

# Moving into a retirement village



Government of South Australia  
Department for Families  
and Communities

## Before moving into a retirement village

If you are considering retirement village living, you need to think about what type of village you want to live in and seriously consider what you can afford on a continuing basis.

In South Australia, retirement villages are most commonly owned &/or operated by either private developers or non-government or charitable organisations.

Once you have decided on a village that you want to live in, you will be asked to enter into a residence contract. This sets out your rights and obligations and ultimately governs the relationship between you and the administering authority. You should be aware that you do not own the residence in which you live, but rather have a lease or licence which gives you the right to occupy that residence. In some instances, you may have a proprietary interest in the residence eg a community title. You may not be able to transfer your interest in the residence and you may not be able to borrow money against the property. You should seek legal advice on this issue.

If you need to sell your home before moving into a retirement village, it is wise to ensure any contract you enter into is subject to conditions that meet your sale needs. If you do not receive the amount that you need or are expecting from the sale of your home, then your financial position can be seriously compromised. Making a move under uncertain financial conditions can create additional pressure and stress and diminish the positives about moving into a new environment. You also need to consider what else you may need or want to purchase eg new car, holiday, new furnishings, air conditioning/heating, appliances.

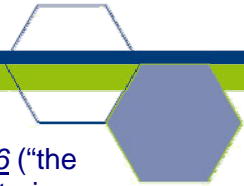
It is important to remember that, like any financial transaction the “buyer beware” principle applies.

**The value of “doing your homework” before you enter into a contract cannot be over emphasised.**

It is very important that you fully understand what you are agreeing to and what the legal and financial implications are for entering, remaining in and leaving the village, and the implications for any spouse or partner you may have.

As part of the moving in process, you will be presented with several documents. These can be lengthy and quite daunting. Nonetheless, it is critical that you read and understand the various clauses in your contract. It will generally be a legally binding document for both you and the administering authority.

Many people consider moving into a retirement village as their last move and do not concern themselves about leaving the village. However, you may want or need to leave for a number of reasons eg family members move interstate and you want to be closer to them, you need a higher level of care and so on. You will also need to consider what will happen to your spouse or partner should you cease to reside in the village.



The *Retirement Villages Act 1987* ("the Act") and *Retirement Villages Regulations 2006* ("the Regulations") describe the rights and statutory obligations of retirement village administering authorities and residents. The Act and Regulations can be purchased from:

Service SA Government Legislation Outlet

108 North Terrace, Adelaide, SA 5000

Telephone 13 23 24

There is also an online shop at [www.service.sa.gov.au](http://www.service.sa.gov.au)

The Act and Regulations can also be viewed via the Internet (see Helpful Links).

When speaking with an administering authority or their sales representative, take note of verbal promises about additional services, or exemptions which are not contained in the advertising material that you have seen about the village. When checking your contract, double check that these verbal promises have been included.

### The residence contract

Before signing the residence contract, you must be provided with a copy of the:

- Residence contract;
- Premises condition report;
- Financial Statements presented at the last annual meeting of residents including a written statement of any subsequent change in the affairs of the village and the administering authority that may significantly affect your decision to enter the village;
- Residence rules;
- Disputes procedures;
- Re-marketing policy; and
- Regulations, Schedule 1, Code of Conduct,

Some of which will indicate items not applicable and have comments added where required.


If you are uncertain on any point in any document, highlight it and seek further **written** clarification from the administering authority.

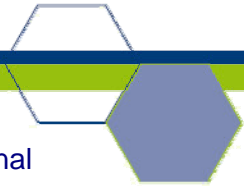
Once signed, your residence contract cannot be altered without your consent. All information and contracts relating to a retirement village must:

- as far as possible, be written in clear, plain English, avoiding vague statements;
- fully disclose the arrangements which will apply in relation to your occupation;
- be inclusive of and consistent with verbal assurances or representations; and
- comply with the provisions of the Act/Regulations.

