

Transitional provisions

The *Retirement Villages Act 2016 (SA)* (the Act) and the Retirement Villages Regulations 2017 (SA) (the Regulations) will commence on 1 January 2018. Below is information about transitional provisions applicable to the commencement of the Act and Regulations.

Residence contracts

Any contract entered into before the commencement of the Act and the Regulations continues to be in force as if it were a contract entered into in compliance with the Act.

Surplus and deficit policy

The Act and the Regulations require you to have a surplus and deficit policy in relation to the village accounts for recurrent charges. Regulation 5 (2)(g)(vii) requires a copy of the policy to be included in a residence contract.

Schedule 2 of the Act, Part 4 – Transitional provisions, requires that if there is any residence contract in force that does not contain a surplus and deficit policy, there must be a policy adopted within six months of the commencement of the Act. This must occur by holding a meeting of residents and approving the policy by special resolution (where at least fifteen business days written notice of the meeting has been given and a majority of not less than three quarters of the number of residents who were entitled to vote at the meeting pass the resolution). The policy will then apply to all contracts which do not already have a surplus and deficit policy as though the new policy formed part of the contract. If a village fails to adopt a policy within the six months as required, Schedule 3 of the Regulations

stipulates that a surplus or deficit must be accounted for in the statement of accounts for the following financial year.

Exit entitlements

Section 27 introduces an 18 month repayment period for exit entitlements where a residence has not been relicensed. Where a resident has ceased to reside in their residence prior to the commencement of the Act, section 27 will apply and the 18 month period will begin when the Act commences.

Remarketing

Under the Regulations, Schedule 4, a remarketing policy given to a resident before the commencement of the Act will continue to apply unless the resident agrees to changes to the policy. The Code of Conduct in the Regulations stipulates the consultation requirements which are necessary before a remarketing policy can be changed.

Exemptions

Any exemptions granted under the *Retirement Villages Act 1987* will carry over under the *Retirement Villages Act 2016*.

Lease of land

Under the Regulations, Schedule 4, if you have any land in a village which is leased outside of the retirement village scheme that lease will continue to operate under the new legislation.

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:

Office for Ageing Well and Department for Health and Wellbeing

T: 08 8204 2420

E: retirementvillages@sa.gov.au

www.sa.gov.au/seniors/retirementvillages

© Department for Health and Wellbeing, Government of South Australia. All rights reserved.
FIS: 22014.3 June 2022.



<https://creativecommons.org/licenses/>



Government of South Australia
SA Health