

South Australia

Retirement Villages Regulations 2017

under the *Retirement Villages Act 2016*

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 4 Payments excluded from definition of ingoing contribution

Part 2—Rights of residents

- 5 Residence contracts (section 20 of Act)
- 6 Disclosure statement (section 21 of Act)
- 7 Exit entitlements (section 27 of Act)
- 8 Evidence required if resident leaves to enter residential aged care facility (section 30 of Act)
- 9 Resident's rights in relation to remarketing (section 32 of Act)
- 10 Standards and principles for financial information (sections 33 and 40 of Act)
- 11 Meetings of residents (section 33 of Act)
- 12 Residents' committees (section 38 of Act)
- 13 Information about manager to be supplied to residents (section 43 of Act)
- 14 Termination of residents' rights (section 44 of Act)

Part 3—Miscellaneous

- 15 Residence rules
- 16 Vacated premises report
- 17 Remarketing policy
- 18 Dispute resolution policy (section 45 of Act)
- 19 Endorsement of certificates of title (section 56 of Act)
- 20 Offence

Schedule 1—Operator and Residents Code of Conduct

- 1 Conduct of operator
- 2 Conduct of residents
- 3 Fees for preparation and provision of certain documents
- 4 Surplus and deficit policy
- 5 Operator to consult with residents' committee
- 6 Operator to consult with residents

Schedule 2—Form of disclosure statement

Schedule 3—Transitional regulation—surplus and deficit policy

Schedule 4—Transitional regulations—Schedule 2 clause 14 of Act

- 1 Remarketing policy

2 Lease of land in retirement village

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Retirement Villages Regulations 2017*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Retirement Villages Act 2016*.

4—Payments excluded from definition of ingoing contribution

For the purposes of the definition of *ingoing contribution* in section 4(1) of the Act, an ingoing contribution does not include the following:

- (a) an amount paid or required to be paid under a residential park agreement under the *Residential Parks Act 2007*;
- (b) an amount paid or required to be paid under a residential tenancy agreement under the *Residential Tenancies Act 1995*;
- (c) an amount paid or required to be paid under a domestic services agreement within the meaning of the *Residential Tenancies Act 1995*;
- (d) an amount paid or required to be paid in consideration for occupation in a prescribed retirement village within the meaning of the *Residential Tenancies Act 1995*;
- (e) an amount paid or required to be paid in consideration for entry into residential care at an aged care facility provided by an approved provider under the *Aged Care Act 1997* of the Commonwealth;
- (f) an amount paid or required to be paid in consideration for a lease or a licence to occupy land within a retirement village under section 57 of the Act.

Part 2—Rights of residents

5—Residence contracts (section 20 of Act)

- (1) For the purposes of section 20(1) of the Act, the following requirements are prescribed:
 - (a) the residence contract must include a statement (shown conspicuously in bold black type) advising—
 - (i) that the prospective resident should seek independent legal advice about the prospective resident's rights and duties under the contract; and
 - (ii) that the Act sets out various rights that a person has on entering into a residence contract that cannot be excluded by the contract;

- (b) the residence contract must, as far as possible—
 - (i) be expressed plainly in gender neutral language; and
 - (ii) be printed in not less than 12 point type face; and
 - (iii) be set out clearly with appropriate headings and numbered clauses;
 - (c) the residence contract must include definitions of words and phrases used in the contract (including relevant words and phrases defined in the Act).
- (2) For the purposes of section 20(2)(e) of the Act, the residence contract must include the following information in addition to the information required by section 20(2) of the Act:
- (a) if the Minister has conferred an exemption from a provision of the Act in relation to the retirement village—details about the exemption and any conditions imposed on the exemption;
 - (b) the following information in relation to the contract:
 - (i) the name and address of each of the parties to the contract (being the operator and the prospective resident or residents);
 - (ii) if there is a limitation on who may, in the future, become a party to the contract, details of the limitation;
 - (iii) the date of the contract;
 - (c) the following information in relation to the retirement village scheme:
 - (i) the name and location of the retirement village;
 - (ii) details of the certificates of title for the land on which the retirement village is situated, including—
 - (A) the volume and folio numbers; and
 - (B) the name of the owner in fee simple of the land registered on the certificates of title; and
 - (C) if the land is subject to a mortgage or charge—the name of the holder of the mortgage or charge; and
 - (D) the endorsement on the certificates of title as required by section 56 of the Act; and
 - (E) any other endorsement on the certificates of title;
 - (iii) the form of tenure that will apply to the resident, being—
 - (A) community title; or
 - (B) strata title; or
 - (C) lease; or
 - (D) licence to occupy; or
 - (E) some other form of tenure (with a full description),and the terms and conditions of the tenure;
 - (d) the following information in relation to the residence in the retirement village to be occupied by the resident:

