Australian Capital Territory

# Retirement Villages Act 2012

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## About this republication

### The republished law

This is a republication of the *Retirement Villages Act 2012* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 November 2025. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 November 2025.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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This republication includes amendments made under part 11.3 (see endnote 1).

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If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).

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# Retirement Villages Act 2012

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Australian Capital Territory

# Retirement Villages Act 2012

An Act to regulate retirement villages, and for other purposes



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# Part 1 Preliminary

## 1 Name of Act

This Act is the *Retirement Villages Act 2012*.

## 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***development approval***—see the *Planning Act 2023*, dictionary.' means that the term 'development approval' is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

## 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



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## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

*Note 2* *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.



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# Part 2 Objects and important concepts

## 6 Objects of Act

The objects of this Act are to—

(a) set out particular rights and obligations of residents and operators of retirement villages; and

(b) facilitate the disclosure of information to prospective residents of retirement villages; and

(c) require contracts between residents and operators of retirement villages to contain full details of the rights and obligations of the parties; and

(d) facilitate participation by residents, who want to be involved, in the management of retirement villages; and

(e) establish appropriate mechanisms for resolving certain disputes between residents and operators of retirement villages; and

(f) encourage the retirement village industry to adopt best practice management standards.

## 7 Meaning of *operator*

(1) In this Act:

***operator***, of a retirement village—

(a) means the person who, alone or with someone else, manages or controls the retirement village; and

(b) includes—

(i) a person for the time being managing or controlling the retirement village; and

(ii) a person (other than a resident or other person mentioned in section 8 (Meaning of *residence right*) who owns land in the village; and



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(iii) a person mentioned in section 15A (1) (d) (Application to residents and operators of former retirement villages); and

(iv) any other person prescribed by regulation; but

*Note* Power to make a regulation in relation to a matter includes power to make provision in relation to a class of matter (see Legislation Act, s 48 (2)).

(c) does not include—

(i) the body corporate of a community title scheme or the owners corporation for a units plan; or

(ii) the managing agent of a community title scheme or units plan; or

(iii) any person excluded from this definition by regulation.

(2) If there is more than 1 operator for a retirement village, it is sufficient compliance with a requirement of this Act if—

(a) any of the operators exercises the functions of an operator under this Act; and

(b) any notice or other document required to be given to the operator under this Act is given to any of the operators.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

*Note 2* For how documents may be given, see the Legislation Act, pt 19.5.

(3) In this section:

***body corporate***, of a community title scheme—see the *Community Title Act 2001*, dictionary.



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## 8 Meaning of *residence right*

(1) In this Act:

***residence right***, in relation to residential premises in a retirement village, means—

(a) a person's right to occupy the residential premises under a contract—

(i) under which the person bought the residential premises; or

(ii) under which the person bought shares entitling the person to occupy the residential premises; or

(iii) in the form of a lease, licence, arrangement or agreement of any kind (other than a residential tenancy agreement)—

(A) entered into under division 10.5 (Sale or letting of premises by certain residents); or

(B) that contains a term to the effect that this Act does not apply to the residential premises; or

(iv) under which the person lends money to the operator of the village in consideration for, or in expectation of, the right to occupy the residential premises; or

(v) prescribed by regulation; or

(b) any other right prescribed by regulation.

*Note* The contract that gives rise to a residence right is a ***residence contract***, and a residence contract is a ***village contract*** (see dict).

(2) For the definition of ***residence right***, it does not matter if the person who acquired the right (the ***acquirer***)—

(a) is a corporation, if the residential premises is intended for use by an individual; or

(b) acquires it for the purposes of allowing another person to live in the residential premises instead of the acquirer.



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(3) If subsection (2) applies, a retired person who lives in the residential premises with the acquirer's consent is taken to have the residence right.

## 9 Meaning of *sale*, *sale price* and *contract for the sale* of residential premises

In this Act, a reference to the ***sale***, the ***sale price***, or a ***contract for the sale***, of residential premises in a retirement village that was or is to be occupied under a company title scheme is a reference to the sale, the sale price, or a contract for the sale, of the residence right in relation to the residential premises.

## 10 Meaning of *retirement village*

(1) In this Act:

***retirement village***—

(a) means a complex containing residential premises that are—

(i) predominantly or exclusively occupied, or intended to be predominantly or exclusively occupied, by retired people who have entered into village contracts with an operator of the complex; or

(ii) prescribed by regulation; but

(b) does not include any of the following:

(i) a residential care home provided by a registered provider;

(ii) a mobile home park;

(iii) residential premises that are the subject of a residential tenancy agreement to which the housing commissioner is a party;

(iv) a boarding house;



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(v) accommodation provided in a complex for employees of the complex who are not residents of the retirement village;

(vi) residential premises that are the subject of a residential tenancy agreement—

(A) to which the operator of a retirement village is a party; and

(B) that contains a term to the effect that this Act does not apply to the premises;

(vii) any other place prescribed by regulation.

