5) This section does not limit the matters in relation to which an application may be made under section 56.
- (6) Section 6(2) does not have effect in relation to this section.

[Section 57A inserted: No. 36 of 2012 s. 15; amended: No. 42 of 2024 s. [27](#), 42, 48(1) and 53(1).]

57. Applications relating to transfer of residents

- (1) If a resident of a retirement village claims that —
 - (a) a dispute has arisen between the resident and the operator as to whether the resident should be transferred from one kind of accommodation in the village to another; and
 - (b) all procedures for settlement of the dispute under any applicable code and this Act (otherwise than by reference of the dispute to the Tribunal) have been exhausted without resolving the dispute to the satisfaction of the resident or, if there are no such procedures, the dispute has not been resolved,

the resident may apply to the Tribunal for an order in respect of the dispute.

- (2) The Tribunal may, on application by a resident under this section, make one or more of the following orders —
 - (a) an order that —
 - (i) restrains the operator from transferring the resident from one kind of accommodation in the retirement village to another; or

- (ii) requires the resident to transfer, or the operator to transfer the resident, from one kind of accommodation in the retirement village to another;
 - or
 - (b) an order terminating the residence contract of the resident.
- (3) If the Tribunal makes an order terminating a residence contract under this section, the Tribunal must fix in the order a date by which the resident must vacate the residential premises.
- (4) In addition to any other order the Tribunal may make under this section, the Tribunal may make an order for the payment or refund of money by an operator to a resident or by a resident to an operator.
- (5) An application under this section may be made during the currency or after the termination of a residence contract.
- (6) For the purpose of determining any application under this section, the Tribunal may —
- (a) with the consent of the resident, request the chief executive officer of the Department as defined in section 3 of the *Health Legislation Administration Act 1984* or any other person or any body to prepare a report with respect to the resident's physical or mental capacity; and
 - (b) have regard to any such report and any other report prepared on behalf of the resident or the operator of the retirement village.

[Section 57 amended: No. 55 of 2004 s. 1044; No. 28 of 2006 s. 143; No. 42 of 2024 s. 48(1), 52 and 53(1).]

58. Termination of occupation on medical grounds

- (1) If the operator of a retirement village is of the opinion that residential premises occupied by a resident of the retirement village are, because of the resident's physical or mental incapacity, unsuitable for occupation by the resident, the operator may apply to the Tribunal for an order terminating the resident's residence contract and fixing a date by which the resident must vacate the residential premises occupied by the resident.
- (2) The Tribunal may, on application by an operator under this section, make an order terminating the residence contract, but only if the Tribunal is satisfied that any procedures specified under any applicable code or the residence contract for giving notice of intention to terminate the residence contract and for termination of the contract have been followed by the operator and the Tribunal is of the opinion that —
 - (a) the residential premises occupied by the resident are, because of the resident's physical or mental incapacity, unsuitable for occupation by the resident; or
 - (b) having considered the circumstances of the case, it is otherwise appropriate to make an order terminating the residence contract.
- (3) In determining whether to terminate a residence contract under this section, the Tribunal may —
 - (a) with the consent of the resident, request the chief executive officer of the Department as defined in section 3 of the *Health Legislation Administration Act 1984* or any other person or any body to prepare a report with respect to the resident's physical or mental capacity; and
 - (b) have regard to any such report and any other report prepared on behalf of the resident or the operator.

- (4) If the Tribunal makes an order terminating a residence contract under this section, the Tribunal must fix in the order a date by which the resident must vacate the residential premises occupied by the resident.
- (5) In addition to any other order the Tribunal may make under this section, the Tribunal may make an order for the payment or refund of money by an operator to a resident or by a resident to an operator.

[Section 58 amended: No. 55 of 2004 s. 1044; No. 28 of 2006 s. 143; No. 42 of 2024 s. 48(1), 52 and 53(1).]

59. Termination of occupation on grounds of breach of residence contract or rules

- (1) If —
 - (a) a resident of a retirement village breaches the resident's residence contract or the residence rules of a retirement village; and
 - (b) any procedures specified under any applicable code or the residence contract for giving notice of intention to terminate the residence contract and for termination of the residence contract have been complied with by the operator of the retirement village,the operator may apply to the Tribunal for an order terminating the contract and fixing a date by which the resident must vacate the residential premises occupied by the resident.
- (2) The Tribunal may, on application by an operator under this section, make an order terminating the residence contract, but only if the Tribunal is satisfied that —
 - (a) the breach, in the circumstances of the case, is such as to justify termination of the contract; or
 - (b) persistent breaches by the resident are, in the circumstances of the case, such as to justify termination of the contract; or

(c) having considered the circumstances of the case, it is otherwise appropriate to do so.

- (3) If the Tribunal makes an order terminating a residence contract under this section, the Tribunal must fix in the order a date by which the resident must vacate the residential premises occupied by the resident.
- (4) In addition to any other order the Tribunal may make under this section, the Tribunal may make an order for the payment or refund of money by an operator to a resident or by a resident to an operator.

[Section 59 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 52 and 53(1).]

60. Parties to minimise loss from breach of residence contract

- (1) The rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of a residence contract.
- (2) This section does not affect the operation of section 69(2) (which also deals with mitigation of loss).

[Section 60 amended: No. 42 of 2024 s. 43.]

61. Tribunal may waive defect in notice of intention to terminate

The Tribunal may, if the Tribunal thinks it appropriate to do so in the special circumstances of the case, make an order terminating the residence contract under section 58 or 59 even though any procedures specified under any applicable code or the residence contract for giving notice of intention to terminate the residence contract have not been complied with.