- (i) a description (in reasonable detail) of the features of the residence;
 - (ii) a plan of the residence showing significant dimensions;
 - (iii) a plan of the retirement village showing the location of the residence in the retirement village and any separate facilities allocated to the resident;
- (e) details of the facilities available in the retirement village, including—
 - (i) communal facilities available to all residents; and
 - (ii) any separate facilities allocated to the resident; and
 - (iii) if additional facilities are to be provided to the resident—
 - (A) any work that is to be undertaken in relation to the provision of those facilities; and
 - (B) the cost of the work to be undertaken;
- (f) details of services available to residents in the retirement village, including—
 - (i) services provided to all residents (payment for which is by a recurrent charge); and
 - (ii) optional personal services available to residents (payment for which would be by an additional recurrent charge), specifying any such services to be provided to the resident;
- (g) the following financial information about the retirement village scheme:
 - (i) in relation to the ingoing contribution to be paid by the resident—
 - (A) the amount of the ingoing contribution; and
 - (B) the basis on which the ingoing contribution is to be paid; and
 - (C) the date (or, in the case of progress payments, the dates) on which the ingoing contribution is payable;
 - (ii) in relation to recurrent charges payable by the resident—
 - (A) the amount of each recurrent charge and how that amount is calculated; and
 - (B) the reason for each recurrent charge; and
 - (C) when each recurrent charge becomes payable; and
 - (D) if a recurrent charge may be varied by the operator—
 - the date on which the charge was last varied; and
 - the estimated date on which the charge will next be varied; and
 - the period of notice to be given to the resident before a variation will come into force; and

- (E) recurrent charges (if any) that will continue to be payable if the resident is absent or leaves the retirement village which may include maintenance charges or charges for additional personal services provided to the resident (such as a cleaning service or the provision of meals);
 - (iii) in relation to funds established by the operator to which the resident will be required to contribute—
 - (A) the purpose of each fund; and
 - (B) the amount required to be contributed by the resident to each fund; and
 - (C) when the resident will be required to contribute to each fund;
 - (iv) the terms and conditions under which the exit entitlement will be paid and the manner in which the exit entitlement will be calculated including—
 - (A) the formula for calculating the payment; and
 - (B) the fees and charges that may be deducted from the amount of the payment; and
 - (C) the conditions that must be met before the payment will be made; and
 - (D) when, how and to whom the refund will be made;
 - (v) any fee or charge payable in relation to remarketing, including the manner of calculation of such fees or charges;
 - (vi) when, in relation to the retirement village scheme, the financial year begins and ends;
 - (vii) a copy of the surplus and deficit policy of the retirement village scheme;
- (h) the following information in relation to the resident's settling-in period:
- (i) when the settling-in period begins and ends;
 - (ii) the fees and charges for which the resident will be responsible during the settling-in period;
 - (iii) a statement of the provisions in section 44(5) to (7) of the Act, including a statement of what payments the resident may be required to make if the resident terminates the contract during the settling-in period;
- (i) the following information in relation to any development of the retirement village being undertaken, or planned, as at the date of the contract:
- (i) the number (if any) of residences under construction or to be constructed and the estimated completion date;
 - (ii) any communal facilities under construction or to be constructed and the estimated completion date;

