

South Australia

Retirement Villages (Miscellaneous) Amendment Act 2005

An Act to amend the *Retirement Villages Act 1987*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Retirement Villages Act 1987*

- 4 Insertion of section 2
 - 2 Object of Act
- 5 Amendment of section 3—Interpretation
- 6 Insertion of Part 1A
 - Part 1A—Administration
 - Division 1—Registrar
 - 5 Appointment of Registrar
 - 5A Registrar's functions
 - 5B Registrar's power to require information
 - 5C Registrar's obligation to preserve confidentiality
 - 5D Delegation
 - 5E Annual report
 - Division 2—Registration of retirement village schemes
 - 5F Register
 - 5G Notification of information required for register
 - Division 3—Authorised officers
 - 5H Appointment of authorised officers
 - 5I Identification of authorised officers
 - 5J General powers of authorised officers
 - 5K Offence to hinder etc authorised officers
- 7 Substitution of section 6
 - Division 1—Creation and exercise of residents' rights
 - 6 Residence contracts
- 8 Amendment, redesignation and relocation of section 7—Termination of residents' rights
- 9 Insertion of division heading
- 10 Amendment of section 8—Premiums
- 11 Amendment of section 9—Contractual rights relating to repayment of premiums
- 12 Insertion of division heading
- 13 Amendment of section 9A—Arrangements if resident is absent or leaves

- 14 Insertion of section 9B
 - 9B Arrangements if resident leaves to enter residential aged care facility
- 15 Insertion of division heading
- 16 Amendment of section 10—Meetings of residents
- 17 Amendment of section 10AAA—Interim financial reports
- 18 Amendment of section 10AA—Meeting with new administering authority
- 19 Insertion of section 10AAB
 - 10AAB Consultation about village redevelopment
- 20 Amendment of section 10A—Certain taxes and fees must not be charged to residents
- 21 Amendment of section 12—Documents to be supplied to residents
- 22 Insertion of section 12A
 - 12A Information about manager to be supplied to residents
- 23 Amendment of section 13—Residents' committees
- 24 Insertion of division heading
- 25 Insertion of division heading
- 26 Amendment of section 14—Resolution of disputes
- 27 Amendment of section 15—Endorsement of certificates of title
- 28 Amendment of section 16—Lease of land in retirement village
- 29 Amendment of section 17—Termination of retirement village scheme on application to Supreme Court
- 30 Insertion of new section
 - 17A Voluntary termination of retirement village scheme
- 31 Amendment of section 23—Regulations
- 32 Repeal of Schedules 1 and 2
- 33 Renumbering

Schedule 1—Transitional provision

- 1 Information about established retirement villages must be given to Registrar for inclusion in register
- 2 Information provided will be taken to have been given for purposes of section 5G

Schedule 2—Statute law revision amendments of *Retirement Villages Act 1987*

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Retirement Villages (Miscellaneous) Amendment Act 2005*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Retirement Villages Act 1987*

4—Insertion of section 2

After section 1 insert:

2—Object of Act

The object of this Act is to provide a scheme under which a balance is achieved between the rights and responsibilities of residents of retirement villages and the administering authorities of retirement villages by—

- (a) regulating the making, content, operation and termination of residence contracts; and
- (b) providing for proper consultation between residents and administering authorities of retirement villages; and
- (c) providing for dispute resolution processes.

5—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *administering authority* insert:

authorised officer means a person appointed to be an authorised officer under Part 1A;

- (2) Section 3(1), definition of *community retirement village*—delete "residential units" and substitute:

residences

- (3) Section 3(1)—after the definition of *community retirement village* insert:

premises condition report—see section 6;

- (4) Section 3(1), definition of *premium*—delete "residential unit" wherever occurring and substitute in each case:

residence

- (5) Section 3(1), definition of *recurrent charge*—delete "amount (including rent)" and substitute:

fee, charge or other amount (as specified in the residence contract)

- (6) Section 3(1)—after the definition of *recurrent charge* insert:

register—see section 5F;

remarketing policy—see section 6;

residence means premises or a part of premises designed for separate occupation as a place of residence;