(2) In this section:

***mobile home park*—**see the *Residential Tenancies Act 1997*, dictionary.

## 11 Meaning of *ingoing contribution*

In this Act:

***ingoing contribution***—

(a) means—

(i) an amount payable by or on behalf of a person to the operator of a retirement village under a residence contract; or

(ii) any other amount paid by or on behalf of a person to the operator of a retirement village in consideration for, or in expectation of, the person or someone else becoming a resident of the village; but

(b) does not include the following:

(i) a waiting list fee;

(ii) a recurrent charge;



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(iii) if the resident is the registered proprietor of a lease, the owner of a unit in a units plan or the owner of a lot in a community title scheme where the residential premises are located—the purchase price of the land or lot;

(iv) if the person owns shares in a company title scheme that give rise to a residence right in relation to the residential premises—the purchase price of the shares;

(v) a payment prescribed by regulation.

*Note* Power to make a regulation in relation to a matter includes power to make provision in relation to a class of matter (see Legislation Act, s 48 (2)).

## 12 Meaning of *registered interest holder* and *registered long-term sublessee*

(1) In this Act:

***registered interest holder***—a person is a ***registered interest holder*** in relation to residential premises in a retirement village if—

(a) the person—

(i) is 1 of the following:

(A) the registered proprietor of land in the retirement village;

(B) the owner of a unit in a units plan in the retirement village;

(C) the owner of a lot in a community title scheme in the retirement village; and

(ii) has a residence right in relation to residential premises in the retirement village; or

(b) the person owns shares in a company title scheme that give rise to a residence right in relation to residential premises in the retirement village; or



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(c) the person is a registered long-term sublessee.

***registered long-term sublessee***, of residential premises in a retirement village, means a person whose residence contract is in the form of a registered long-term sublease if—

(a) the sublease includes a provision that entitles the person to at least 50% of any capital gain; or

(b) the person is otherwise entitled under a contract, an agreement or other arrangement to at least 50% of any capital gain.

(2) In this section:

***registered long-term sublease*** means a sublease (however described) registered under the *Land Titles Act 1925* that—

(a) has a term of at least 50 years (including any option to renew); or

(b) is for the life of the lessee.

## 13 Meaning of *capital gain*

(1) In this Act:

***capital gain***, in relation to a resident's entitlement under a residence contract or the sharing of a capital gain under a village contract between the operator and a resident—

(a) means any increase between the amount the resident paid for the residence right for the residential premises and the amount that the next resident pays for a residence right for the same premises; but

(b) does not include any costs associated with the subsequent sale or lease of the premises.

(2) The amount of fees and charges payable under a village contract are not to be included in working out the amount of a capital gain.



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## 14 Meaning of *permanently vacated* residential premises

(1) For this Act, a person has ***permanently vacated*** residential premises in a retirement village when—

(a) vacant possession of the person's residential premises is delivered up to the operator of the village by or on behalf of the person following the person's vacation of the premises; or

(b) the executor or administrator of the person's estate delivers up vacant possession of the person's residential premises to the operator of the village following the person's death; or

(c) the ACAT makes an order under section 198 (Abandoned premises) declaring that the person's residential premises were abandoned by the person; or

(d) if the person is a registered interest holder in relation to residential premises or is taken to be a resident of the premises under section 8 (3) (Meaning of *residence right*)—the person dies or moves out of the premises.

(2) For subsection (1) (c), the person is taken to have permanently vacated the residential premises on the day stated in the order.

## 15 Consent of residents

(1) The residents of a retirement village may consent to a proposed measure or action relating to the village under this Act in the way set out in schedule 1 (Consent of residents).

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) The residents or operator of the retirement village may apply to the ACAT for an order about the validity of the consent if the residents or operator considers that—

(a) the residents consent in relation to a particular matter has been obtained otherwise than as set out in schedule 1; or



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(b) the residents votes were inaccurately counted.

(3) On application, the ACAT may make an order—

(a) declaring that the consent was validly obtained; or

(b) setting aside the purported consent and directing that the residents vote again on the proposed measure or action.

## 15A Application to residents and operators of former retirement villages

(1) This Act applies to the following people in relation to the occupation of a former retirement village even though the former retirement village is no longer a retirement village:

(a) a retired person who continues to occupy residential premises in a former retirement village that was a retirement village when the retired person took up residence in the premises;

(b) a retired person who has a right to occupy residential premises in a former retirement village that was a retirement village when the right was obtained;

(c) a former occupant of a former retirement village who continues to have rights or liabilities under the contract, agreement or arrangement under which the occupant occupied (or had the right to occupy) the residential premises in the former retirement village when it was a retirement village;

(d) the person who is the other party to the contract, agreement or arrangement under which the retired person occupies or occupied (or has or had the right to occupy) the residential premises in the former retirement village.