- (iii) any landscaping being undertaken or to be undertaken and the estimated completion date;
 - (iv) if development approval is required under the *Planning, Development and Infrastructure Act 2016*—details of the approvals granted and any conditions of the approvals;
 - (v) a statement of the provisions in section 37 of the Act, including details of consultation with residents that must occur before any future redevelopment of the retirement village may commence;
- (j) procedures for the resolution of a dispute within the retirement village, including a statement of the provisions in section 45 of the Act;
 - (k) the following information in relation to any trustee in respect of a retirement village scheme:
 - (i) the name and address of the trustee;
 - (ii) the terms and conditions on which the trustee has been appointed for the purposes of the retirement village scheme (insofar as any such trustee is involved in holding money paid by the resident on trust, or is available or responsible to represent the interests of the resident);
 - (iii) the assistance available to residents from the trustee;
 - (iv) how the trustee's fees are to be paid;
 - (l) the action to be taken to terminate the contract, the steps (if any) that a party agrees to undertake after a termination, and a statement of the provisions in section 44 of the Act;
 - (m) any other information that is agreed between the parties.

6—Disclosure statement (section 21 of Act)

For the purposes of section 21(1) of the Act, it is a requirement that a disclosure statement must be in the form set out in Schedule 2.

7—Exit entitlements (section 27 of Act)

- (1) For the purposes of section 27(4)(a) of the Act, a resident who gives notice to an operator in accordance with section 27(3) of the Act is taken to have agreed to comply with a requirement (the *prescribed requirement*) that, if the resident subsequently withdraws the notice (in accordance with section 27(4)(b) of the Act), the resident must pay all remarketing costs incurred during the period commencing on the day on which the notice is given and ending on the day on which the notice is withdrawn (and must permit such an amount to be deducted from any exit entitlement to be paid to the resident).
- (2) For the purposes of section 27(5)(d) of the Act, the prescribed period is—
 - (a) in the case of an amount that becomes payable to a person in accordance with section 27(2)(b)(i) of the Act— the period commencing when the resident ceases to reside in a residence in a retirement village and ending 3 months before an exit entitlement becomes payable in accordance with section 27(2)(b)(i) of the Act;

- (b) in the case of an amount that becomes payable to a person in accordance with section 27(2)(b)(ii) of the Act—the period commencing when the resident gives the operator a notice in accordance with section 27(3) of the Act (being a notice that has not since been withdrawn in accordance with section 27(4)(b) of the Act) and ending 3 months before an exit entitlement becomes payable in accordance with section 27(2)(b)(ii) of the Act.
- (3) For the purposes of section 27(16) of the Act, if a resident requires the operator to obtain an independent valuation, the valuation must be undertaken by a person authorised to carry on business as a land valuer under the *Land Valuers Act 1994*.

8—Evidence required if resident leaves to enter residential aged care facility (section 30 of Act)

For the purposes of section 30(2) of the Act, the operator may require a resident to provide to the operator evidence of the value of the resident's income and assets as determined by the Secretary under the *Aged Care Act 1997* of the Commonwealth.

9—Resident's rights in relation to remarketing (section 32 of Act)

- (1) For the purposes of section 32 of the Act, a resident is entitled to participate in the remarketing of a residence in accordance with the scheme set out in this regulation.
- (2) If the conditions set out in section 32 of the Act are satisfied, the following provisions apply:
 - (a) a resident may appoint an agent of the resident's choice in relation to the sale of a right of occupation of the residence;
 - (b) if a person is appointed as an agent in relation to a sale of a right of occupation under this regulation—
 - (i) the resident must notify the operator in writing of—
 - (A) the name and contact details of the agent; and
 - (B) any changes to—
 - the appointment of the agent; and
 - the contact details of the agent; and
 - (C) any offers to purchase the right of occupation as soon as practicable after an offer is made; and
 - (ii) the resident is liable to pay agent's costs and the commission (if any) on the sale;
 - (c) the resident must comply with any reasonable request of the operator in relation to the remarketing of the residence undertaken by an agent;
 - (d) an operator must not interfere with the remarketing of a residence by an agent appointed by a resident unless—
 - (i) the remarketing would cause the operator to be in breach of the operator's obligations under the Act; or
 - (ii) the remarketing would otherwise interfere with the peace or comfort of another resident of the retirement village;

- (e) a person claiming under a resident is entitled to participate in the remarketing of the residence under this subregulation as if the person were the resident.
- (3) This regulation does not prevent an operator from continuing to remarket a residence in accordance with the operator's remarketing policy.