- (7) Section 3(1), definition of *residence contract*—delete "unit" and substitute:

residence

- (8) Section 3(1), definition of *resident*—delete "residential unit" and substitute:
residence
- (9) Section 3(1), definition of *resident*—after "in accordance with the scheme and" insert:
(subject to the terms of a residence contract)
- (10) Section 3(1), definition of *residential unit* or *unit*—delete the definition
- (11) Section 3(1), definition of *retirement village*—delete "residential units" wherever occurring and substitute in each case:
residences
- (12) Section 3(1), definition of *retirement village*—after "scheme" insert:
but does not include any such complex excluded from the ambit of this definition by the regulations
- (13) Section 3(1), definition of *retirement village scheme*—delete "residential units" wherever occurring and substitute in each case:
residences
- (14) Section 3(1), definition of *retirement village scheme*—delete "residential unit" and substitute:
residence
- (15) Section 3(1), definition of *service contract*—delete the definition
- (16) Section 3(2)—delete subsection (2) and substitute:
(2) For the purposes of this Act—
- (a) the *date of the contract* means the date on which the second of the 2 parties to a residence contract signs the contract;
 - (b) a resident's *settling-in period* is—
 - (i) the period ending 90 days after the date of the contract or the date on which the resident is admitted to occupation of his or her residence in accordance with the scheme (whichever is later); or
 - (ii) such longer period as may be specified in the resident's residence contract;
 - (c) a person will be taken to *cease to reside in a retirement village*—
 - (i) when the person (or someone else on behalf of the person) delivers up vacant possession of the person's residence to the administering authority following the person's vacation of the residence; or
 - (ii) when the executor or administrator of the person's estate delivers up vacant possession of the person's residence to the administering authority following the person's death; or

- (iii) when the person vacates the person's residence and indicates to the administering authority (either expressly or by his or her actions) that the person does not intend to continue to reside in the village; or
- (iv) if—
 - (A) the administering authority decides to terminate the person's right of occupation under Part 2; and
 - (B) the Tribunal confirms the administering authority's decision to terminate the right of occupation,at the end of the period fixed by the Tribunal within which the person must vacate the person's residence.

6—Insertion of Part 1A

After section 4 insert:

Part 1A—Administration

Division 1—Registrar

5—Appointment of Registrar

- (1) There will be a Registrar for the purposes of this Act.
- (2) The Minister will appoint a Public Service employee to be the Registrar.
- (3) The Minister may assign a Public Service employee to act as the Registrar—
 - (a) during a vacancy in the office of Registrar; or
 - (b) when the Registrar is absent from, or unable to discharge, official duties.

5A—Registrar's functions

- (1) The Registrar's functions are—
 - (a) to gather and maintain current information about retirement villages and retirement village schemes in South Australia in a manner consistent with the Registrar's obligations of confidentiality; and
 - (b) to advise the Minister on the administration and operation of this Act; and
 - (c) to perform any other function assigned to the Registrar by the Minister.

- (2) The Registrar may, at any time, and must, at the request of the Minister, report to the Minister on any issue concerning retirement villages.

5B—Registrar's power to require information

- (1) A person must, if required to do so by the Registrar by written notice—
 - (a) give the Registrar, within a time and in a manner stated in the notice (which must be reasonable), information in the person's possession that the Registrar reasonably requires for the performance of the Registrar's functions under this Act; and
 - (b) verify the information by statutory declaration.

Maximum penalty: \$750.
Expiation fee: \$105.
- (2) A person cannot be compelled to give information under this section if the information might tend to incriminate the person of an offence.

