

# Remarketing policy

Under the *Retirement Villages Act 2016* (SA) (the Act) operators must have a policy outlining the procedures and the rights and obligations of each party in relation to the remarketing of a residence. It must be provided to prospective residents at the same time as the residence contract.

Under section 22 of the Act you are required to provide the village's remarketing policy to a resident. Regulation 17 of the Retirement Villages Regulations 2017 (SA) (the Regulations) describes the minimum requirements for a remarketing policy as outlined below:

- > as soon as you receive notice of the resident's decision to vacate the residence, you must act in accordance with the remarketing policy
- > you must make arrangements to meet with the resident or their representative to view the residence and explain and discuss the remarketing process
- > you must outline the procedures to identify any work that needs to be undertaken to ensure the residence is in reasonable condition for remarketing and determining when and how any work will be undertaken, who will be responsible for organising the work and for the cost of the work
- > the fixing of the price at which the 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 in relation to marketing of the residence
- > who will be responsible for any costs associated with the valuation of the residence, any advertising and other relevant matters and how any such costs will be calculated or determined
- > what will be required of the resident in relation to the remarketing and the extent to which the resident may or will assume responsibility for remarketing if the residence has not been relicensed after nine months
- > guidelines to be followed if the resident gives notice to vacate but remains in the residence under section 27(3) of the Act, including:
  - how inspections will be managed
  - requirements for the presentation of the residence for inspections
  - a date on which the resident must vacate the residence prior to settlement if the residence is relicensed before the period of 18 months has elapsed since the resident gave you notice
  - any other matter which is reasonable to include in the guidelines
- > what steps you and the resident must take if the residence is relicensed
- > settlement procedures including the fees and charges that will be deducted at the time of settlement, and the provision of a settlement statement
- > a requirement that the operator provide the resident with a monthly report about:
  - what advertising has been undertaken in relation to the residence and the village
  - the number of inquiries received about the residence
  - the number of people who have viewed the residence
  - the number of other residences for sale in the retirement village
  - the number of residences in the village sold or relicensed in the previous month
- > that you must at least match the level of marketing for any new residences which are also on the market at the same time

In accordance with Regulation 17(2) any fees charges and costs set out in a remarketing policy must not be inconsistent with the fees, charges and costs set out in the contract and disclosure statement. An EXAMPLE of a remarketing policy which you might like to adapt to suit your own village follows. Please remember it is an example only and it in no way represents the only form of remarketing policy applicable. Another EXAMPLE form relating to termination of a resident's occupancy is also at the end of this information sheet.

## If the residence is not relicensed after nine months

Section 32 provides a resident with the right to more actively participate in the remarketing of a premises if it has been 9 months since the resident ceased to reside in a village or provided an operator with notice of their intention to vacate and remain in occupation under section 27(3). Under Regulation 9 the resident is entitled to appoint their own agent in relation to the sale of a right of occupation of the residence but is liable for the agent's costs and commission.

The resident must notify you in writing of the agent's name and contact details, and any change to the appointment of the agent or their contact details. They must also notify you in writing of any offer to purchase the right of occupation.

If a resident appoints their own agent, you may continue to remarket the residence yourself in accordance with your remarketing policy. You must not interfere with the agent's remarketing of the residence unless it would cause you to be in breach of your obligations under the Act or it would interfere with the peace or comfort of another resident. The resident must comply with any reasonable request you make in relation to the remarketing of the residence by their agent.

## Liability for recurrent charges

Section 29 of the Act provides where a resident ceases to reside in the retirement village, you are responsible for the payment of any recurrent charge in respect of the vacated residence. If the

resident will be receiving an exit entitlement, you may recover an amount equal to what would have been the resident's liability for these charges.

There are limits on this:

- > you cannot recover that amount until the exit entitlement is due to be paid (and it may then be recovered as a deduction from the exit entitlement payable to the resident)
- > the amount to be recovered cannot exceed the amount of the exit entitlement due to the resident
- > you may only claim recurrent charges that would have been payable by the resident over a prescribed period, that is
- > until the residence is resold or relicensed or occupied by another resident or
- > 6 months from the date on which the resident ceased to reside in the village, whichever is earlier.

You may apply to the South Australian Civil and Administrative Tribunal (the Tribunal) for a determination that the prescribed period should, in the circumstances of the particular case, be longer than six months. The Tribunal will only extend the period where it would be harsh and unreasonable to limit the prescribed period to six months. Applications to the Tribunal can be made online at [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au).

## If the residence is not relicensed after 18 months

If the residence has not been relicensed after 18 months and the resident becomes eligible to receive the exit entitlement under section 27, you may be required to pay the exit entitlement based on the current market value of the licence. Further information about exit entitlements can be found in the 'Exit entitlements' information sheet.