10—Standards and principles for financial information (sections 33 and 40 of Act)

- (1) For the purposes of section 33(7)(a) of the Act, information provided by an operator to a resident of a retirement village under section 33(6)(a) of the Act must be in a form that—
 - (a) shows specific information for the retirement village (and, if the retirement village has more than 1 site, must specifically relate to the site at which the resident resides); and
 - (b) accords with generally accepted accounting standards.
- (2) For the purposes of section 33(10) of the Act, an audit of information required to be provided by an operator to a resident under section 33 of the Act must be conducted by a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth.
- (3) For the purposes of section 40(4) of the Act, information provided by an operator to a resident or residents' committee under section 40(1) of the Act must be in a form that—
 - (a) shows specific information for the retirement village (and, if the retirement village has more than 1 site, must specifically relate to the site at which the resident resides); and
 - (b) accords with generally accepted accounting standards.

11—Meetings of residents (section 33 of Act)

- (1) For the purposes of section 33(6)(a)(vi) of the Act, a notice convening an annual meeting for a retirement village must be accompanied by an audited statement of accounts showing the following information:
 - (a) the proportion (if any) of the amount of any ingoing contribution received during the previous financial year used, or to be used, for purposes similar to those for which recurrent charges are used;
 - (b) the amount of money received from residents and held in reserve for the establishment, or maintenance, refurbishment or replacement, of facilities at the retirement village, stating the payments made from those reserves during the previous financial year;
 - (c) the amount of any expenditure during the previous financial year for which residents were, or will be, liable, being expenditure not otherwise accounted for under this regulation or section 33(6) of the Act.
- (2) The minutes of a meeting convened under section 33 of the Act must include—
 - (a) a copy of any written questions submitted under section 33(6)(b) of the Act; and
 - (b) a record of the questions asked at a meeting,

and the detailed written answer to any such questions.

12—Residents' committees (section 38 of Act)

- (1) A residents' committee—
 - (a) may convene a meeting of the residents' committee at any time; and
 - (b) may convene a meeting of residents at any time; and
 - (c) must convene a meeting of residents on an annual basis.
- (2) The following provisions apply in relation to the annual meeting of residents convened by a residents' committee:
 - (a) the annual meeting will be convened in accordance with section 33(5) of the Act;
 - (b) a notice convening the annual meeting must be accompanied by a statement of accounts showing the committee's income and expenditure in respect of the previous financial year, which must be signed by a person (not being a person who was a member of the residents' committee in the financial year to which the accounts relate) who has verified the accuracy of the accounts;
 - (c) the election of members of a residents' committee must be held at the annual meeting.
- (3) The following provisions apply with respect to the procedure for voting at a meeting of residents convened by a residents' committee:
 - (a) subject to paragraph (c), each resident present at a meeting has 1 vote on any question arising for decision at the meeting;
 - (b) a resident may exercise an absentee vote on a question arising for decision at the meeting by giving the residents' committee written notice of the proposed vote at least 24 hours before the time of the meeting;
 - (c) if 2 or more residents are in occupation of the same residence in a retirement village, only 1 of them may exercise a vote at a meeting and if more than 1 purport to vote, the person presiding at the meeting may determine which vote is to be recognised.
- (4) A residents' committee must—
 - (a) cause accurate minutes to be kept of proceedings at a residents' committee meeting; and
 - (b) within 10 business days after each residents' committee meeting—
 - (i) make the minutes available for inspection by residents in a manner that is easily accessible to residents; and
 - (ii) provide a copy of the minutes to the operator of the retirement village; and
 - (c) ensure that the minutes do not disclose personal information regarding residents.