*Note* ***Operator*** includes a person mentioned in s (1) (d) (see s 7).
***Resident*** includes a person mentioned in s (1) (a), (b) or (c) (see dict).

(2) However, this Act does not apply in relation to a place mentioned in section 10 (1) (Meaning of *retirement village*), definition of ***retirement village***, paragraph (b).



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(3) In this section:

***former retirement village*** means a complex that was previously, but is no longer, a retirement village.



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# Part 3 Representations and information about retirement villages

## 16 Advertising or promoting village before development approval given

(1) A person commits an offence if—

(a) the person—

(i) advertises, or otherwise promotes, a retirement village; or

(ii) advertises the sale of residential premises, or the right to occupy residential premises, in a retirement village; and

(b) the development of the retirement village requires development approval; and

(c) development approval has not been received for the development of the retirement village; and

(d) the advertisement or other promotion mentioned in paragraph (a) (i) or (ii) does not disclose to a prospective resident that development approval has not been received for development of the retirement village.

Maximum penalty: 50 penalty units.

*Note* See the *Planning Act 2023*, ch 7 for when development approval is required for certain developments.

(2) A person commits an offence if—

(a) the person enters into a village contract for a retirement village with a prospective resident; and

(b) the development of the retirement village requires development approval; and



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(c) development approval has not been received for the development of the retirement village.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.

## 17 Advertising without approval for facilities

(1) The operator of a retirement village commits an offence if the operator—

(a) advertises or otherwise represents that a residential care home is, or will be, associated with the village; and

(b) has not received all the authorisations required by law for the residential care home.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) In this section:

***operator***, of a retirement village, includes a person intending to carry out development of a retirement village.

## 18 Exceptions to prohibitions on advertising

Section 16 and section 17 do not apply to a person if the person—

(a) carries out market surveys in relation to a proposed retirement village before the person receives development approval for the development; or

(b) carries out market surveys in relation to a proposed residential care home in connection with a retirement village before the person receives all the authorisations required by law for the facility; or



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(c) gives public notice of, or otherwise advertises, a development application relating to a proposed retirement village or a proposed residential care home in accordance with the *Planning Act 2023*.

*Note* The defendant has an evidential burden in relation to the matters mentioned in this section (see Criminal Code, s 58).

## 19 Representation that complex is retirement village

(1) A person commits an offence if—

(a) the person manages or controls a complex containing residential premises; and

(b) the person represents that the complex is a retirement village; and

(c) the complex is not a retirement village.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 20 Giving information inconsistent with disclosure statement

(1) The operator of a retirement village commits an offence if—

(a) the operator gives information about the village to a prospective resident of the village; and

(b) the information is inconsistent with information in the disclosure statement for the village given to the prospective resident.

Maximum penalty: 50 penalty units.

*Note* See s 24 for what must be included in a disclosure statement for a retirement village.

(2) An offence against this section is a strict liability offence.



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## 21 Information about services and facilities

(1) The operator of a retirement village commits an offence if—

(a) the operator tells a prospective resident of the village that—

(i) a service is provided for residents at the village; or

(ii) a facility is available at the village; or

(iii) a service or facility is associated with the village; and

(b) the service or facility is not provided or available at, or associated with, the village.

Maximum penalty: 50 penalty units.

(2) The operator of a retirement village commits an offence if—

(a) the operator tells a prospective resident of the village that a service or facility is to be provided to, or made available by the operator at, the village or to the residents in the future; and

(b) the operator enters into a village contract with the prospective resident; and

(c) the village contract does not state—

(i) that the service or facility is to be provided to, or made available by the operator at, the village or to the residents; or

(ii) the day by when the service or facility is to be provided or made available.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.



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(4) A resident of a retirement village may apply to the ACAT for an order directing the operator of the village to pay compensation to the resident if a service or facility mentioned in the resident's village contract is not provided or made available—

(a) by the date stated in the contract; or

(b) if the contract does not state a date—within a reasonable time.

## 22 Making certain representations—promotional material

(1) The operator of a retirement village commits an offence if—

(a) the operator publishes or distributes written promotional material about the village; and

(b) the material includes any of the following representations in relation to the village:

(i) that a person is likely to obtain a capital gain when the person vacates the village;

(ii) an estimation of possible amendments of future recurrent charges;

(iii) an estimation of the future size of the village;

(iv) a representation in relation to future ownership of the village.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

*Note* Any advertising, and promotional and sales material, relating to a retirement village must also comply with the *Fair Trading (Australian Consumer Law) Act 1992* and the *Competition and Consumer Act 2010* (Cwlth).

(3) Subsection (1) (b) (ii) does not apply if the village contract provides for recurrent charges to be amended in accordance with a fixed formula.



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(4) Subsection (1) (b) (iii) does not apply if the representation is made in relation to development where construction is underway and a completion date for the development is known.

(5) Subsection (1) (b) (iv) does not apply if, when the representation is made, a contract to transfer ownership of the retirement village has been entered into.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3), (4) and (5) (see Criminal Code, s 58).