If the residence contract contravenes the Act/Regulations, the Act will take precedence over the contract.

Your residence contract (see Regulation 5 for more detail) should include references to:

- your right to cool-off;
  - any exemptions the village might have under the Act;
  - the parties to the contract and any associated conditions;
  - the certificates of title on which the village is situated;
  - the form of tenure which applies to you i.e. whether it is a strata title, a lease, a licence or other type of tenure;
  - your residence i.e. its location, type, layout plan and size;
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- communal facilities i.e. facilities available to all residents, &/or separate or additional facilities allocated to you;
  - any optional personal services i.e. cleaning, laundry, meals (see “Living in a Village”);
  - your premium i.e. the amount, how and when it is to be paid, the basis on which any premium will be calculated and refunded (if relevant);
  - any recurrent charges and the way they are calculated or varied (see “Living in a Village”);
  - when the village’s financial year begins and ends;
  - funds established by the administering authority to which you contribute, and the purpose of those funds (see “Living in a Village”);
  - your settling-in period;
  - any current or planned development of the village - proposed expansions and extra facilities to be offered (**Note:** There is no guarantee that proposed expansions will be completed as planned, nor may there be any legal redress should this be the case);
  - the trustee (if relevant);
  - the action required to terminate a contract (see “Leaving a Village”);
  - other information agreed to between the parties.

### Code of conduct

The Regulations contain a code of conduct, which sets out some important information about the administration of retirement villages. The code of conduct applies to all dealings between administering authorities and residents.

It is a term of a residence contract that the administering authority will abide by the code and can be fined up to \$2,500 for breaching that code.

### Cooling-off

After signing a residence contract and receiving all of the associated documents, there is a 15-business day cooling-off period. This allows you time to seek advice or discuss the matter with others e.g. your legal or financial adviser, family &/or friends. It is during this period that you can also withdraw from the contract and receive a refund of any money paid by you under the contract. Some administrative charges may be incurred.

It is strongly recommended that during this time, you seek the advice of:


- a lawyer, to ensure that your understanding of the financial and legal implications of the contract (whilst living in or when leaving the village) is correct; &/or
- a financial adviser (most financial institutions offer a free service to existing customers) to ensure that you are able to afford to remain at the village on a long term basis.

It is also a good idea to discuss your move with family, friends &/or the donee(s) of your enduring power of attorney. Let them read the contract, as they may think of something you have overlooked. Often, it is one of these people who will be assisting you at a later stage and if they are already familiar with your contractual obligations, it will make their job much easier.

If you have any concerns about the interpretation of a specific clause in the contract, get a written explanation from the administering authority that clearly reflects your understanding of that clause. Attach this to your contract.

### Premises condition report

The premises condition report gives you information about the condition of the fixtures, fittings and furnishings, who will be responsible for repairing or replacing any item, when any item is due to be repaired or replaced and how the cost of repairing any item is to be funded.



This is one of several documents that will be provided to you, together with your residence contract. The Regulations state that it must be completed as at the date of the contract. This document must be signed by the administering authority and yourself.

You should ensure that you are satisfied with the information contained in the Report before you sign it.

### **Settling-in**

You are entitled to a settling-in period, which is 90 calendar days after the date of the contract (or longer if specified in your contract) or the date on which you are first able to occupy your residence, whichever is later. It is during this time that you may decide that the retirement village is not suitable for you. During this period, you may elect to leave the village. If so, you may be required to pay costs and market rent for the period of occupancy, as detailed in your contractual documents. However, the premium will be held until your residence is re-licensed. You cannot be required to pay any monetary penalty for termination during this period.

The more information you have and understand **BEFORE** you make a move, the smoother your transition is likely to be and the less likely you are to experience disputes in the future.

#### **Disability, Ageing and Carers**

##### **Retirement Villages team**

4th Floor, Riverside Centre

North Terrace (west of the railway station)

Adelaide SA 5000

Telephone 8207 0413 or 8207 0354

Facsimile 8207 0555