- (5) A record of the minutes of a residents' committee meeting must be retained by the residents' committee for the retirement village for at least 7 years, and if there is no residents' committee for the retirement village, the operator must retain the record of the minutes.
- (6) If a residents' committee appoints a sub-committee, each sub-committee must, when requested to do so by the residents' committee, provide a report on its activities to the residents' committee.
- (7) A residents' committee must undertake reasonable consultation with residents before determining or amending its procedures.

13—Information about manager to be supplied to residents (section 43 of Act)

For the purposes of section 43 of the Act, the operator of a retirement village must, within 10 business days after—

- (a) the employment or engagement of each village manager and any senior manager of the retirement village; or
- (b) any change in details previously provided to a resident under section 43 of the Act,

provide written notice of such information to each resident in the retirement village.

14—Termination of residents' rights (section 44 of Act)

A notice under section 44(12) of the Act (a *termination notice*) given to the resident by the operator of the retirement village—

- (a) must include the following information:
 - (i) the name and address of the operator;
 - (ii) the name and address of the retirement village;
 - (iii) the name of the resident;
 - (iv) that—
 - (A) the resident is being given notice of the decision by the operator to terminate the resident's right of occupation of a residence in the retirement village and the reasons for the decision; and
 - (B) the decision is not effective until confirmed by the Tribunal; and
 - (C) the resident will be notified of the time and place of the hearing of the Tribunal and will be entitled to attend and present matters related to the proposed termination; and
 - (D) if the Tribunal confirms the decision to terminate—the Tribunal will set a date by which the resident must leave the retirement village; and
- (b) must be signed and dated by the operator (or by a person duly authorised to act on behalf of the operator).

Part 3—Miscellaneous

15—Residence rules

The residence rules—

- (a) must relate to the use of the retirement village to ensure the enjoyment of the retirement village by all residents; and
- (b) must at least address the following:
 - (i) visitors to the retirement village or a residence in the retirement village, including visitors who stay in a residence in the retirement village overnight or on a short or long term basis;
 - (ii) noise within the retirement village;
 - (iii) the parking of vehicles within the retirement village;
 - (iv) the collection and disposal of rubbish;
 - (v) pets;
 - (vi) gardens and landscaping within the retirement village;
 - (vii) the use and operation of services and facilities in the retirement village (including restrictions on the use and operation of services).

16—Vacated premises report

- (1) The operator of a retirement village must, not more than 10 business days after a person ceases to reside in a residence in a retirement village, complete a vacated premises report providing detailed information about the condition of the fixtures, fittings and furnishings provided in the residence.
- (2) The vacated premises report must—
 - (a) be in writing; and
 - (b) be signed by, or on behalf of, the operator; and
 - (c) be signed by, or on behalf of, the person if it is reasonably practicable to do so in all the circumstances.

17—Remarketing policy

- (1) The operator's remarketing policy must include or address at least the following matters:
 - (a) a requirement that the operator of a retirement village will act under the remarketing policy as soon as a resident gives an operator notice under section 27(3) of the Act of the decision of the resident (the *outgoing resident*) to vacate the residence (or of any other circumstance that means that the resident will no longer be residing in the retirement village);
 - (b) arrangements to meet with the outgoing resident, or an agent, nominated person or personal representative of the outgoing resident, to view the residence, and explain and discuss the remarketing process (unless this is not reasonably practicable to do in view of the resident's circumstances);