*Disclaimer: In developing this information sheet, every effort has been made to ensure that the information reflects the intent of the legislation and/or represents examples of best known practice. The information contained in these resources does not constitute legal advice. Office for Ageing Well recommends that you seek your own legal advice should you require interpretation of the legislation.*

For more information:

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**Government of South Australia**  
SA Health

## Name of Village or letterhead Remarketing Policy

### ***Statement about the village's approach to advertising***

In order to maintain a high public profile and generate interest in our village, we place a standard advertisement in the Advertiser on a bi-monthly basis. We also have ongoing village advertising in realestate.com.au's retirement village section and on villages.com.au. We are also listed on Catalyst Foundation's retirement village database.

The advertisements describe the village, its facilities and the lifestyle opportunities available. We do not identify any one residence. This assists in keeping advertising costs to a minimum and is equitable, particularly if there is more than one residence vacant at any given time. A percentage of the relicensing price is retained for remarketing costs which includes advertising. The percentage is itemised in your residence contract. Any other form of advertising must be approved by us and will be at your own expense.

When you want to leave your residence, you must provide us with a written Notice of Intention to Vacate (Attachment #). A form is available from our office for your convenience. This contains all the information that we need to commence the remarketing process for your residence. As soon as you give us the Notice of Intention to Vacate, we will take action under this remarketing policy.

On receipt of a Notice of Intention to Vacate, we endeavour to undertake the following:

1. Within two business days of receiving a notice of intention to vacate, we will make an appointment with you or your agent to meet and view the residence and we will explain and discuss the remarketing process.
2. Within 10 business days after you have ceased to reside in the residence, we will meet with you or your representative and complete the vacated premises report.
3. Within five business days from viewing the residence we will provide written advice (Attachment #) to you or anyone you may have nominated to receive information about;
  - any work required to ensure the residence is in a reasonable condition to remarket
  - when this work will be undertaken, by whom and at whose expense
  - the current valuation of the residence
  - if there are any expressions of interest in your style of residence from prospective residents on our waiting list
  - confirmation of when the residence is accessible for us to show prospective residents and
  - confirmation of any additional advertising you have requested.
4. At the end of each month we will provide you or your agent with a report that includes the following information (Attachment #)
  - what advertising we have undertaken
  - how many people viewed or inquired about your residence
  - any relevant comments
  - the number of other residences for sale in the village and the number of other residences sold in the village in the previous month and
  - any offers made.

5. If you give notice and stay in the residence under section 27(3) of the Retirement Villages Act 2016, we will give you 48 hours' notice of an inspection of the residence by prospective residents. You must keep the residence clean and tidy, and co-operate with any reasonable request we make in relation to the remarketing of the residence. This may include asking you to vacate your unit to allow refurbishment work. **[NOTE: This is to allow sufficient time to conduct any refurbishment that may be required]** If the residence is re-licensed, you will be required to vacate at least four weeks before the settlement date.
6. If you do not agree with our valuation of the residence, you must notify us in writing. We will ask an independent body to appoint an independent licensed valuer to determine the resale value. You must pay half the costs associated with this valuation. We will deduct this amount from your exit entitlement.
7. If there are new residences being marketed at the same time, the marketing level of your residence will at least match the marketing for those residences.
8. If the residence has not been relicensed after nine months, you may appoint an agent of your choice to market the residence at your own cost. You must notify us in writing of the name and contact details of the agent, and of any changes to those details. You must also notify us in writing of any offers made to purchase your right of occupation. If you appoint your own agent, we will continue to remarket your residence and you will have to pay the remarketing costs as already specified. We reserve the right to determine who purchases a licence to occupy a residence in the village.
9. At the time you provide your notice of intention to vacate, we will provide you with an estimate of your exit entitlement within 5 business days and we will provide you with a final settlement statement at a reasonable time before payment of your entitlement.
10. You will receive your exit entitlement within 10 business days of our receipt of the next resident's ingoing contribution.
11. If the residence is relicensed after the death of the occupant, we will only release the funds once we have received a written request and direction as to payment, and sufficient written proof of authorisation to receive monies. Producing a will, or a copy of a will, alone will not constitute sufficient proof. A certified copy of a grant of probate or letters of administration, together with the Registrar of Probates' certificate, certifying disclosure has been made of the asset (ie the exit entitlement) to the Registrar of Probates, will generally constitute sufficient proof.

Name of Village or letterhead  
Advice to resident or their agent re vacating village

To .....  
*name of resident or their agent*

re .....  
*address of residence*

Date of Notice of Intention to Vacate ..... / ..... / 20.....

Further to our meeting on ..... / ..... / 20....., I advise and confirm the following

- the current estimated value of the residence is \$.....
- settlement will be based on the ingoing contribution, as per clause ..... of your residence contract, minus deductions, including .....% which will be retained by us
- as per the vacated premises report (..... / ..... / 20.....) the following work is required at your expense to ensure your residence is in a reasonable condition to remarket  
.....
- as per the vacated premises report (..... / ..... / 20.....) the following work is required at our expense to ensure your residence is in a reasonable condition to remarket  
.....
- this work will be undertaken by ..... / ..... / 20.....
- access to your residence to undertake work or show prospective residents is unlimited / limited to (delete whichever is not applicable)  
.....
- I confirm that you have/have not requested additional advertising (if additional advertising has been requested, describe)  
.....
- the village has contacted ..... people from our waiting list who have indicated a prior interest in this style of residence.
- your firstly monthly report will be provided on ..... / ..... / 20.....