5C—Registrar's obligation to preserve confidentiality

- (1) The Registrar must preserve the confidentiality of information gained in the course of the performance of the Registrar's functions under this Act that—
 - (a) could affect the competitive position of the administering authority of a retirement village or some other person; or
 - (b) is commercially sensitive for some other reason.
- (2) Subsection (1) does not apply to the disclosure of information between—
 - (a) persons engaged in the administration of this Act; or
 - (b) the Registrar and the Tribunal for the purposes of resolving a dispute under this Act.
- (3) Information classified by the Registrar as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

5D—Delegation

- (1) The Registrar may delegate a power or function vested in or conferred on the Registrar by or under this Act—
 - (a) to a particular person or body; or
 - (b) to the person for the time being holding or acting in a particular office or position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
 - (a) may be absolute or conditional; and

- (b) does not derogate from the power of the delegator to act in a matter; and
- (c) is revocable at will by the delegator.

5E—Annual report

- (1) The Registrar must, on or before 30 September in every year, forward to the Minister a report on his or her work and operations for the preceding financial year.
- (2) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Division 2—Registration of retirement village schemes

5F—Register

- (1) The Registrar must maintain a register containing the following information:
 - (a) the name and business address of the administering authority of each retirement village;
 - (b) in respect of each retirement village—
 - (i) the name and address of the village; and
 - (ii) the references for the certificates of title of the land used for the village; and
 - (iii) the name, address and contact details of the person managing the village for or on behalf of the administering authority;
 - (c) any other information that the Registrar considers appropriate.
- (2) The register is to be available for inspection, without fee, during ordinary office hours at a public office, or public offices, determined by the Minister.
- (3) The Minister must ensure that copies of material on the register can be purchased for a reasonable fee at the public office, or public offices, at which the register is kept available for inspection.

5G—Notification of information required for register

- (1) The administering authority of a retirement village established after the commencement of this section must, within 28 days after the first person is admitted to occupation of his or her residence in accordance with the scheme, give the Registrar—
 - (a) the name and business address of the administering authority; and
 - (b) in respect of the retirement village—
 - (i) the name and address of the village; and

- (ii) the references for the certificates of title of the land used for the village; and
 - (iii) the name, address and contact details of the person managing the village for or on behalf of the administering authority; and
 - (c) any other information that the Registrar considers appropriate.
- Maximum penalty: \$2 500.
Expiation fee: \$210.
- (2) The administering authority of a retirement village must, within 28 days of any change in the information given under subsection (1) (including a change by virtue of the sale of an interest in the land within the village, or the name of the administering authority or business address), give the Registrar notice of details of the change.
- Maximum penalty: \$2 500.
Expiation fee: \$210.
- (3) Any information required under this section must be given in a manner and form determined by the Registrar.

Division 3—Authorised officers

5H—Appointment of authorised officers

- (1) The Minister may appoint suitable persons to be authorised officers for the purposes of this Act.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.
- (3) The Minister may, at any time, revoke an appointment of an authorised officer or vary or revoke a condition of appointment or impose a further condition of appointment.

5I—Identification of authorised officers

- (1) An authorised officer must be issued with an identity card by the Minister.
- (2) If the powers of the authorised officer have been limited by conditions, the identity card issued to the officer must contain a statement of those conditions.
- (3) An authorised officer must, at the request of a person in relation to whom the officer intends to exercise powers under this Act, produce for the inspection of the person his or her identity card.

5J—General powers of authorised officers

- (1) An authorised officer may (subject to any conditions of the officer's appointment) for the purposes of the administration or enforcement of this Act—
 - (a) subject to subsection (2)—enter and inspect any place or vehicle and use such force as may be reasonably necessary to gain entry; or
 - (b) require a person to produce documents in the person's possession or control for inspection; or
 - (c) require a person who has been issued a document under this Act, or who is required to keep records under this Act, to produce the document or records for inspection; or
 - (d) require a person who the officer reasonably suspects has committed, is committing or is about to commit, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity.
- (2) An authorised officer cannot exercise the power conferred by subsection (1)(a) except—
 - (a) with the consent of the owner or occupier of the place or the owner or person in charge of the vehicle; or
 - (b) on the authority of a warrant issued by a justice.
- (3) A justice must not issue a warrant under subsection (2) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.
- (4) In the exercise of powers under this Act, an authorised officer may be assisted by such persons as the officer considers necessary in the circumstances.
- (5) An application for a warrant under this section cannot be made to a justice who is a resident of the retirement village in respect of which the warrant is to be executed.