- (c) procedures to identify any work that should be undertaken to ensure that the residence is in a reasonable condition for remarketing, and to determine when and how any such work will be undertaken, and who will be responsible for organising the work, and for the cost of the work;
- (d) the fixing of the price at which the residence will initially be remarketed, and when and how changes to that price will be considered and made;
- (e) the type, level and frequency of advertising that will be undertaken in relation to the marketing of the residence;
- (f) who will be responsible for any costs associated with the valuation of the residence, advertising, and other relevant matters, and how such costs are to be calculated or determined;
- (g) what will be required of the outgoing resident in relation to the remarketing of the residence, and the extent to which the resident may or will assume responsibility for any aspect of the remarketing process in accordance with regulation 9;
- (h) guidelines to be followed by a resident who gives an operator notice under section 27(3) of the Act which must include—
 - (i) how inspections of the residence by prospective residents will be managed by the operator; and
 - (ii) requirements relating to the presentation of the residence for inspection; and
 - (iii) a date on which the resident is required to provide vacant possession of the residence prior to settlement if a residence is sold or relicensed before the period of 18 months has elapsed since the resident gave the operator a notice in accordance with section 27(3) of the Act (which must be reasonable in all the circumstances); and
 - (iv) any other matter that is reasonable to include in the guidelines;
- (i) a requirement that the operator provide the resident with a monthly report on the following matters:
 - (i) what advertising has been undertaken in relation to the residence and the retirement village;
 - (ii) the number of inquires about the sale of the residence received by the operator;
 - (iii) the number of people who have viewed the residence;
 - (iv) the number of other residences for sale in the retirement village;
 - (v) the number of residences in the retirement village sold or relicensed in the preceding month;
- (j) a requirement that if new residences within the retirement village are on the market at the same time, the operator must at least match the level of marketing for the residence of the outgoing resident that applies to those new residences;
- (k) what steps are to be undertaken by—

- (i) the operator; and
 - (ii) the outgoing resident,when the residence is sold or relicensed;
- (1) settlement procedures, including that fees, charges and costs will be deducted by the operator at the time of settlement, and the provision to the outgoing resident of a statement at (or at an appropriate time after) the settlement of such fees, charges and costs.
- (2) Any fees, charges and costs set out in a remarketing policy must not be inconsistent with the fees, charges and costs in relation to remarketing set out in a residence contract or a disclosure statement.

18—Dispute resolution policy (section 45 of Act)

For the purposes of section 45(2) of the Act, a dispute resolution policy must include or address at least the following matters:

- (a) the name of the person representing the operator of the retirement village that a resident may contact in the event of a dispute;
- (b) the manner in which a complaint may be made by a resident;
- (c) how a dispute will be handled once a resident makes a complaint, including that an operator will respond within a time that must be specified in the dispute resolution policy;
- (d) the manner in which a resident may resolve a dispute with another resident;
- (e) the persons or bodies from whom a resident may seek advice in the event of a dispute;
- (f) that a resident may apply to the Tribunal if a resident is not satisfied with a response to a complaint;
- (g) a requirement that the operator keep a written record of—
 - (i) the complaint made by the resident; and
 - (ii) any response to the complaint provided by the operator; and
 - (iii) any resolution of the dispute agreed by the operator and the resident; and
 - (iv) any other correspondence received or sent by the operator relating to the dispute;
- (h) the manner in which the operator will communicate with a resident in response to a complaint;
- (i) that a resident has the right to be accompanied by a person chosen by the resident at any meeting held to resolve the dispute;
- (j) procedures for variation of the dispute resolution policy which provide that variation will only occur with the agreement of a majority of the residents in the retirement village.

19—Endorsement of certificates of title (section 56 of Act)

An application to the Registrar-General under section 56(2) or (5) of the Act—

- (a) must be in a form determined by the Registrar-General; and
- (b) must be certified in accordance with section 273(1) of the *Real Property Act 1886*; and
- (c) must be accompanied by the appropriate fee prescribed for the purposes of the *Real Property Act 1886*.

20—Offence

A person who breaches, or fails to comply with, a provision of these regulations is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Schedule 1—Operator and Residents Code of Conduct

1—Conduct of operator

The operator of a retirement village must—

- (a) not interfere with residents' self-reliance and autonomy in their personal, domestic and financial affairs; and
- (b) take reasonable steps to ensure that the retirement village is safe and secure; and
- (c) not harass or intimidate residents of the retirement village; and
- (d) respect the peace, comfort and privacy of residents; and
- (e) take reasonable steps to ensure that residents comply with the residence rules; and
- (f) acknowledge, within a reasonable time, requests from residents for repairs and maintenance of the retirement village; and
- (g) consult residents in relation to the financial affairs of the retirement village; and
- (h) take reasonable steps to ensure that a resident has access to information held by the operator about that resident; and
- (i) allow a resident to appoint, in writing, an agent to receive notices and documents on the resident's behalf.