(6) Promotional material to which subsection (5) applies may include details about the contract for the transfer of ownership of the retirement village.

## 22A Making certain representations—aged care services

(1) The operator of a retirement village commits an offence if the operator makes an express or implied representation (whether oral or in writing) that—

(a) the village is a registered provider of a residential care home; or

(b) residents of the village have priority access to a residential care home provided by a registered provider.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

*Note 1* Any advertising, promotional or sales material relating to a retirement village must also comply with the *Fair Trading (Australian Consumer Law) Act 1992* and the *Competition and Consumer Act 2010* (Cwlth).

*Note 2* Section 10 (1), def ***retirement village***, par (b) (i) excludes residential care homes from that definition.



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(3) To remove any doubt, an operator does not make a representation for subsection (1) merely by giving an explanation or statement of—

(a) how the services of the retirement village differ from residential care services given to a prospective resident under section 23 (General inquiry document) or section 24 (Disclosure statement); or

(b) the fact that a residential care home is associated with the village.

## 23 General inquiry document

(1) The operator of a retirement village must give a general inquiry document to a prospective resident within 14 days after the day the prospective resident—

(a) requests a copy of the document; or

(b) expresses an interest in the village.

*Note* For how documents may be given, see the Legislation Act, pt 19.5.

(2) The general inquiry document must comply with any requirement prescribed by regulation.

*Note 1* Power to make a statutory instrument (including a regulation) includes power to make different provision for different categories (see Legislation Act, s 48).

*Note 2* If a form is approved under s 263 for this provision, the form must be used.

## 24 Disclosure statement

(1) The operator of a retirement village must give a disclosure statement to a prospective resident within 14 days after the day the prospective resident—

(a) requests a copy of the document; or



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(b) expresses an interest in particular premises in the village.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) The disclosure statement must comply with any requirement prescribed by regulation.

*Note 1* Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters (see Legislation Act, s 48).

*Note 2* If a form is approved under s 263 for this provision, the form must be used.

*Note 3* For how documents may be given, see the Legislation Act, pt 19.5.

## 25 Failure to attach disclosure statement to village contract

(1) The operator of a retirement village commits an offence if the operator—

(a) enters into a village contract with a prospective resident; and

(b) fails to attach a copy of the disclosure statement to the village contract.

Maximum penalty: 10 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) In this section:

***disclosure statement*** includes a disclosure statement amended in writing and signed by the prospective resident.



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## 26 Entering into village contract less than 14 days after giving disclosure statement

(1) The operator of a retirement village commits an offence if the operator—

(a) gives a prospective resident of the retirement village a disclosure statement in relation to the village; and

(b) enters into a village contract with the prospective resident less than 14 days after giving the prospective resident the disclosure statement.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 27 Orders for provision of general inquiry document or disclosure statement

(1) This section applies if the operator of a retirement village fails to give a copy of the general inquiry document or disclosure statement relating to the village to a prospective resident in accordance with this part.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).

(2) The prospective resident may apply to the ACAT for an order directing the operator to give the prospective resident a copy of the general inquiry document or disclosure statement.

## 28 Information to be given to prospective residents

(1) The director-general may approve the form and content of information that the operator of a retirement village must give to a prospective resident of the retirement village.

(2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.



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(3) Without limiting subsection (1), the information approved by the director-general may relate to any of the following:

(a) the retirement industry generally;

(b) the rights and responsibilities of residents of retirement villages;

(c) living in a unit of a units plan.

(4) The operator must give the approved information in the approved form to a prospective resident when, or before, the general inquiry document is given to the prospective resident.

(5) The operator commits an offence if the operator does not comply with subsection (4).

Maximum penalty: 10 penalty units.

(6) An offence against subsection (5) is a strict liability offence.

## 29 Copies of certain documents to be made available

(1) The operator of a retirement village must make available at the village or a place of business in the ACT, for inspection at all reasonable times by a prospective resident, copies of the following:

(a) a site plan for the village;

(b) plans showing the location, floor plan and significant dimensions of residential premises available in the village;

(c) the proposed annual budgets (if any) and the approved annual budgets for—

(i) each of the last 3 financial years of the village; and

(ii) the current financial year; and

(iii) the next financial year (if budgets in relation to that year are available);



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(d) the accounts of the village, audited if required under division 7.5 (Annual accounts), for the last 3 financial years (excluding, during the first 4 months of a financial year, the immediately preceding financial year if the accounts for that year are not available);

(e) examples of all village contracts that an incoming resident may be required to enter into;

(f) the trust deed for any trust fund into which money paid by the residents is deposited;

(g) the village rules;

(h) the terms of the development approval, if any, for the village, if—

(i) construction of the village is not complete; or

(ii) it is a condition of the development approval that a particular service or facility be provided for the life of the village;

(i) if there is a capital works fund established for the village—statements of the balance in the fund as at the end of—

(i) each of the last 3 financial years of the village; and

(ii) the most recent quarter;

(j) if the operator is required to provide the residents with quarterly accounts—the most recent quarterly accounts of the income and expenditure of the village;

(k) any other documents relating to the village, and to retirement villages generally, prescribed by regulation.

