

Leaving a retirement village



Government of South Australia
Department for Families
and Communities

SA retirement village information for prospective/residents

There may come a time when you decide to leave the village or you may have to leave for medical reasons. The following information relates to leaving the village and to the re-licensing of your residence. Your residence contract will contain provisions for leaving the village. These provisions must comply with the *Retirement Villages Act 1987* (“the Act”) and the *Retirement Villages Regulations 2006* (“the Regulations”).

If you want to leave the village, check the remarketing policy to establish exactly what you are required to do. It is likely that you (or your nominated agent) will need to advise the administering authority in writing, of your intent to leave. If you paid a refundable premium when you entered the village, a proportional refund may be paid to you on leaving the village in keeping with the provisions in your residence contract. In ordinary circumstances, payment of your refund will depend on the re-licensing of your residence. After the re-licensing of your residence, the administering authority must repay your refund within **10 business days after settlement**. Some villages offer a refund within a stated period of time, so check your contract for details.

If you need to leave your residence to move into a residential aged care facility, it is possible for you to seek an early refund.

Moving to a residential aged care facility

At some stage, it may be necessary for you to move, in order to access a level of care not available at your village. If you are assessed by an Aged Care Assessment Team (ACAT) as needing a higher level of care and you have paid a refundable premium, you can apply for an early refund where you do not have ready access to required funds or where the payment of an accommodation bond would have a serious effect on your personal finances.

A written application to the administering authority would need to occur within 60 days after being approved for entry or leaving the village (whichever is later). Subsequently, the administering authority must, within 60 days of receiving an application, repay so much of the premium as you require to secure entry to the residential aged care facility.

Absence from the village

If you are absent from a retirement village for a continuous period of at least 28 days, payment for any personal/additional services will cease after the 28 days have elapsed. You should clarify with the administering authority what proportion of your recurrent charges is for personal/additional services (eg where meals are provided, you will not be charged for food but you will be expected to pay a salary component for the provision of meals).



Remarketing

Under the Regulations, each village is required to have its own remarketing policy which clearly outlines the rights and obligations of both the administering authority and the outgoing resident. Once you have decided to terminate your contract for whatever reason and provided notice, the administering authority can take preliminary steps to remarket your residence. The administering authority must act in accordance with the village's remarketing policy. The policy will refer to processes such as:

- what steps you and the administering authority undertake when the residence is re-licensed;
- the administering authority meeting with you or your agent to discuss/explain the remarketing process and complete the Premises Condition Report;
- determining what refurbishment is needed to ensure that your residence is in a reasonable condition for remarketing, how/when work will be undertaken, who is responsible for organising the work and for associated costs;
- the fixing of the price at which your residence will initially be remarketed and when/how changes to that price will be considered and made;
- the type, level and frequency of advertising that will be undertaken;
- who will be responsible for any costs associated with the valuation of your residence, any advertising and other relevant matters and how any such costs will be calculated or determined;
- what you will be required to do in relation to the remarketing of your residence and the extent to which you may or will assume responsibility for any aspect of the remarketing process;
- what action will be taken if your residence is not re-licensed after the first 90 days and after six months, if it has still not been re-licensed; and
- what fees, charges and costs will be deducted by the administering authority in relation to the re-licensing of your residence at settlement.

The administering authority must also provide you with a written progress report (at least monthly).

Terminating your contract

You can terminate your residence contract at any time by providing written notice to the administering authority.

The circumstances under which an administering authority can terminate your right of occupation include:

- breaching the residence contract &/or rules, subject to confirmation by the Residential Tenancies Tribunal;
- your residence becoming unsuitable for your use due to physical or mental incapacity, subject to confirmation by the Tribunal; or
- your death.

When terminating a contract, any limitations or qualifications that may arise from the original contract must be considered.





If the administering authority decides to terminate your right of occupation, you must:

- receive written notice of the grounds for termination;
- be informed that the decision is subject to review by the Tribunal; and
- be informed of your rights with regard to such a review.

Both parties will have the opportunity to present their case to the Tribunal. Where the Tribunal confirms the administering authority's decision to terminate, it must set a time within which you must vacate your residence.

Refund/settlement

Once your residence has been re-licensed, you will receive a settlement statement which provides details related to your refund (if applicable). This statement should outline the fees, charges and costs deducted from the premium received by the administering authority and the final amount subsequently payable to you.

These deductions may include:

- any outstanding recurrent charges;
- costs associated with eg refurbishment, remarketing, management, depreciation;
- an amount indicating a percentage of the premium retained by the administering authority (their profit); and/or
- an amount retained for capital replacement (often calculated on your length of stay in the village eg x% for period of occupancy).

Disability, Ageing and Carers

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