[Section 61 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 53(1).]

62. Tribunal may terminate residence contract if resident causes serious damage or injury

- (1) The Tribunal may, on application by the operator of a retirement village, make an order terminating a residence contract if the Tribunal is satisfied that the resident has intentionally or recklessly caused or permitted, or is likely intentionally or recklessly to cause or permit —
 - (a) serious damage to the residential premises; or
 - (b) injury to the operator or an employee of the operator or any other resident.
- (2) If the Tribunal makes an order terminating a residence contract under this section, the Tribunal —
 - (a) must fix in the order a date by which the resident must vacate the residential premises occupied by the resident; and
 - (b) may make such other orders (including an order that the resident pay compensation to the operator or that the operator pay to the resident compensation for the resident's loss of rights under the contract) as the Tribunal thinks fit.
- (3) An application under this section may be made whether or not the operator has given notice of intention to terminate the residence contract.

[Section 62 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 52 and 53(1).]

63. Tribunal may terminate residence contract if operator would otherwise suffer undue hardship

- (1) The Tribunal may, on application by the operator of a retirement village, make an order terminating a residence contract if the Tribunal is satisfied that the operator would, in the special circumstances of the case, suffer undue hardship if the contract were not terminated.

- (2) If the Tribunal makes an order terminating a residence contract under this section, the Tribunal —
- (a) must fix in the order a date by which the resident must vacate the residential premises occupied by the resident; and
 - (b) may make such other orders (including an order that the operator pay to the resident compensation for the resident's loss of rights under the contract) as the Tribunal thinks fit.

[Section 63 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 52 and 53(1).]

64. Suspension or refusal of orders to terminate

- (1) The Tribunal may suspend the operation of an order fixing a date by which a resident of a retirement village must vacate residential premises occupied by the resident if the Tribunal is satisfied that it is desirable to do so, having regard to the relative hardship likely to be caused by the suspension to —
- (a) the resident; and
 - (b) other residents or the operator of the retirement village.
- (2) The Tribunal may, as a condition of the suspension of the operation of an order referred to in subsection (1), require the resident to pay to the operator an occupation fee specified by the Tribunal for the period for which that order is suspended.
- (3) The Tribunal may refuse to make an order terminating a residence contract if the Tribunal is satisfied that —
- (a) the operator was wholly or partly motivated to seek the termination of the contract by the fact that —
 - (i) the resident had applied or proposed to apply to the Tribunal for an order; or
 - (ii) the resident had complained to a governmental authority or had taken some other action to

secure or enforce the resident's rights as a resident; or

- (iii) an order of the Tribunal was in force in relation to the resident and the operator;

or

- (b) in the case of an application by an operator under section 59 the resident remedied the breach concerned.

[Section 64 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 49 and 53(1).]

65. Prohibition on certain recovery proceedings in courts etc.

Proceedings in a court to obtain recovery of possession of residential premises occupied by a resident of a retirement village under a residence contract cannot be commenced by the operator of the retirement village against the resident.

[Section 65 amended: No. 42 of 2024 s. 48(1) and 52.]

66. Recovery of possession of premises prohibited except by order

- (1) A person must not, except under a judgment, warrant or order of a court or an order of the Tribunal, enter residential premises occupied by a resident of a retirement village under a residence contract for the purpose of recovering possession of the premises.

Penalty for this subsection: a fine of \$2 000.

- (2) This section applies to a person who enters residential premises whether on the resident's own behalf or on behalf of another person.
- (3) A court before which proceedings for an offence under this section are commenced may (in addition to imposing any penalty) order the person who committed the offence or any person on whose behalf that person acted to pay to the person

entitled to occupy the premises concerned such compensation as it thinks fit.

[Section 66 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 49, 50, 51, 52 and 53(1).]

67. Liability of resident remaining in possession

- (1) If a resident of a retirement village refuses or fails to comply with an order to give possession of residential premises in the retirement village to another person on a fixed date, the resident is liable to pay compensation to the operator of the retirement village for any loss caused to the operator by that refusal or failure.
- (2) The Tribunal may, on application by an operator under this section made not later than 30 days after the day on which the order fixing the date to give possession took effect, order the resident to pay to the operator such compensation as the Tribunal thinks fit.

[Section 67 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1) and 53(1).]

68. Abandoned premises

- (1) The Tribunal may, on application by the operator of a retirement village, make an order that declares that residential premises occupied by a resident of a retirement village were abandoned by the resident on a day specified by the Tribunal.
- (2) The resident is taken for the purposes of this Act to have abandoned the residential premises on the day specified by the Tribunal.

[Section 68 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 52 and 53(1).]

69. Right of operator to compensation if resident abandons premises

- (1) If a resident of a retirement village abandons the residential premises, the resident is liable to pay compensation to the operator of the retirement village for any loss (including loss of rent) caused by the abandonment.
- (2) The operator must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided by taking those steps.
- (3) The Tribunal may, on application by the operator, order the resident to pay to the operator such compensation (including compensation for loss of rent) as the Tribunal thinks fit.

[Section 69 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1), 52 and 53(1).]