Maximum penalty: 50 penalty units.

*Note* Section 258 prohibits the operator of a retirement village from charging for making a document mentioned in s (1) available.



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(2) An offence against subsection (1) is a strict liability offence.

(3) If the village has been in operation for 3 years or less, the documents mentioned in subsection (1) (c), (d) and (i) must relate to each financial year that the village has been in operation.

## 30 Certain documents to be given on request

(1) If a prospective resident of a retirement village asks the operator of the village to post or otherwise give the person a copy of a document mentioned in section 29 (1) (a) to (j), the operator must post or otherwise give a copy of the document to the prospective resident within 7 days after the prospective resident asks for it.

(2) The operator of the village commits an offence if the operator does not comply with subsection (1).

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

## 31 Orders for documents

(1) This section applies if the operator of a retirement village does not—

(a) have the documents mentioned in section 29 (Copies of certain documents to be made available) available for inspection by a prospective resident of the village; or

(b) comply with a request under section 30 (Certain documents to be given on request).

(2) A prospective resident may apply to the ACAT for an order directing the operator to comply with section 29 or a request under section 30.



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# Part 4 Entry into retirement villages

## 32 Definitions—pt 4

In this part:

***holding deposit*** means money paid by or on behalf of a prospective resident to the operator of a retirement village in consideration for not offering particular residential premises in the village to any other person pending the prospective resident's entering into a residence contract with the operator.

***trustee*** means—

(a) the public trustee and guardian; or

(b) the lawyer for an operator of a retirement village; or

(c) a real estate agent; or

(d) a licensed trustee company under the Corporations Act, section 601RAA; or

(e) someone else prescribed by regulation.

***waiting list fee***, for a retirement village, means any amount paid to the operator of the village, other than—

(a) an ingoing contribution; or

(b) a holding deposit; or

(c) a payment under a village contract in relation to the village.

## 33 Requesting or accepting waiting list fees

(1) The operator of a retirement village commits an offence if the operator requests or accepts payment of a waiting list fee from a person.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.



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(3) Subsection (1) does not apply if—

(a) the fee is not more than $200, or another amount prescribed by regulation; and

(b) the operator has a written policy setting out the way the waiting list operates; and

(c) the operator gives the person who pays the waiting list fee, when payment is made—

(i) a copy of the policy; and

(ii) a receipt for the payment.

*Note* The operator has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

## 34 Repayment of waiting list fees—prospective resident enters village contract

(1) This section applies if—

(a) a waiting list fee for a retirement village was paid by or on behalf of a prospective resident; and

(b) the prospective resident later enters into a village contract in relation to the village.

(2) The operator of a retirement village must refund the waiting list fee to the person who paid the fee.

(3) Subsection (2) does not apply if—

(a) an ingoing contribution is payable in relation to the retirement village; and

(b) the operator deducts the waiting list fee from the ingoing contribution.



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## 35 Repayment of waiting list fees—prospective resident does not enter village contract

(1) This section applies if—

(a) a waiting list fee for a retirement village was paid by or on behalf of a prospective resident; and

(b) the prospective resident does not later enter into a village contract in relation to the retirement village.

(2) The operator of the retirement village must refund the waiting list fee to the person who paid the fee within 14 days after the day the operator receives a written request from the person.

## 36 Orders for repayment of waiting list fees

(1) A person who paid a waiting list fee for a retirement village may apply to the ACAT for an order directing the operator of the retirement village to repay the fee.

(2) The ACAT may also, if the ACAT considers it appropriate, make an order for the payment of interest at a rate determined by the ACAT.

## 37 Requesting or accepting holding deposit

(1) The operator of a retirement village commits an offence if the operator requests or accepts payment of a holding deposit in relation to residential premises in the village occupied by a resident.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) Subsection (1) does not apply if the resident has given the operator written notice of the resident's intention to vacate the residential premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).



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## 38 Failure to keep deposits in trust

(1) The operator of a retirement village commits an offence if—

(a) the operator receives an amount as—

(i) a holding deposit; or

(ii) a deposit under a village contract; and

(b) fails to give the amount to a trustee to hold on trust.

Maximum penalty: 50 penalty units.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).

(2) An offence against subsection (1) is a strict liability offence.

(3) A receipt issued by a trustee in relation to an amount received under subsection (1) is evidence that a person has not contravened subsection (1).

(4) Subsection (1) does not apply in relation to an amount held by an operator of a retirement village if the operator is a body constituted or established—

(a) by an Act; or

(b) for a benevolent, philanthropic or patriotic purpose.

*Note* A defendant has an evidential burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 58).