Should you have any further queries or want to discuss the re-marketing process, contact me on .....phone

.....  
*name of operator* ..... / ..... / 20.....

Name of Village or letterhead  
Monthly remarketing report to resident or their agent

To .....

*name of resident or their agent*

re .....

*address of residence*

Date of Notice of Intention to Vacate..... /..... / 20.....

(complete if early refund is sought) You applied for aged care payments and as a consequence we paid \$..... to the residential aged care facility on ..... /..... / 20..... The next payment of \$..... is due on ... /... / 20....

The price at which the residence is being remarketed is \$.....

In the past month the village has continued to advertise as per our village remarketing policy.

Over the past month, we have shown ..... interested parties your residence and received .....inquiries.

The feedback we have received is

.....

Example comments

- one couple wanted a bigger main bedroom
- liked it but have just started looking, will keep it in mind
- not what they are looking for

No offers have been made **OR** .....offers have been made.

There are ..... other residences in the village being remarketed.

The number of residences relicensed in the last month is..... .

Unless your residence is relicensed, the next remarketing report is due on

... /... /20.....

We will continue to actively remarket your residence as per our policy. If you have any queries or would like to discuss any changes to the remarketing process or residence price, please contact me on ..... phone

Your residence has now been on the market for ..... days. We will continue to remarket as per our policy. It is not our intention to reduce the price at this stage. However, if you want to discuss the remarketing process or want to increase advertising effort at your own expense, please contact me to discuss alternative arrangements on .....phone

.....

*name of operator*

..... / ..... / 20.....

Name of Village or letterhead  
Settlement statement to resident or their agent

To .....  
*name of resident or their agent*

re .....  
*address of residence*

Date of Notice of Intention to Vacate..... /..... / 20.....

Date residence was relicensed ..... /..... /20.....

Payment date after settlement will be on or before ..... /..... /20.....

**DETAILS OF SETTLEMENT**

**Ingoing contribution** *(as described in your residence contract)*

\$.....

**Capital Gain/Loss** *(current market value minus ingoing contribution)*

\$..... Your share of capital gain/loss (X%) \$.....

**Amount from which exit fees will be deducted** \$.....

**EXIT FEES**

Outstanding recurrent fees *(e.g. Xwks @ \$X fortnight)* \$.....

Refurbishment as per 'advice to resident' dated ...../...../20.....

\$.....

Retention as per clause .....of your residence contract \$.....  
*(e.g. X% of next ingoing contribution received)*

Retention for capital replacement as per clause ..... of your residence contract

\$.....

*(e.g. X% of ingoing contribution received x X yrs occupancy)*

Re-marketing costs *(e.g. X% of next resident's ingoing contribution)*

\$.....

**Total deductions from exit entitlement**

\$.....

**Exit entitlement payable** *(ingoing contribution less total deductions)*

\$.....

..... / ..... / 20.....

*name of operator*

**Name of village or letterhead**

**Running sheet for the remarketing of residence**

Re .....  
*name of resident(s) & address*

Date of notice to vacate ..... / ..... / 20.....

Date	Name & ph number	Comments	Follow up
<b>Example entry</b>			
16 Aug 2017	Mrs J Citizen 8555 6666	Saw advert in Advertiser. Just started looking, likes residence, is within her price range & will keep it in mind	Do f/u call on 24 Aug

Price being sought for the residence \$ .....



# NOTICE OF DECISION TO TERMINATE RESIDENT'S RIGHT OF OCCUPATION

Retirement Villages Act 2016 (SA), section 44(12)  
Retirement Villages Regulations 2017 (SA), Regulation 14

To:

.....  
*name of resident*

You are hereby given notice of the decision to terminate your right of occupation in

.....  
*name of retirement village*

.....  
*address of retirement village*

.....  
*postcode*

The reasons for this decision are as follows:

.....  
.....  
.....  
.....  
.....  
**YOU ARE ADVISED THAT THIS DECISION IS NOT EFFECTIVE UNTIL IT IS  
CONFIRMED BY THE SOUTH AUSTRALIAN CIVIL & ADMINISTRATIVE  
TRIBUNAL**

The Tribunal will conduct a hearing into the matter and you will be notified of the time and place of the hearing. You will be able to attend and present to the Tribunal any matters related to the proposed termination of your right of occupation. If the Tribunal confirms the decision, it will set a date for you to leave the retirement village.

A copy of the village's dispute resolution policy is attached.

Signed: .....  
*operator*

Date:.....

.....  
*name of operator*

.....  
*address of operator*