70. Goods abandoned by resident after residence contract is terminated

- (1) If a residence contract is terminated and goods are abandoned on the residential premises by a former resident of a retirement village, the operator of the retirement village may —
 - (a) apply to the Tribunal for an order under this section; or
 - (b) dispose of the goods in the prescribed manner,or both.
- (2) The Tribunal may, on application by an operator under this section, make any one or more of the following orders —
 - (a) an order authorising the removal, destruction or disposal of the goods;
 - (b) an order authorising the sale of the goods;
 - (c) an order directing that notice of any action or proposed action in relation to the goods be given to the former resident or any other person;

- (d) an order as to the manner of sale of the goods;
 - (e) an order as to the proceeds of sale of the goods;
 - (f) any ancillary order which the Tribunal, in the circumstances, thinks appropriate.
- (3) A purchaser of goods sold by an operator in accordance with an order of the Tribunal or the regulations acquires a good title to the goods in defeasance of the interest of the former resident or any other person who has an interest in the goods.
- (4) An operator does not incur any liability in respect of the removal, destruction, disposal or sale of goods in accordance with an order of the Tribunal or regulations made under section 82.

[Section 70 amended: No. 55 of 2004 s. 1044; No. 42 of 2024 s. 48(1) and 53(1).]

[71-73. Deleted: No. 55 of 2004 s. 1038.]

74. Protection

No liability attaches to a member of a committee convened under a code to hear and mediate disputes within a retirement village, any such committee, or any other person for any act or omission by him or her or on his or her part or by any such committee or on the part of any such committee that occurred in good faith and in the performance or discharge or purported performance or discharge, of his or her or its functions under this or any other written law.

[Section 74 amended: No. 55 of 2004 s. 1039.]

Part 5A — Statutory manager

[Heading inserted: No. 36 of 2012 s. 16.]

75A. Terms used

In this Part —

assets, of the operator of a retirement village, means —

- (a) if the owner of land used for the purposes of the retirement village is the sole operator of the retirement village — that land and any other property used for the purposes of the retirement village by the owner; or
- (b) if the owner of land used for the purposes of the retirement village is not the sole operator of the retirement village — the land and property of the owner referred to in paragraph (a) and any other property used for the purposes of the retirement village by an operator other than the owner;

functions, of the operator of a retirement village, means the powers and duties that the operator exercises and performs in the administration of the retirement village under this Act or another written law;

property includes money, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit;

statutory manager means a person appointed under section 75B.

[Section 75A inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 44 and 48(1).]

75B. Tribunal may appoint statutory manager on application of Commissioner

- (1) The Tribunal may, on application by the Commissioner under this section, make an order appointing one or more persons specified in the application to perform —

- (a) all the functions of the operator of a retirement village;
or
- (b) specified functions of the operator of a retirement village; or
- (c) all the functions other than specified functions of the operator of a retirement village,

and may make such other orders as the Tribunal thinks fit.

- (2) An application under this section is to be accompanied by —
 - (a) a copy of the consent given under section 75C(1) by each person to be appointed; and
 - (b) the Commissioner's recommendations as to the statutory manager's terms and conditions to be dealt with in the order under section 75E.
- (3) The Commissioner must give a copy of the application to the operator.
- (4) For the purposes of the *State Administrative Tribunal Act 2004* section 36, the operator is a party to proceedings on an application under this section.
- (5) The Tribunal may make an order appointing a statutory manager only if the Tribunal is satisfied that —
 - (a) the wellbeing or financial interests of the residents of the retirement village may be at risk if the operator continued to perform all the functions of the operator of the retirement village; or
 - (b) the operator has contravened, or is contravening, an order made by the Tribunal or a court in relation to the operator or the retirement village; or
 - (c) the operator has contravened, or is contravening, section 18 or another provision of this Act, or a provision of the regulations, prescribed for the purposes of this subsection.

s. 75C

- (6) Without limiting the matters to which the Tribunal may have regard for the purposes of subsection (5)(a), for those purposes the Tribunal must have regard to any prescribed provisions of any applicable code.
- (7) If 2 or more persons are appointed under subsection (1), a function of the operator to be performed by the statutory manager under this Part may be performed by any one of them, or by any 2 or more of them together, except to the extent that the order appointing them provides otherwise.
- (8) Unless sooner revoked, an order under this section has effect for the period specified in the order.
- (9) The Tribunal is not to require the Commissioner, as a condition of granting an application under this section, to give an undertaking as to damages.

[Section 75B inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1), 51 and 53(1).]

75C. Proposed statutory manager must consent to appointment

- (1) The Commissioner is not to make an application for an order under section 75B appointing a person to be a statutory manager unless the person has given the Commissioner written consent to the application.
- (2) The order appointing a person to be a statutory manager does not have effect unless the person has given the Commissioner written consent under subsection (1) and has not withdrawn that consent as at the time of the appointment.

[Section 75C inserted: No. 36 of 2012 s. 16.]

75D. Variation and revocation of orders

(1) In this section —

other persons means —

- (a) if an application is made under this section by the Commissioner — the operator of the retirement village and the statutory manager;
 - (b) if an application is made under this section by the operator of the retirement village — the Commissioner and the statutory manager;
 - (c) if an application is made under this section by the statutory manager — the Commissioner and the operator of the retirement village.
- (2) The Tribunal may, on application by the Commissioner, the operator of the retirement village or the statutory manager under this section, vary or revoke an order appointing a statutory manager under section 75B.
- (3) The applicant must give a copy of the application to the other persons.
- (4) The Tribunal may give any directions it considers necessary or expedient for the purposes of this section.
- (5) For the purposes of the *State Administrative Tribunal Act 2004* section 36, the other persons are parties to proceedings on an application under this section.