2—Conduct of residents

The residents in a retirement village must—

- (a) respect the peace, comfort and privacy of other residents and persons in the retirement village; and
- (b) not harass or intimidate other residents and persons in the retirement village (including the operator and any person employed in the retirement village scheme); and

- (c) not act in a manner that may place the safety of other residents and persons in the retirement village at risk of harm; and
- (d) comply with the residence rules.

3—Fees for preparation and provision of certain documents

The operator of a retirement village must not charge a fee for the preparation or provision of—

- (a) a document required under section 22 of the Act to be given to a person before the person enters into a residence contract; or
- (b) a premises condition report required under section 23 of the Act to be given to a person who enters into occupation of a residence in a retirement village.

4—Surplus and deficit policy

The operator of a retirement village must not make changes to a surplus and deficit policy forming part of a residence contract in relation to the retirement village unless—

- (a) the changes are approved by a special resolution at a meeting of residents; and
- (b) an amended surplus and deficit policy incorporating the approved changes is, within 10 business days of the meeting of residents approving the changes, provided to each resident of the retirement village (or if 2 or more residents reside in a residence, each residence in the retirement village).

5—Operator to consult with residents' committee

The operator of a retirement village must undertake reasonable consultation with a residents' committee established under section 38 of the Act in relation to the following matters:

- (a) maintenance issues raised to the residents' committee by residents;
- (b) any proposed change to a service or facility provided at the retirement village that is reasonably expected to result in—
 - (i) increased costs to residents beyond any increase shown in the information provided to residents under section 33(6) of the Act; or
 - (ii) a loss of amenity;
- (c) any proposal to alter or improve a building, fixture or fitting if residents will be expected to finance some or all of the capital or recurrent costs of the work, except if—
 - (i) the costs have already been included in the information provided under section 33(6) of the Act; or
 - (ii) the costs will not exceed \$5 000 in total;
- (d) the distribution of information to residents;
- (e) the establishment of social or recreational programs at the retirement village;

- (f) the appointment of a trustee (or new trustee) for the purposes of the retirement village scheme, or any proposal to alter the functions or duties of such a trustee;
- (g) any other matter agreed between the committee and the operator.

6—Operator to consult with residents

- (1) The operator of a retirement village must, in addition to the requirements of the Act and clause 5, take steps to ensure that there is reasonable consultation with residents of the retirement village in relation to any matter that could have a significant impact on their financial affairs, the amenity of the retirement village or their way of life, including (without limitation) the following:
 - (a) any changes to the operator's dispute resolution policy;
 - (b) establishing a disputes committee in connection with the operator's dispute resolution policy;
 - (c) any changes to the residence rules;
 - (d) any changes to the operator's remarketing policy.
- (2) For the purpose of subclause (1), an operator will be taken to have taken steps to ensure reasonable consultation with residents of the retirement village if the operator at least—
 - (a) notifies residents in relation to any matter that could have a significant impact on their financial affairs, the amenity of the retirement village or their way of life; and
 - (b) provides residents with an opportunity to respond to such matters within a reasonable time; and
 - (c) considers any response provided by residents.

Schedule 2—Form of disclosure statement

Form—*Retirement Villages Act 2016*

Note—

- (i) *the disclosure statement is not a replacement for the residence contract but is intended only as a summary of certain information contained in the contract; and*
- (ii) *prospective residents must ensure that they understand the terms of the residence contract; and*
- (iii) *it is recommended that prospective residents seek legal and financial advice in relation to the residence contract.*

Name of operator:*[insert name]*

Name and address of retirement village:*[insert name and location of the retirement village]*

Name of prospective resident:*[insert name of prospective resident or residents]*

Description of residence:*[insert description of the particular residence to be occupied by the resident]*