(5) Subsection (1) (a) (ii) does not apply in relation to a contract for the sale of residential premises if the contract provides for the way in which the deposit is to be held.

*Note* A defendant has an evidential burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 58).



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## 39 Repaying etc holding deposits and ingoing contributions

(1) An amount paid by a prospective resident to the operator of a retirement village as a holding deposit or ingoing contribution must be held in trust until—

(a) the prospective resident enters into a residence contract with the operator (whether in relation to the residential premises concerned or to other residential premises in the same village or another village); or

(b) the operator receives written notice that the prospective resident—

(i) does not intend to enter into a residence contract for a reason other than that mentioned in subparagraph (ii); or

(ii) does not intend to enter into a residence contract because the prospective resident has been approved for access for, and intends to enter into, a residential care home; or

(iii) has died.

(2) If the prospective resident enters into a residence contract with the operator, an amount paid under this section as a holding deposit may, if both parties agree, form part of the deposit under the contract.

(3) If the operator receives written notice under subsection (1) (b), the operator must refund the amount to the person lawfully entitled to it not later than 14 days after the operator receives the notice.

(4) However, for notice under subsection (1) (b) (i), the operator may keep an amount mentioned in subsection (5) if—

(a) the prospective resident and the operator have entered into a village contract; and

(b) the prospective resident gives the notice—

(i) after the end of the cooling-off period for the contract; and

(ii) before final payment is made under the contract; and



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(iii) before the settling-in period for the contract begins.

*Note* ***Cooling-off period***—see s 53 (5).

(5) For subsection (4), the amount is the reasonable costs incurred by the operator in relation to the residential premises for the period—

(a) starting on the day after the village contract in relation to the premises is entered into; and

(b) ending on the earliest of the following:

(i) 14 days after the day the prospective resident gives notice under subsection (1) (b) (i);

(ii) the day the operator of the retirement village enters into a village contract with an incoming resident in relation to the premises;

(iii) the day the operator enters into a residential tenancy agreement with an incoming tenant in relation to the premises;

(iv) the day a person takes up residence in the premises with the operator's consent.

**Examples—reasonable costs**

legal expenses, commissions, advertising and marketing costs, recurrent charges

(6) However, the amount mentioned in subsection (5) must not exceed—

(a) an amount prescribed by regulation; or

(b) if no amount is prescribed—$10 000.



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(7) The operator may ask for evidence—

(a) for notice given under subsection (1) (b) (ii)—of the prospective resident's intention; or

**Examples**

1 statement from a hospital that the person is in hospital waiting for approval to access a residential care home

2 evidence that the person has been approved for access for, and intends to enter into, a residential care home

(b) for notice given under subsection (1) (b) (iii)—that the prospective resident has died.

(8) An amount paid to the operator as a deposit under a village contract is to be held in trust until final payment is made under the contract.

(9) Subsection (8) does not apply in relation to a contract for the sale of residential premises if the contract provides for the way in which the deposit is to be held.

(10) In this section:

***settling-in period***, for a village contract, means the period worked out for the contract under section 71 (Meaning of *end of the settling-in period*—div 5.2).

## 40 Orders for repayment of holding deposits and ingoing contributions

If the operator of a retirement village fails to refund an amount held on trust under section 39, the person lawfully entitled to it may apply to the ACAT for an order directing the operator to repay the amount.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).



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# Part 5 Village contracts

## Division 5.1 General

### 41 Resident to enter village contract

(1) The operator of a retirement village must not allow a prospective resident of the village to occupy residential premises in the village before the prospective resident enters into at least 1 of the following contracts (a ***relevant contract***) with the operator in writing:

(a) a residence contract;

(b) a service contract.

Maximum penalty: 50 penalty units.

*Note* A residence contract, a service contract and any other village contract may be contained in a single document.

(2) An offence against subsection (1) is a strict liability offence.

(3) However, a prospective resident may occupy residential premises in the village without entering into a relevant contract if—

(a) the prospective resident occupies the premises with a person who has entered into a relevant contract with the operator; or

(b) the prospective resident and the operator enter into a residential tenancy agreement to which this Act does not apply in relation to the premises.

(4) If the operator contravenes subsection (1), then (despite part 10 (Matters relating to vacation of premises))—

(a) the former occupant (if any) of the residential premises has no liability to pay any recurrent charges or departure fees relating to the premises in relation to any period after the day when the prospective resident occupies the premises; and



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(b) the operator must, not later than 1 month after that day, pay—

(i) any refund of the former occupant's ingoing contribution; and

(ii) any other amount that is required, under a village contract, to be paid to the former occupant.

(5) If a refund, in whole or in part, is not paid to a former occupant within the period required by subsection (4) (b)—

(a) the former occupant may apply to the ACAT for an order directing the operator to pay the refund; and

(b) interest is payable, at the prescribed rate, on and from the date that payment of the refund becomes overdue.