[Section 75D inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1), 51 and 53(1).]

s. 75E

75E. Matters to be dealt with in order appointing a statutory manager

- (1) An order under section 75B appointing a statutory manager is to —
 - (a) set out the terms and conditions that the Tribunal considers appropriate to the appointment, including terms and conditions as to the remuneration and expenses payable to the statutory manager; and
 - (b) specify the assets of the operator of the retirement village that are to be under the control of the statutory manager; and
 - (c) specify the assets of the operator of the retirement village that may be applied for the purpose of providing funds for —
 - (i) the performance by the statutory manager of the functions of the operator conferred on the statutory manager under section 75B(1); and
 - (ii) the payment of the remuneration and expenses of the statutory manager.
- (2) The Tribunal may give any directions it considers necessary or expedient for the purposes of this section.
- (3) Without limiting section 11, neither the Crown, the Minister nor the Commissioner is liable for the remuneration of a statutory manager or any expenses incurred by a statutory manager in performing any functions of the operator of a retirement village.

[Section 75E inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1) and 53(1).]

75F. Other matters arising from appointment of statutory manager

- (1) In this section —
appointed means appointed by an order under section 75B.

- (2) The operator of a retirement village must not, during the period of a statutory manager's appointment, perform any of the operator's functions that the statutory manager is appointed to perform.
Penalty for this subsection: a fine of \$20 000.
- (3) Subject to any terms and conditions to which the appointment is subject, a statutory manager must perform any function of the operator that the statutory manager is appointed to perform in accordance with any residence contract, service contract or other contract, agreement or arrangement —
 - (a) to which the operator is a party; and
 - (b) that relates to the performance of that function.
- (4) Any act or thing done, in good faith, by or with the consent of a statutory manager in the performance of any function of the operator that the statutory manager is appointed to perform is valid and effectual for the purposes of this Act.
- (5) A statutory manager must, in accordance with the regulations, provide the prescribed persons with the prescribed written information about the performance of any function of the operator that the statutory manager is appointed to perform.

[Section 75F inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1) and 50.]

75G. Appointment of both statutory manager and external administrator

- (1) In this section —
external administration means external administration under the *Corporations Act 2001* (Commonwealth) Chapter 5;
external administrator means a person appointed under the *Corporations Act 2001* (Commonwealth) for the purposes of the external administration of the operator of a retirement village.

s. 75H

- (2) This section applies if the operator of a retirement village is the subject of both —
 - (a) the appointment by an order under section 75B of a statutory manager; and
 - (b) the appointment of an external administrator.
- (3) The statutory manager is under a duty to tell the external administrator of the appointment of the statutory manager, whether the appointment precedes, follows or happens at the same time as the appointment of the external administrator.
- (4) The appointment of the statutory manager continues to have effect while the operator is subject to external administration, but the statutory manager may perform any function that the statutory manager is appointed by an order under section 75B to perform —
 - (a) only if authorised in writing by the external administrator to do so; and
 - (b) subject to any condition or limitation specified in that authorisation.

[Section 75G inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1).]

75H. Operator to cooperate with statutory manager

- (1) In this section —
 - records** includes documents and information;
 - relevant** means relevant to the performance of a function referred to in subsection (2).
- (2) This section applies if a statutory manager is appointed by an order under section 75B to perform any function of the operator of a retirement village.
- (3) The operator of a retirement village must cooperate with the statutory manager to the extent reasonably required by the

statutory manager to perform a function referred to in subsection (2).

Penalty for this subsection: a fine of \$20 000.

- (4) Without limiting subsection (3), that subsection requires the operator —
- (a) to answer, orally or in writing, relevant questions asked by the statutory manager; and
 - (b) to produce to the statutory manager relevant documents in the operator's custody or under the operator's control; and
 - (c) to give the statutory manager access to relevant records stored electronically, including any translation, code, password or other information necessary to gain access to, or to interpret and understand, those records; and
 - (d) to give the statutory manager any other relevant assistance the statutory manager reasonably requires.

- (5) The operator must not hinder or obstruct the statutory manager in the performance of a function referred to in subsection (2).

Penalty for this subsection: a fine of \$20 000.

[Section 75H inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 48(1) and 50.]

75I. Tribunal may require reports and recommendations from statutory manager

- (1) The Tribunal may, on its own initiative or on application by the Commissioner under this section, make an order directing a statutory manager to prepare a report and make recommendations concerning the retirement village in respect of which the statutory manager is appointed.
- (2) An order under subsection (1) is to specify the matters that are to be the subject of the statutory manager's report and

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recommendations and the period within which the report and recommendations are to be prepared.

- (3) The statutory manager must provide a copy of the report and recommendations to the Tribunal and the Commissioner and to any other person the Tribunal specifies in the order under subsection (1).

[Section 75I inserted: No. 36 of 2012 s. 16; amended: No. 42 of 2024 s. 53(1).]

Part 5 — Miscellaneous

75. Rescission of contract

- (1) A contract is rescinded under section 14 or 16 by notice in writing given by the person entitled to rescind the contract to all other parties to the contract.
- (2) The rescission of a contract under section 14 or 16 takes effect on the date of service of the notice under subsection (1) of this section and the contract is terminated at the time when the notice is so given.
- (3) Subject to the making of an order to the contrary under subsection (4), if a contract is rescinded under section 14 or 16 —
 - (a) the rescission notice is to be regarded as applying to the service contract, the residence contract and all collateral contracts entered into by the person rescinding the contract; and
 - (b) that person is entitled to the repayment of all moneys paid by that person or on that person's behalf in connection with those contracts and such moneys are recoverable, by action as for debt, by that person accordingly.
- (4) If a contract is rescinded under section 14 or 16, the Tribunal may, upon application by any party to that contract, make —
 - (a) such orders as it thinks just providing for the repayment of part or all of the moneys paid by the person rescinding the contract, or on that person's behalf, in connection with the contracts to which the rescission notice applies under subsection (3)(a); and
 - (b) such other vesting or consequential orders as it thinks just,and for the purposes of carrying out this section the Tribunal may give such directions as it considers necessary or expedient.