5K—Offence to hinder etc authorised officers

- (1) A person who—
 - (a) hinders or obstructs an authorised officer, or a person assisting an authorised officer, in the exercise of powers conferred by this Act; or
 - (b) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
 - (c) refuses or fails to comply with a requirement of an authorised officer under this Act; or

- (d) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$5 000.

- (2) A person who assaults an authorised officer, or a person assisting an authorised officer, in the exercise of powers under this Act, is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

7—Substitution of section 6

Section 6—delete the section and substitute:

Division 1—Creation and exercise of residents' rights

6—Residence contracts

- (1) A residence contract must be in writing and comply with this section and the requirements (if any) prescribed by the regulations.
- (2) The residence contract must include the following information:
- (a) details about the residence in respect of which the person is entering the contract;
 - (b) details about the resident's rights and obligations created by or under the contract, including—
 - (i) the right to cool-off (that is, to rescind the contract and not proceed with becoming a resident in the retirement village);
 - (ii) the right to occupation of the residence;
 - (iii) recurrent charges for which the resident is liable;
 - (iv) additional services and facilities available to residents of the retirement village and the costs of those services and facilities;
 - (v) the right to terminate the right to occupation of the residence and receive a refund of the premium paid;
 - (vi) dispute resolution processes;
 - (vii) any other details prescribed by the regulations.
- (3) The administering authority must, before a person enters into a residence contract, give the person a copy of each of the following documents:
- (a) the contract;

- (b) if the contract relates to a retirement village already established—the financial statements presented at the last annual general meeting of residents of the village in accordance with section 10(5)(a), including a written statement of any subsequent change in the affairs of the village and the administering authority that may significantly affect the resident's decision to enter the village;
 - (c) the detailed report providing information about—
 - (i) the condition, as at the date of the contract, of the fixtures, fittings and furnishings (an *item*) provided in the residence; and
 - (ii) who will be responsible for repairing or replacing an item; and
 - (iii) when an item is due to be repaired or replaced; and
 - (iv) how the cost of repairing or replacing an item is to be funded,(the *premises condition report*);
 - (d) the residence rules;
 - (e) the policy of the administering authority to be applied for the remarketing of residences (the *remarketing policy*);
 - (f) any code of conduct to be observed by the administering authority;
 - (g) any other document prescribed by the regulations.
- (4) A residence contract will be taken to include a warranty on the part of the administering authority of the correctness of the information contained in the documents provided under subsection (3) (subject to any written alteration made by the administering authority with the consent of the resident on or before the signing of the contract by the administering authority), and that warranty prevails over any inconsistent contractual term unless the resident elects to rely on the contractual term rather than the statement (and then the contractual term will prevail to the extent of any inconsistency).
- (5) An administering authority must not, without the approval of the Minister—
- (a) make a representation to a prospective resident that is inconsistent with information given to the prospective resident under subsection (2) or (3); or
 - (b) give information to a prospective resident under subsection (2) or (3) that is inconsistent with a representation made by the administering authority to the prospective resident.

- (6) For the purposes of subsection (5), a representation made by an employee or agent of an administering authority will be taken to be a representation of the administering authority unless the administering authority proves that the person was not acting in the course of his or her employment or agency.
- (7) A resident or prospective resident is entitled to rescind the residence contract—
 - (a) at any time within 15 business days after the date of the contract; or
 - (b) if subsection (3) is not complied with—at any time before the expiration of 15 business days after the date on which the last of the documents required to be given to the resident or prospective resident under that subsection is so given.
- (8) A contract is rescinded under this section by notice in writing, given personally or by post, to the administering authority.
- (9) If a provision of this section is not observed, the administering authority is guilty of an offence.
Maximum penalty: \$35 000.
- (10) A residence contract may be enforced against the administering authority for the time being of the retirement village.

