

## Frequently Asked Questions

# Draft *Retirement Villages Regulations 2017*

### Background

The *Retirement Villages Bill 2016* completed its passage through the Parliamentary process in November 2016, and is now the *Retirement Villages Act 2016* (the new Act). This legislation is the result of over three years' significant consultation, and successfully balances increased consumer protection with the interests of operators across the diversity of retirement village operations. It is intended that new legislation will commence in early 2018. The new Act is available at

[www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)

Key provisions in the new Act include:

- the introduction of a standard disclosure statement to improve transparency and clarity of residence contracts
- the introduction of the mandatory repayment of an exit entitlement to a resident within 18 months of a resident vacating their residence or providing notice to vacate, if it is not relicensed prior to this time
- an increase in transparency of village funds including breaking down management fees, providing details of expected consultation with residents regarding the village budget and requirements to meet with residents' committees about finances.

Regulations to support the new Act are the next important step in ensuring the legislation fulfils its intended objectives. The Office for the Ageing (OFTA) has released draft *Retirement Villages Regulations 2017* for public consultation. Details about key provisions of the draft Regulations, how to access a copy of the draft Regulations and information about the consultation process is provided below.

### How have the draft Regulations been developed?

During consultation on the Bill, OFTA received significant feedback from stakeholders and the community about issues to be included in the Regulations. Workshops were also held in late 2016 with stakeholders on key areas of the Regulations. These areas include the disclosure statement, residents' committees, proceedings at meetings and the Code of Conduct. This feedback has informed development of the draft Regulations.



## How will the draft Regulations affect prospective residents?

### Disclosure statement

The *Retirement Villages Act 2016* introduces the requirement for a person to be provided with a disclosure statement prior to signing a residence contract. The disclosure statement aims to draw a prospective resident's attention to key provisions of the residence contract. The draft Regulations prescribe the format for the Disclosure Statement.

### Premises Condition Report

The new Act includes the requirement for a premises condition report to be completed at the time a resident takes up occupation of a residence. The draft Regulations include that a vacated premises report should also be completed within 10 business days of a person ceasing to reside in a retirement village. This will enable the reports to provide an accurate summary of the actual condition of a residence when a resident takes up occupation and when they cease to reside in a residence. The premises condition report and vacated premises report aims to minimise disputes in relation to the condition of the residence.

### Residence Contracts

The *Retirement Villages Act 2016* provides that a residence contract must provide information about a resident's rights and obligations under the contract. The draft Regulations prescribe information about the form and details of the residence contract. The draft Regulations also require that a residence contract must include a copy of a village's surplus and deficit policy and details about the amount to be charged for remarketing of a residence.

## How will the draft Regulations affect current residents?

### Residents' fees

In order to ensure transparency of a village's finances, the new Act includes provisions that require all funds to which residents contribute either directly or indirectly to be audited. The draft Regulations clarify that auditing should be in accordance with general accounting standards.

### Meetings and voting

The new Act introduces the ability for a resident to cast an absentee vote for a matter to be decided at a meeting of all residents.

The draft Regulations contain further details about procedures for annual meetings of all residents. The Regulations require that if a question is asked at an annual meeting, the operator should include the question and the answer to the question with the minutes of the annual meeting provided to all residents. An operator is also required to include copies of questions it has received in writing with the minutes of the meeting. This is to ensure that all residents within a village are provided with all questions and answers asked at the annual meeting.

## Residents' committees

The draft Regulations introduce requirements relating to a residents' committee. These requirements include:

- The requirement to hold an annual meeting with all residents and that committee members are to be elected at this meeting
- Auditing of a residents' committee's finances
- Requirements for a committee to prepare minutes of its meetings which are available for inspection by residents.

## Code of conduct in retirement villages

An operator and residents code of conduct is included in the draft Regulations.

The code of conduct outlines the rights and obligations of residents and operators in retirement villages along with other provisions including remarketing and residents' committees.

## How will the draft Regulations affect residents when they leave a village?

### Rights in relation to remarketing

The draft Regulations introduce a number of new provisions relating to remarketing within retirement villages. Some of the provisions in the draft Regulations include:

- Ability for an operator to set guidelines which a resident who has chosen to remain in occupation while a residence is being remarketed must comply with
- Provisions relating to the ability of a resident or a person representing the resident to appoint a real estate agent to remarket a residence if the operator has not relicensed the residence after 9 months
- Information about what an operator must include in a remarketing report such as how many people have viewed a residence and what advertising has been undertaken in relation to the residence.

The draft Regulations clarify that where there is a dispute about the value at which a residence is being remarketed and a resident requests a valuation, this valuation should be undertaken by a person authorised to carry on business as a land valuer under the *Land Valuers Act 1994*.

## What other changes are included in the draft Regulations?

- Dispute procedures – the draft Regulations prescribe minimum requirements for a village's dispute resolution policy to ensure residents and operators have a clear understanding of the procedure to follow when there is a dispute.
- Surplus and deficit policy – introduction of a default surplus and deficit policy to be applied where a village does not introduce such a policy within 6 months of the new Act commencing. The prescribed policy requires a surplus or deficit to be accounted for in the following year's finances.

## Consultation on the draft Regulations

OFTA is seeking feedback on the draft Regulations. Consultation on the draft Regulations allows interested people to have a say on the finer details of the new Act and how it is to be implemented. Feedback will help inform the final Regulations which will be presented to Parliament. Areas on which feedback is particularly being sought include:

- Requirements for the format of a standard disclosure document
- rules for residents' committees
- changes to requirements for remarketing of retirement village residences
- the introduction of a code of conduct in retirement villages.

### How do I provide feedback?

1. Go to:  
<https://yoursay.sa.gov.au/decisions/retirement-villages-regulations/about>  
and download the draft Regulations and reference documents.
2. Follow the link to the online survey to complete the feedback form.

**Consultation closes at 5pm on Wednesday 24 May 2017.**

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### For more information

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