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- (5) An application under subsection (4) must be made within 30 days of the day on which the contract is rescinded.
- (6) An owner or operator who refuses or fails to return moneys to which a person is entitled under subsection (3) or (4) commits an offence.
Penalty for this subsection: a fine of \$20 000.
- (7) A rescission of a residence contract under section 14 or 16 has effect even if the residence contract may also be subject to the provisions of the *Community Titles Act 2018* or the *Strata Titles Act 1985* and this section does not derogate from the rights of a buyer under those Acts.
- (8) If under section 14 or 16 a person rescinds a residence contract entered into by that person after the property purchased by that person has been registered in that person's name, then that person, subject to the tender to that person of repayment as provided by subsection (3) or (4), must —
 - (a) execute such instruments as, being necessary to register that title in the name of the former owner or the former owner's nominee, are presented to that person for execution by or on behalf of the former owner; and
 - (b) deliver up to the former owner or the former owner's nominee any relevant certificate of title in that person's possession or under that person's control,

but the person rescinding the contract is not liable for any costs or expenses in respect of the transaction.

[Section 75 amended: No. 55 of 2004 s. 1040 and 1044; No. 32 of 2018 s. 242; No. 42 of 2024 s. 48(1), 49, 50, 52, 53(1) and 54.]

76. Persons who are not to be involved in administration of retirement villages

- (1) Subject to section 77A, this section applies to these persons —
- (a) a person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws;
 - (b) a person who has been convicted, within or outside Western Australia, of —
 - (i) an offence involving violence to another person punishable on conviction by imprisonment for not less than 3 months; or
 - (ii) an offence involving fraud or dishonesty punishable on conviction by imprisonment for not less than 3 months; or
 - (iii) an offence under *The Criminal Code* Chapter XXXI or an offence that, if committed in Western Australia, would constitute such an offence; or
 - (iv) a prescribed offence;
 - (c) a person who is disqualified from managing corporations under the *Corporations Act 2001* (Commonwealth) Part 2D.6;
 - (d) a person who was a director of, or concerned in the management of, a corporation, as defined in the *Corporations Act 2001* (Commonwealth) section 57A, when it was wound up otherwise than voluntarily;
 - (e) a person prescribed as a person to whom this section applies.
- (2) A person to whom this section applies must not —
- (a) be the operator of a retirement village; or

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- (b) be in any way, whether directly or indirectly, concerned in the administration of a retirement village.

Penalty for this subsection: a fine of \$20 000.

- (3) In proceedings for an offence against subsection (2), it is a defence to prove that, at the time the offence occurred, the accused held a current exemption certificate granted under section 77C.
- (4) A person must not employ or engage a person to whom this section applies if the person's employment or engagement is or is to be in any way, whether directly or indirectly, concerned in the administration of a retirement village.

Penalty for this subsection: a fine of \$20 000.

- (5) In proceedings for an offence against subsection (4), it is a defence to prove that, at the time the offence occurred, the person employed or engaged held a current exemption certificate granted under section 77C.

[Section 76 inserted: No. 36 of 2012 s. 17; amended: No. 42 of 2024 s. 48(1), 50 and 51.]

77A. Limitation of period for which section 76 applies to certain persons

- (1) Section 76 applies to a person referred to in subsection (1)(b) of that section, in relation to the person's conviction of an offence, only for the period of 5 years —
 - (a) from the time of the person's conviction; or
 - (b) if the conviction results in a term of imprisonment, from the time of the person's release from custody.
- (2) Section 76 applies to a person referred to in subsection (1)(c) of that section, in relation to the person's disqualification from managing corporations, only for the period of 5 years from the time of that disqualification.

- (3) Section 76 applies to a person referred to in subsection (1)(d) of that section, in relation to the winding up of a corporation, only for the period of 5 years from the time of that winding up.

[Section 77A inserted: No. 36 of 2012 s. 17.]

77B. Offences by persons involved in administration of retirement village

- (1) In this section —
relevant information, in relation to a person, means information as to the application of section 76 to the person.

- (2) A person —
- (a) whose employment or engagement is in any way, whether directly or indirectly, concerned in the administration of a retirement village; and
 - (b) who becomes a person to whom section 76 applies because of the occurrence, after that employment or engagement has commenced, of a bankruptcy, conviction, disqualification, winding up or other matter relevant to that section,

must give relevant information to the person by whom he or she is employed or engaged within 14 days after that occurrence.

Penalty for this subsection: a fine of \$20 000.

- (3) A person must not give relevant information that is false or misleading to a person who employs or engages, or who proposes to employ or engage, him or her if the employment or engagement is or is to be in any way, whether directly or indirectly, concerned in the administration of a retirement village.

Penalty for this subsection: a fine of \$20 000.

