

# Retirement Villages (Miscellaneous) Amendment Bill 2024

## Information for retirement village operators

The *Retirement Villages (Miscellaneous) Amendment Bill 2024* (the Bill) has been introduced into Parliament.

The introduction of the Bill has been informed by an independent statutory review and an extensive period of public consultation which included significant input from the retirement villages sector.

This fact sheet provides an overview of key amendments and the planned timeline for reform.

## Why is the Act being amended?

The Bill makes key reforms to the *Retirement Villages Act 2016* (the Act) to give effect to the recommendations of the independent statutory review and to enhance consumer protections.

The Bill seeks to achieve a balance between enhancing consumer protections for residents and prospective residents while minimising any unnecessary impacts on retirement village operators.

## How do the proposed changes affect retirement village operators?

The proposed changes to the Act that will affect operators include:

### Residence contracts

The proposed changes will require a broader range of information to be included in the residence contract. This will include the type of occupancy, all fees and charges payable under the contract, whether alterations are allowed (and how), who is responsible for repairing or replacing fixtures, fittings and furnishings and responsibilities for reinstating and renovating the residence upon exit.

### Disclosure statements

The proposed changes will require a broader range of information to be included in the disclosure statement to aid decision-making. This will include information about:

- the type of tenure/occupancy right that is being purchased
- embedded networks (if any)
- the composition of occupation types within the village, and
- a clear description of all of the fees and charges a person will be liable for under a residence contract, including the manner of calculation and worked calculations containing the estimated fees and charges where occupation is terminated at 2 years, 5 years and 10 years after the contract commences.

### Holding deposits

A framework for managing holding deposits will be introduced, to clarify that an operator cannot increase the price of a residence during the holding period and specify how the deposit must be treated in the event that a person chooses to proceed, or not proceed, with the contract.



## Premises condition report

An operator will be required to provide a premises condition report to the resident prior to occupation, which must be completed by the resident and returned to the operator within 10 business days of entering occupation. The premises condition report will provide information about who is responsible for maintenance and repair and where the operator is responsible, which fund will cover this.

## Fees and charges

If the resident contract does not provide a fixed amount or formula, recurrent charges will be capped at CPI. Costs outside the operator's control (such as rates, taxes and charges levied under legislation, some maintenance contracts and salaries and wages) will be excluded from the CPI cap.

The payment of capital fund contributions payable on exit will be capped to a maximum of 1% per annum, up to a maximum of 12.5%. This amendment will only apply to contracts entered after the commencement of the new laws.

Where remarketing fees are not covered in the residence contract, these fees will be limited to the reasonable costs incurred by the operator in remarketing the residence.

## Alterations to a residence

The proposed changes will provide that an operator must not unreasonably refuse a resident's request to make a prescribed alteration to the premises. A prescribed alteration is defined as an alteration that involves the installation of a functional aid, equipment or infrastructure recommended by a registered health practitioner. This may include things such as grab rails or other home modifications.

## Exit entitlements

The mandatory statutory repayment period for exit entitlements will be reduced from 18 months to 12 months (plus an additional 30-day period to allow for reinstatement and refurbishment to commence).

## Abandoned property

A regulation-making power is included to enable a process to be prescribed for managing property abandoned by a resident.

## Dispute resolution

The proposed changes will strengthen dispute resolution processes, including the introduction of a requirement that operators follow their dispute resolution policy (unless otherwise agreed between the operator and resident) and expanded SACAT jurisdiction.

## Management and administration of retirement villages

The proposed changes will strengthen standards for operators and staff of retirement villages, including expanded disqualifying offences and the introduction of training requirements regarding operational policies and procedures and codes of conduct.

New requirements relating to village health, safety and insurance will be introduced, including requiring that an effective emergency plan is prepared and maintained for the village and that residents are provided with a copy of relevant certificates of insurance upon request.

The provisions relating to commercial and rental leases are separated. This includes removing the five year maximum period for residential leases and increasing the participation and inclusion of rental tenants in village life.

The pathways and processes for terminating or modifying a retirement village scheme, or part of a scheme are strengthened, including clarifying the sequence in which the Registrar and residents are notified and costs the operator is liable for.

A new administrative pathway is introduced to enable an operator to apply to the Minister to terminate part of a retirement village scheme if certain conditions are met.

### How will the proposed changes affect current contracts?

In most cases, current residents will remain bound by the terms of their existing contract.

Some changes will impact on requirements relating to the residency of both current and prospective residents. This includes the proposed changes relating to emergency plans, recurrent charges, exit entitlements, and prescribed alterations.

Provision is also made for regulations to prescribe standard contract terms that must be included in every contract, noting the prescription of any standard terms would be the subject of further consultation.

### How do the proposed changes affect the role powers and functions of the Minister and Registrar?

The Bill includes amendments to strengthen the role, functions and powers of the Minister and Registrar including:

- enabling expanded information about retirement villages to be published on the Register and providing that the Register can be published online and be searchable
- allowing the Registrar to gather expanded information from operators about retirement villages (noting not all information collected will be included on the Register)
- strengthening the powers of the Minister and Registrar to monitor and enforce the Act, including introducing voluntary enforceable undertakings and additional penalty provisions.

### What are the next steps?

Following the passage of the Bill through Parliament, further consultation will be undertaken with stakeholders to prepare supporting regulations.

The Office for Ageing Well will advise stakeholders about further opportunities to be involved during the drafting of regulations as the reforms progress.

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## For more information

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