## 42 Retirement village land to be registered under Land Titles Act

(1) The operator of a retirement village must lodge a notice with the registrar-general for registration under the *Land Titles Act 1925* that the land consisting of the retirement village (or land that is part of the retirement village) is used as a retirement village.

Maximum penalty: 50 penalty units.

*Note 1* The registrar-general must register an instrument lodged in registrable form (see *Land Titles Act 1925*, s 48 (1)).

*Note 2* If a form is approved under the *Land Titles Act 1925*, s 140 for a notice, the form must be used.

*Note 3* A fee may be determined under the *Land Titles Act 1925*, s 139 for this provision.

(2) An offence against subsection (1) is a strict liability offence.

(3) A notice under subsection (1) must be lodged with the registrar-general before entering into a residence contract in relation to residential premises on the land.



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(4) The operator must lodge with the registrar-general a new notice under this section if any of the information in a notice registered under the *Land Titles Act 1925* in relation to the retirement village is no longer accurate.

(5) Nothing in this section requires the operator to lodge a notice with the registrar-general before entering into a residence contract in relation to residential premises on land that is already the subject of a notice under this section.

*Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for this provision, the form must be used.

*Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this provision.

## 43 Operator must give copy of retirement village notice

The operator of a retirement village must give a copy of a notice under section 42 to—

(a) each person who that has a registered interest in the land to which the notice relates; and

(b) the residents committee (if any) of the retirement village.

## 44 Application to remove retirement village notice from land titles register

(1) A person may apply in writing to the registrar-general for a notice under section 42 to be removed from the land titles register.

*Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for this provision, the form must be used.

*Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this provision.



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(2) The registrar-general must remove the notice from the register if satisfied that—

(a) there are no residential premises on the land to which the notice relates that are the subject of a village contract; and

(b) there are no amounts outstanding that are payable under a village contract relating to residential premises on the land to which the notice relates.

## 45 Inconsistency between village contract and disclosure statement

(1) This section applies if a provision in a village contract for residential premises in a retirement village is inconsistent, to the detriment of a resident of the village, with the information contained in the disclosure statement for the residential premises given to the resident.

(2) The village contract must be construed (as far as practicable) as if it included the information in the disclosure statement instead of the inconsistent term.

(3) Subsection (2) does not apply if the inconsistent term is a term of a standard form contract.

*Note* ***Standard form contract***—see s 67.

(4) If there is a dispute between a resident of a retirement village and the operator of the village about whether there is an inconsistency mentioned in subsection (1), the resident may apply to the ACAT for an order deciding the dispute.

(5) The order must state the way in which the contract must be construed.

## 46 Village contracts must be in writing

Despite any other territory law, a village contract is not enforceable by the operator of a retirement village against a resident of the village unless the contract is in writing.



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## 47 Operator must allow time for reading of village contract

(1) The operator of a retirement village commits an offence if the operator enters into a village contract with a person earlier than 14 days after the day the person (or another person acting on behalf of that person) has been given a copy of the contract.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 48 No restriction on right to obtain independent advice

(1) The operator of a retirement village must not restrict a person from obtaining independent advice before entering into a village contract with the operator.

Maximum penalty: 10 penalty units.

(2) The operator of a retirement village must not require a resident or a prospective resident of the village to use the services of a lawyer or other adviser nominated by the operator.

Maximum penalty: 10 penalty units.

(3) An offence against this section is a strict liability offence.

(4) If a resident or a prospective resident is required to use the services of a lawyer or other adviser in contravention of this section, the operator of the village is liable to pay to the resident or prospective resident the fees paid by the resident or prospective resident to the lawyer or other adviser for those services.

(5) If the operator does not, on request, pay the amount due to a resident or prospective resident under subsection (4), the resident or prospective resident may apply to the ACAT for an order directing the operator to pay the amount.



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## 49 Amendment or replacement of village contract

(1) This section applies to the following actions:

(a) a purported amendment of a village contract;

(b) a purported ending of a village contract and entry into a new village contract with the same party in relation to the same residential premises.

(2) An action mentioned in subsection (1) has no effect (and the contract continues as in force before the purported amendment or ending) unless the resident who is a party to the contract obtains a written certificate under this section.

(3) The certificate must—

(a) be signed by a lawyer chosen by the resident; and

(b) include a statement to the effect that—

(i) the lawyer explained to the resident the effect of the proposed amendment of the contract (or the proposed new contract); and

(ii) the resident appeared to understand the explanation and to consent to the amendment (or to the new contract).

(4) Section 47 (Operator must allow time for reading of village contract) and section 48 (No restriction on right to obtain independent advice) apply in relation to an amendment of a contract as if the amendment were a new contract.

(5) This section does not apply if the resident requested the amendment or new contract.



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## 50 Failure to obtain certificate for amendment or replacement of village contract

(1) The operator of a retirement village commits an offence if—

(a) the operator purports—

(i) to amend a village contract; or

(ii) to end a village contract and enter into a new village contract with the same party in relation to the same residential premises; and

(b) the resident who is a party to the contract has not obtained a certificate mentioned in section 49 (Amendment or replacement of village contract).