[Section 77B inserted: No. 36 of 2012 s. 17; amended: No. 42 of 2024 s. 50.]

s. 77C

77C. Commissioner may grant exemption certificates

- (1) The Commissioner may grant an exemption certificate to a person to whom section 76 applies if —
 - (a) the person applies for the certificate in the approved form and pays the prescribed fee; and
 - (b) satisfies the Commissioner that neither the wellbeing nor financial interests of the residents of a retirement village will be at risk if the person —
 - (i) is the operator of the retirement village; or
 - (ii) is in any way, whether directly or indirectly, concerned in the administration of the retirement village,as the case requires.
- (2) An exemption certificate may be granted subject to any condition or limitation the Commissioner considers appropriate and specifies in the certificate, which may include a limitation on the period during which the certificate has effect.
- (3) The Commissioner may at any time revoke an exemption certificate by written notice given to the person granted the certificate.
- (4) An exemption certificate is cancelled by force of this subsection if the person granted the certificate becomes a person to whom section 76 applies because of the occurrence, after the person has been granted the certificate, of a bankruptcy, conviction, disqualification, winding up or other matter relevant to that section.
- (5) A person must return an exemption certificate to the Commissioner within 14 days after the certificate is revoked under subsection (3) or cancelled under subsection (4).

Penalty for this subsection: a fine of \$20 000.

[Section 77C inserted: No. 36 of 2012 s. 17; amended: No. 42 of 2024 s. 45, 48(1), 49 and 50.]

77. Non-compliance may be excused by Court

- (1) The District Court may, on the application of any person, excuse that person from the consequences of inadvertent non-compliance with a provision of this Act.
- (2) If the District Court acts under subsection (1), it may —
 - (a) make consequential orders protecting the interests of any person affected by the contravention; and
 - (b) make any other order that the justice of the case may require.
- (3) An application cannot be made under this section after proceedings for an offence relating to the non-compliance have been commenced.

[Section 77 amended: No. 42 of 2024 s. 46 and 54.]

[78. *Deleted: No. 28 of 2006 s. 144.]*

79. Liability of officers for offence by body corporate

The Criminal Code section 39 (which provides for the criminal liability of officers of a body corporate) applies to an offence under a provision of this Act listed in the Table.

Table

s. 6(3)	s. 13(2), (3) and (5)
s. 14A(2)	s. 14B(3), (4) and (5)
s. 14C(3)	s. 14D(1) and (4)
s. 14A(2) 15(1), (4) and (5)	s. 15 16(1), (4) and (5)
s. 18(2A) and (5)	s. 25(1)
s. 27(7)	s. 28(2)

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s. 29(1) and (3)	s. 30(3)
s. 33(1)	s. 38(3) and (6)
s. 16 139(3) and (25)	s. 18(2A) , (3 41A(1)) and (53)
s. 23 641B(1)	s. 24 941C(1), (2), (3) and (4)
s. 25 41D(1)	s. 75F(2) 41J
s. 41N(5)	s. 75F(2)
s. 75H(3) and (5)	s. 75(6)
s. 78(2)	Sch. 1 cl. 15(2)

[Section 79 inserted: No. 9 of 2023 s. 134; [amended: No. 42 of 2024 s. 29.](#)]

80. Time for commencing proceedings

Proceedings for an offence against this Act may be commenced at any time within 3 years of the day on which the offence is alleged to have been committed.

[Section 80 amended: No. 36 of 2012 s. 18.]

[~~81.~~ Deleted: No. 55 of 2004 s. 1042.]

82. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) In particular, the regulations may make provision for or with respect to —
- [(a) deleted]*
 - (b) the service of notices under this Act or a code;
 - (c) goods abandoned or apparently abandoned by a resident of a retirement village;
 - (d) advertising or marketing of retirement villages;
 - [(d) deleted]*
 - (e) fees to be paid under this Act.
- (3) A regulation may create an offence punishable by a penalty not exceeding \$5 000.

[Section 82 amended: No. 55 of 2004 s. 1043; No. 36 of 2012 s. ~~19~~19; No. 42 of 2024 s. 30.]

83. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act within 6 months after the expiration of one year from the commencement of section 6 and subsequently must carry out such a review as soon as practicable after the expiration of each period of 5 years.
- (2) The Minister must prepare a report based on each review under subsection (1) and must, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

[Section 83 amended: No. 42 of 2024 s. 52.]

84. Savings and transitional

Schedule 1 has effect.

[85, 86. Omitted under the Reprints Act 1984 s. 7(4)(e).]

Schedule 1 — Savings and transitional provisions

[s. 84]

[Heading amended: No. 19 of 2010 s. 4.]

Division 1 — Provisions relating to commencement of Act

[Heading inserted: No. 36 of 2012 s. 20.]

1. Existing disputes and other matters

This Act does not apply to disputes as to the transfer of a resident from one kind of accommodation in a retirement village to another which occurred, or proceedings to terminate residence contracts or regain possession of residential premises, which commenced before the commencement of section 84.

2. Regulations

- (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the commencement of section 84 or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

3. Exemption

- (1) The Minister may by order exempt any —
 - (a) operator that administers a retirement village established before the commencement date;

- (b) retirement village established before the commencement date, from all or any of the provisions of this Act to such extent as the exemption relates to any matter arising before the commencement date and either unconditionally or subject to such conditions as are specified in the order.
- (2) In subclause (1) —
commencement date means the date on which this Act comes into operation.
[Clause 3 amended: No. 42 of 2024 s. 48(1).]

Division 2 — Provisions relating to Retirement Villages Amendment Act 2012

[Heading inserted: No. 36 of 2012 s. 21.]