8—Amendment, redesignation and relocation of section 7—Termination of residents' rights

- (1) Section 7(1)—delete "unit" wherever occurring and substitute in each case:
residence
- (2) Section 7(2)(a)—delete "a contract between the administering authority and the resident" and substitute:
the residence contract
- (3) Section 7(2)(b)—delete "residential unit" and substitute:
residence
- (4) Section 7(2b)(a)—delete "unit" and substitute:
residence
- (5) Section 7(2b)(b)—delete "a contract between the administering authority and the resident" and substitute:
the residence contract
- (6) Section 7(6)—delete "unit" and substitute:
residence
- (7) Section 7(7)—delete "unit" and substitute:
residence
- (8) Section 7(9)—delete subsection (9)

- (9) Section 7—re designate the section as amended by this section as section 13A and relocate it so that it follows section 13

9—Insertion of division heading

Before section 8 (Premiums) insert:

Division 2—Matters relating to premiums

10—Amendment of section 8—Premiums

- (1) Section 8(1)—delete "unit" wherever occurring and substitute in each case:
residence
- (2) Section 8(2)—delete "residential units in accordance with its obligations under the residence contracts" and substitute:
residences in accordance with any contract entered into between the administering authority and a prospective resident
- (3) Section 8(4)—delete subsection (4) and substitute:
- (4) If a prospective resident decides not to enter into occupation of a residence, the premium must be refunded to the prospective resident within 10 business days of the prospective resident giving the administering authority written notice of that decision, with interest and accretions arising from investment of the premium to be disposed of as follows:
- (a) if the failure to enter into occupation is attributable to a failure on the part of the administering authority to carry out contractual obligations—any such interest and accretions must be paid to the prospective resident;
- (b) in any other case—the administering authority is entitled to retain any such interest and accretions.

11—Amendment of section 9—Contractual rights relating to repayment of premiums

- (1) Section 9(1)—delete subsection (1)
- (2) Section 9(2)—before "contract" insert:
residence
- (3) Section 9(3)—delete "(1) or"
- (4) Section 9(4)(a)—delete "residential unit" and substitute:
residence

12—Insertion of division heading

Before section 9A insert:

Division 3—Arrangements if resident is absent from or leaves retirement village

13—Amendment of section 9A—Arrangements if resident is absent or leaves

- (1) Section 9A(2)(b)—delete "unit" and substitute:

residence

- (2) Section 9A(2c)—delete "unit" and substitute:

residence

14—Insertion of section 9B

After section 9A insert:

9B—Arrangements if resident leaves to enter residential aged care facility

- (1) A resident of a retirement village—
- (a) who has been approved under Part 2.3 of Chapter 2 of the *Aged Care Act 1997* of the Commonwealth to enter into residential care at an aged care facility provided by an approved provider under that Act; and
 - (b) who must pay an accommodation bond under that Act; and
 - (c) who does not have ready access to funds to make the payment, or whose personal finances would be seriously affected by any such payment; and
 - (d) who has paid a refundable premium to the administering authority of the village,

may, within 60 days after being so approved for entry or leaving the village (whichever is the later), apply to the administering authority for repayment of so much of the premium as the resident requires to secure entry into residential care at the aged care facility.

- (2) The administering authority must, within 60 days after receiving an application under subsection (1), repay to the resident so much of the premium as the resident requires to secure entry into residential care at the aged care facility (up to but not exceeding an amount that is a reasonable assessment of the amount that the resident would be entitled to on account of the repayment of the premium in any event).