Residence completion date:*[if residence is to be constructed or is under construction, insert anticipated completion date of the construction]*

Insurance arrangements in place for the retirement village:*[insert name of insurer and type of insurance]*

Fees and charges prior to occupation

Ingoing contribution:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Other fees and charges:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Due on:*[insert date or dates on which fees and charges are due]*

Fees and charges during occupation

Recurrent charges:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Fees and charges for additional or personal services and facilities:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Other fees and charges under the contract:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Utilities, services or facilities provided or available to residents in which the operator has an interest or in relation to which the operator would obtain a fee or reward:*[eg. electricity, Internet or telephone]*

Other fees and charges relating to occupation of the residence for which the resident is responsible:*[eg. electricity, council rates, water or gas for which the resident is responsible, in addition to recurrent charges]*

Note—

A resident may be required to pay a fee, charge or other amount to the operator to enable the operator to recover an unforeseen expense of the retirement village (a special levy).

Fees and charges on vacating the retirement village

Manner of calculation of exit entitlement

Manner of calculation of amount from which exit fees will be deducted:

[eg. whether the repayment is based on the ingoing contribution, the ingoing contribution of the next resident or on some other basis, and whether the resident will share in any capital gain or loss]

Fees and charges

Termination during settling-in period

Amount of fair market rent determined under section 44(5)(a) of the Act:*[insert amount]*

Any other fees or charges:*[include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Termination after settling-in period

Exit fees:*[including, for example, any deferred management fees, refurbishment costs and remarketing costs. Include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Any other fees or charges:*[including, for example, fees for which a resident remains responsible until after the resident ceases to reside in the retirement village. Include a description of the fee, the amount or manner of calculation of the fee and what is to be done with the fee]*

Note—

Exit fee means the amount of money that is, under a residence contract, payable by a resident of a retirement village on the resident ceasing to reside in the retirement village or on the sale of the resident's right to reside in the retirement village.

Timing of payment of exit entitlement

Timing of payment under residence contract:*[when a resident will be entitled to payment of an exit entitlement, eg. on relicensing of the residence, sale of the resident's right to reside in a residence at the retirement village or some other event]*

Note—

Section 30 of the Act provides that if a resident leaves to enter residential aged care, the resident may apply to the operator for daily accommodation payments to be made to the relevant aged care facility (up to a limit determined under the section), if the resident meets the requirements set out in that section. If this occurs, the operator may recover the amounts paid by deducting them from the exit entitlement.

Section 27 of the Act provides for the circumstances in which a resident may recover the amount of an exit entitlement as a debt from the operator, including if a period of 18 months has elapsed since the resident has ceased to reside in the retirement village.

Acknowledgement of receipt of disclosure statement

Signature of operator:

Date:

Signature of resident:

Date:

Schedule 3—Transitional regulation—surplus and deficit policy

For the purposes of Schedule 2, clause 11(4) of the Act, if an operator fails to adopt a policy as required by Schedule 2, clause 11 of the Act, the operator will be taken to have adopted the policy that a surplus or a deficit must be accounted for in the statement of accounts in respect of the financial year following the year in which the surplus or deficit is incurred.

Schedule 4—Transitional regulations—Schedule 2 clause 14 of Act

1—Remarketing policy

A remarketing policy given to a resident by the operator of a retirement village before the commencement of the Act continues to apply unless the resident agrees to any changes to the remarketing policy in accordance with the procedure set out in clause 6 of Schedule 1 of these regulations.

2—Lease of land in retirement village

A lease or a licence to occupy land entered into before the commencement of the Act by the operator of a retirement village under section 34 of the *Retirement Villages Act 1987* continues despite the provisions of section 57(1) of the Act.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Retirement Villages Regulations 2017* revoked the following:

Retirement Villages Regulations 2006

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	245	<i>Gazette 8.8.2017 p3505</i>	1.1.2018: r 2
2020	163	<i>Gazette 4.6.2020 p3015</i>	1.7.2020: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2020</i>
r 19	varied by 163/2020 r 4	1.7.2020
<i>Sch 5</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2020</i>