- 4. Exemption certificate taken to have been granted to certain persons**
- (1) In this clause —
commencement day means the day on which the *Retirement Villages Amendment Act 2012* section 17 comes into operation;
relevant information, in relation to a person, means information as to the application of section 76 to the person.
- (2) Subclause (3) applies to a person (a **relevant person**) who on the commencement day —
- (a) is —
- (i) the operator of a retirement village; or
- (ii) in any way, whether directly or indirectly, concerned in the administration of a retirement village;
- and
- (b) is a person to whom section 76 applies.
- (3) On the commencement day, an exemption certificate is to be taken to have been granted under section 77C to a relevant person that has effect, subject to subclause (4) and section 77C(3) and (4), for the period of 6 months from that day.

(4) If —

- (a) an exemption certificate is to be taken to have been granted to a relevant person; and
- (b) the person makes an application under section 77C(1) during the period referred to in subclause (3),

the exemption certificate —

- (c) continues to have effect, whether or not the period referred to in subclause (3) expires, until the application is determined; and
- (d) is cancelled by force of this subclause at the time of that determination.

(5) A person who on the commencement day —

- (a) is employed or engaged in any way that, whether directly or indirectly, is concerned in the administration of a retirement village; and
- (b) is a person to whom section 76 applies,

must give relevant information to the person by whom he or she is employed or engaged within 14 days after the commencement day.

Penalty for this subclause: a fine of \$20 000.

[Clause 4 inserted: No. 36 of 2012 s. 21; amended: No. 42 of 2024 s. 48(1) and 50.]

5. Transitional regulations

(1) In this clause —

amending Act means the *Retirement Villages Amendment Act 2012*;

commencement day means the day on which section 21 of the amending Act comes into operation;

Gazettal day means the day on which transitional regulations are published in the *Gazette*;

transitional matter means a matter of a transitional, savings or application nature;

transitional regulations means regulations under subclause (2).

- (2) Regulations may prescribe anything necessary or convenient to be prescribed in relation to a transitional matter in connection with amendments made to this Act by the amending Act.
- (3) Without limiting subclause (2), transitional regulations may modify the operation of section 6(2) in respect of any matter specified in the regulations.
- (4) Transitional regulations can only be made before the end of the period of 12 months beginning on commencement day.
- (5) If transitional regulations provide that a state of affairs is to be taken to have existed, or not to have existed, on and from a day (the **operative day**) that is earlier than Gazettal day, the regulations have effect according to their terms as long as the operative day is not earlier than the commencement day.
- (6) If transitional regulations contain a provision referred to in subclause (5), the provision does not operate so as —
 - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before Gazettal day; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before Gazettal day.

[Clause 5 inserted: No. 36 of 2012 s. 21.]

Division 3 — Provisions relating to Retirement Villages Amendment Act 2024

[Heading inserted: No. 42 of 2024 s. 47.]

6. Term used: amending Act

In this Division —

amending Act means the *Retirement Villages Amendment Act 2024*.

[Clause 6 inserted: No. 42 of 2024 s. 47.]

7. Transitional regulations

- (1) In this clause —

publication day, for transitional regulations, means the day on which those regulations are published on the WA legislation website;

specified means specified or described in transitional regulations;

transitional matter means a matter or issue of a transitional, savings or application nature;

transitional regulations means regulations made under subclause (2).

- (2) Regulations may prescribe anything required, necessary or convenient to be prescribed in relation to a transitional matter in connection with the enactment of, or any amendment made by, the amending Act.
- (3) Without limiting subclause (2), transitional regulations may provide for specified provisions of this Act or another written law —
- (a) not to apply to, or in relation to, a specified matter or thing; or
 - (b) to apply with specified modifications to, or in relation to, a specified matter or thing.
- (4) Without limiting subclause (2), transitional regulations may provide that an amendment made by the amending Act extends to a specified matter or thing that was in existence before the amendment comes into operation.
- (5) Without limiting subclause (2), transitional regulations may provide —
- (a) that a premium paid before an amendment made by the amending Act comes into operation is, on that coming into operation, taken to be an ingoing contribution; and
 - (b) that a premium, or part of a premium, repayable under a contract entered into before an amendment made by the amending Act comes into operation is, on that coming into operation, taken to be an exit entitlement; and
 - (c) for any other matter in connection with premiums, ingoing contributions and exit entitlements.
- (6) Without limiting subclause (2), transitional regulations may make provision about the application of an amendment made by the

amending Act to persons who had permanently vacated residential premises in a retirement village before the amendment comes into operation.

- (7) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and after a day that is earlier than publication day but not earlier than the day on which the relevant provision of the amending Act came into operation, the regulations have effect according to their terms.
- (8) If transitional regulations contain a provision referred to in subclause (7), the provision does not operate so as to —
- (a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day; or
 - (b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day.

[Clause 7 inserted: No. 42 of 2024 s. 47.]

8. References to administering bodies taken to be references to operators

A reference in any of the following to an administering body under this Act is taken to be a reference to an operator —

- (a) a written law, including, in particular —
 - (i) regulations under this Act; and
 - (ii) any applicable code;
- (b) an instrument under a written law;
- (c) any other document (including a contract).

[Clause 8 inserted: No. 42 of 2024 s. 47.]

9. Inserted provisions, and regulations under them, extend to existing arrangements

- (1) Section 6(2) does not have effect in relation to a provision of this Act that is inserted by the amending Act (an ***inserted provision***).

Retirement Villages Act 1992

Schedule 1 Savings and transitional provisions

Division 3 Provisions relating to Retirement Villages Amendment Act 2024

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- (2) Accordingly, an inserted provision extends to a retirement village, or a contract, agreement, scheme or arrangement, that was in existence before that provision comes into operation.
- (3) Regulations made under an inserted provision extend to a retirement village, or a contract, agreement, scheme or arrangement, that was in existence before the regulations come into operation.
- (4) This clause applies except to the extent that the regulations provide otherwise.