15—Insertion of division heading

Before section 10 insert:

Division 4—General matters

16—Amendment of section 10—Meetings of residents

- (1) Section 10(7)(b)(ii)—delete "as soon as is reasonably practicable" and substitute:

within 14 days

- (2) Section 10—after subsection (7) insert:
- (7a) If a question asked by a resident is answered at a meeting and the resident requests the answer to be provided in writing, the administering authority must ensure that a detailed written answer is provided to the resident within 14 days after the meeting.
- (3) Section 10—after subsection (11) insert:
- (11a) Subject to subsection (12), each resident present at a meeting of residents has 1 vote on any question arising for decision at the meeting with the decision to be determined by a simple majority of the votes cast by the residents present and voting at the meeting.
- (4) Section 10(12)—delete "residential unit" and substitute:
- residence

17—Amendment of section 10AAA—Interim financial reports

- (1) Section 10AAA(1)—delete subsection (1) and substitute:
- (1) An administering authority must, on the request of a resident or residents' committee, provide an interim financial report that incorporates 1 or more of the following, as requested by the resident or residents' committee:
- (a) a statement of income received from residents, and expenditure of that income, for the relevant accounting period;
- (b) a statement of estimates of income from residents, and expenditure of that income, for the balance of the financial year;
- (c) a statement of income (from any source), and expenditure, for the relevant accounting period in respect of any contingency, sinking or other reserve fund or account established for the purpose of capital replacement or improvements, irregular long-term maintenance, or other similar items;
- (d) a statement of estimates of income (from any source), and expenditure, for the balance of the financial year in respect of any fund or account referred to in paragraph (c);
- (e) such other information as the regulations may require.
- (1a) The administering authority must, if requested to do so by the resident or residents' committee, include as part of an interim financial report provided under subsection (1) copies of invoices substantiating expenditure for the relevant accounting period.
- (2) Section 10AAA(5)—after "(1)," insert:
- (1a),
- (3) Section 10AAA(6)—after "(1)" wherever occurring insert in each case:
- or (1a)

18—Amendment of section 10AA—Meeting with new administering authority

Section 10AA(2)—delete "seven days" and substitute:

14 days

19—Insertion of section 10AAB

After section 10AA insert:

10AAB—Consultation about village redevelopment

- (1) It will be a term of every residence contract that, before any redevelopment of a retirement village is commenced, the administering authority will convene a meeting of residents under this section at which the administering authority will—
 - (a) present a plan of, and report on, the proposed redevelopment; and
 - (b) answer any reasonable question put by a resident.
- (2) A meeting will be convened by sending to each resident, at least 14 days before the date of the meeting, a written notice setting out—
 - (a) the time and place of the meeting; and
 - (b) the reason for the meeting.
- (3) Redevelopment cannot take place unless the administering authority has given due consideration to a resident's rights arising from his or her residence contract and, if relevant, reasonable arrangements have been put in place with respect to the provision of alternative accommodation.
- (4) If redevelopment that would have a significant effect on a resident's rights arising from his or her residence contract occurs without compliance with the term referred to in subsection (1), the administering authority is guilty of an offence.

Maximum penalty: \$10 000.

20—Amendment of section 10A—Certain taxes and fees must not be charged to residents

- (1) Section 10A(2)—delete "unit" wherever occurring and substitute in each case:
residence
- (2) Section 10A—after subsection (2) insert:
 - (3) Subject to this Act, a resident of a retirement village is not liable to pay costs incurred by the administering authority in obtaining legal advice or undertaking legal proceedings relating to the retirement village unless the residents, by special resolution, approve payment.

21—Amendment of section 12—Documents to be supplied to residents

Section 12(1)—delete "shall, at the request of a resident, provide the resident with" and substitute:

must, at the request of a resident, provide the resident, free of charge, with

22—Insertion of section 12A

After section 12 insert:

12A—Information about manager to be supplied to residents

If the administering authority of a retirement village employs or engages a person to manage the village on his or her behalf, the administering authority must, by written notice provided in accordance with the regulations, inform each resident of the village—

- (a) of the manager's name and contact details; or
- (b) of any change in details previously provided under this section.

Maximum penalty: \$2 500.

23—Amendment of section 13—Residents' committees

Section 13(8) and (9)—delete subsections (8) and (9) and substitute:

- (8) If a residents' committee reasonably requests a meeting with the administering authority by written notice setting out the time, place and business agenda of the meeting, the administering authority must attend the meeting (or ensure that a representative of the administering authority authorised to speak on behalf of the administering authority attends the meeting).