[Clause 9 inserted: No. 42 of 2024 s. 47.]

10. Amendments do not affect existing proceedings

Despite the other provisions of this Division (including, in particular, clause 9), an amendment made to this Act by the amending Act does not apply to proceedings, including criminal proceedings, that were commenced, but not finally determined, before the amendment comes into operation.

[Clause 10 inserted: No. 42 of 2024 s. 47.]

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Notes

This is a compilation of the *Retirement Villages Act 1992* and includes amendments made by other written laws ¹. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Retirement Villages Act 1992</i>	34 of 1992	19 Jun 1992	s. 1 and 2: 19 Jun 1992; Act other than s. 1 and 2: 10 Jul 1992 (see s. 2 and <i>Gazette</i> 10 Jul 1992 p. 3185)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Transfer of Land Amendment Act 1996 s. 153(1)</i>	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Trustees Amendment Act 1997 s. 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 39(10) and 104</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Reprint of the <i>Retirement Villages Act 1992</i> as at 22 Jan 1999 (includes amendments listed above)			
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 60(1)</i>	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(2) and <i>Gazette</i> 16 Feb 2001 p. 903)

Retirement Villages Act 1992
Notes Compilation table

Short title	Number and year	Assent	Commencement
<i>Corporations (Consequential Amendments) Act 2001</i> s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and Cwlth <i>Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 52	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003</i> s. 62	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 113 ^{2,3}	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 2: The Retirement Villages Act 1992 as at 1 Apr 2005 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 4 Div. 21 ⁴	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Consumer Protection Legislation Amendment and Repeal Act 2006</i> Pt. 10	69 of 2006	13 Dec 2006	14 Jul 2007 (see s. 2 and <i>Gazette</i> 13 Jul 2007 p. 3453)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
Reprint 3: The Retirement Villages Act 1992 as at 10 Oct 2008 (includes amendments listed above)			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 110	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Acts Amendment (Fair Trading) Act 2010</i> s. 190 and 199	58 of 2010	8 Dec 2010	1 Jan 2011 (see s. 2(c) and <i>Gazette</i> 24 Dec 2010 p. 6805)
<i>Building Act 2011</i> s. 171	24 of 2011	11 Jul 2011	2 Apr 2012 (see s. 2(b) and <i>Gazette</i> 13 Mar 2012 p. 1033)

Short title	Number and year	Assent	Commencement
<i>Retirement Villages Amendment Act 2012</i> (other than s. 4(4)) ⁶	36 of 2012	5 Nov 2012	s. 1 and 2: 5 Nov 2012 (see s. 2(a)); Act other than s. 1, 2 and 4(4): 1 Apr 2014 (see s. 2(b) and <i>Gazette</i> 21 Mar 2014 p. 721)
Reprint 4: The Retirement Villages Act 1992 as at 5 Jul 2013 (includes amendments listed above except those in the <i>Retirement Villages Amendment Act 2012</i>)			
<i>Strata Titles Amendment Act 2018</i> Pt. 3 Div. 19	30 of 2018	19 Nov 2018	1 May 2020 (see s. 2(b) and SL 2020/39 cl. 2)
<i>Community Titles Act 2018</i> Pt. 14 Div. 19	32 of 2018	19 Nov 2018	30 Jun 2021 (see s. 2(b) and SL 2021/69 cl. 2)
<i>Directors' Liability Reform Act 2023</i> Pt. 3 Div. 54	9 of 2023	4 Apr 2023	5 Apr 2023 (see s. 2(j))
<i>Retirement Villages Amendment Act 2024</i> Pt. 2 (other than s. 7 and 28)	42 of 2024	13 Nov 2024	Pt. 1: 13 Nov 2024 (see s. 2(a)); Pt. 2 Div. 2: 14 Nov 2024 (see s. 2(b)); Pt. 2 Div. 1 (other than s. 7 and 28): 1 Sep 2026 (see s. 2(c) and SL 2026/172 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA [Legislation](#)[legislation](#) website.

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 60(2) ⁵	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Retirement Villages Amendment Act 2024</i> Pt. 2 Div. 1 , s. 7 and 28	42 of 2024	13 Nov 2024	Pt. 2 Div. 1 (other than s. 7 and 28): 1 Sep 2026 (see s. 2(c) and SL 2026/172 cl. 2); s. 7 and 28: to To be proclaimed (see s. 2(c))

Other notes

- ¹ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 45 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- ² The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ³ The *State Administrative Tribunal Regulations 2004* r. 37 reads as follows:

37. Retirement Villages Act 1992

- (1) In this regulation —
commencement day means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 113 comes into operation.
- (2) If a matter being dealt with under the *Retirement Villages Act 1992* by the Retirement Villages Disputes Tribunal before the commencement day is transferred to the Tribunal under the Act section 167(4)(b) —
- (a) the Act section 39 does not apply; and
 - (b) the matter is to be dealt with by the Tribunal as if the *Retirement Villages Act 1992* section 47 in force immediately before the commencement day continued to apply and a reference in that section to the Tribunal were a reference to the State Administrative Tribunal.

- ⁴ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 4 Div. 23 is a transitional provision that is of no further effect.
- ⁵ On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 60(2) had not come into operation. The section that it seeks to amend has been deleted.
- ⁶ The *Retirement Villages Amendment Act 2012* s. 4(4) was repealed by the *Statutes (Repeals and Minor Amendments) Act 2025* s. 3(h).

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