Maximum penalty: \$2 500.

- (9) If an administering authority reasonably requests a meeting with the members of a residents' committee (or a representative or representatives of a residents' committee) by written notice setting out the time, place and business agenda of the meeting, the members of the residents' committee (or a representative or representatives of the residents' committee) must attend the meeting.

24—Insertion of division heading

Before section 13A (Termination of residents' rights—see section 8) insert:

Division 4—Termination of residents' rights

25—Insertion of division heading

Before section 14 insert:

Division 5—Resolution of disputes

26—Amendment of section 14—Resolution of disputes

Section 14(2)(a)—delete "or service contract"

27—Amendment of section 15—Endorsement of certificates of title

Section 15(2)(b)—delete "unit" and substitute:

residence

28—Amendment of section 16—Lease of land in retirement village

Section 16(2)—delete "2" and substitute:

5

29—Amendment of section 17—Termination of retirement village scheme on application to Supreme Court

(1) Section 17(1)—delete "A" and substitute:

Subject to this Act, a

(2) Section 17(1)—delete "unit" wherever occurring and substitute in each case:

residence

30—Insertion of new section

After section 17 insert:

17A—Voluntary termination of retirement village scheme

- (1) The Minister may, by notice in the Gazette, terminate a retirement village scheme.
- (2) The Minister may not terminate a retirement village scheme unless satisfied (in such manner as the Minister thinks fit) that all residents of the retirement village wish to terminate the scheme.
- (3) The Minister may make such orders as the Minister thinks necessary or appropriate on account of the termination of a retirement village scheme under this section.
- (4) The termination of a retirement village scheme will take effect from the date specified for the purpose in the notice.
- (5) The Registrar-General must, at the request of the Minister, take any action for or in connection with the issue, alteration, correction or cancellation of certificates of title necessary to give effect to the provisions of this section.
- (6) If the Minister requests the Registrar-General to give effect to a particular determination or action, the Minister will, if so required by the Registrar-General, furnish the Registrar-General with a certificate certifying the determination or action.

31—Amendment of section 23—Regulations

- (1) Section 23(2)(a)—delete paragraph (a) and substitute:
 - (a) prescribe fees (including differential fees) for the purposes of this Act and provide for the payment of fees at intervals and in such manner as may be prescribed;
 - (ab) prescribe amounts payable for late payment of fees so prescribed;
- (2) Section 23(2)—after paragraph (bc) insert:
 - (bd) require the provision to residents (or prospective residents) of such other information or documents as may be prescribed by the regulations;

32—Repeal of Schedules 1 and 2

Schedules 1 and 2—delete the Schedules

33—Renumbering

When all provisions of this amending Act have been brought into operation, the sections and Parts of the *Retirement Villages Act 1987* are to be renumbered in consecutive order (with necessary consequential changes to cross-numbering).

Schedule 1—Transitional provision

1—Information about established retirement villages must be given to Registrar for inclusion in register

The administering authority of a retirement village established before the commencement of this clause must, within 6 months after the commencement of this clause, give the Registrar—

- (a) the name and business address of the administering authority; and
- (b) in respect of the retirement village—
 - (i) the name and address of the village; and
 - (ii) the references for the certificates of title of the land used for the village; and
 - (iii) the name, address and contact details of the person managing the village for or on behalf of the administering authority; and
- (c) any other information that the Registrar considers appropriate.

Maximum penalty: \$2 500.

Expiation fee: \$210.

2—Information provided will be taken to have been given for purposes of section 5G

The information given under clause 1 will be taken to have been given under section 5G(1) of the *Retirement Villages Act 1987* for the purposes of section 5G(2).

Schedule 2—Statute law revision amendments of *Retirement Villages Act 1987*

Provision amended	How amended
Section 10(1)(b)	Delete "shall" and substitute: must
Section 12(2)	Delete "shall" and substitute: must
Section 15(2)	Delete "shall" and substitute: must
Section 18(1)	Delete "shall" and substitute: may