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply if the resident requested the amendment or new contract.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

## 51 Costs of obtaining certificate

(1) The reasonable costs of obtaining a certificate mentioned in section 49 (Amendment or replacement of village contract) are payable by the operator of a retirement village as if the operator, and not the resident, were the client of the lawyer engaged by the resident for the certificate.

(2) The operator is not required to pay the costs mentioned in subsection (1) until the resident has given the operator a copy of the account held by the resident for the costs.



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(3) If the operator does not pay all the costs within 28 days after the day the operator is given a copy of the relevant account, the resident may apply to the ACAT for an order directing the operator to pay the amount.

(4) On application, the ACAT—

(a) may make the order sought; or

(b) may order the operator and the resident to pay the costs in the proportion the ACAT considers just in the circumstances.

## 52 Costs of preparation of village contracts

(1) Legal and other expenses incurred by the operator of a retirement village in relation to the preparation of a village contract for residential premises in a retirement village are payable by the operator and the resident in equal shares (except as provided by section 51).

(2) The resident is not required to pay the expenses mentioned in subsection (1) until the operator has given the resident a copy of the account held by the operator for the expenses.

(3) A regulation may prescribe a maximum amount payable by a resident under this section.

(4) If a regulation prescribes a maximum amount, any difference between the resident's share of the amount incurred by the operator and the maximum amount prescribed is payable by the operator.

(5) If a residence contract is in the form of a sublease, the resident must pay—

(a) any duty payable on the sublease; and

(b) any registration fee payable under the *Land Titles Act 1925* for the sublease.



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(6) This section does not apply in relation to a contract for the sale of residential premises that are subject to a community title scheme, company title scheme or units plan.

(7) In this section:

***preparation***, of a village contract, includes the preparation of any agreement or contract that comprises the village contract.

**Examples**

loan agreement, other residence contract, services contract

## 53 Cooling-off period

(1) A resident of a retirement village may, within the cooling-off period for the resident's village contract, rescind the contract by written notice given to—

(a) the other party to the contract; and

(b) if the operator is not the other party to the contract—the operator.

(2) A contract must not be completed until after the cooling-off period has expired.

(3) The cooling-off period under a residence contract is waived if the resident starts living in the residential premises to which the contract relates.

(4) This provision has effect despite any other territory law.

(5) In this section:

***cooling-off period***, for a village contract, means the period—

(a) starting immediately after midnight on—

(i) the day the resident receives a copy of the contract signed by the operator; or



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(ii) for a contract that is, or includes, a residence contract in relation to which the operator is not the other party—the day the residence contract is entered into; and

(b) ending at midnight on the 7th business day after that day.

*Note* For when an operator must give a resident a copy of a signed village contract, see s 60 (1) and (2).

## 54 Rescission of village contract on grounds relating to disclosure statement

(1) This section applies if—

(a) a disclosure statement for residential premises in a retirement village is not given in accordance with this Act; or

(b) the information in the statement is false or misleading in a material particular.

(2) The person to whom (or on whose behalf) the disclosure statement was given or should have been given may, within 3 months after the day the residential premises in the retirement village are occupied, apply to the ACAT for an order allowing the person to rescind any village contract to which the person and the operator of the village are parties.

(3) The ACAT must not make an order under subsection (2) if it is satisfied that—

(a) the disclosure statement was provided in accordance with this Act; or

(b) the information in the disclosure statement is not false or misleading in a material particular; or

(c) the operator acted reasonably and honestly and should be excused for the failure to provide accurate information, or to provide the disclosure statement in accordance with this Act; or



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(d) the person to whom (or on whose behalf) the disclosure statement was given or should have been given is in substantially as good a position as the person would have been had the failure not occurred.

(4) If the ACAT makes an order under subsection (2)—

(a) it may also order the operator to pay compensation to the applicant for the order; and

(b) the applicant may, by written notice to the operator, rescind the contract.

## 55 Effect of rescission notice

(1) A notice rescinding a village contract under this part (a ***rescission notice***) takes effect on service of the notice.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

(2) A village contract that is rescinded under this part is void.

(3) However, subsection (2) does not affect the rights and obligations set out in section 56, section 57 or section 58.

## 56 Consequences of resident's rescission of service contract

(1) This section applies if—

(a) a resident of a retirement village serves a rescission notice in relation to the resident's service contract; and

(b) the resident does not serve a rescission notice in relation to the residence contract.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

(2) The resident and the operator of the village must attempt to renegotiate the service contract.



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(3) If the operator and the resident cannot agree on the terms of the new service contract, the operator or the resident may apply to the ACAT for an order setting out the terms of the new contract.

(4) On application, the ACAT may—

(a) make the order sought; and

(b) if the ACAT considers it appropriate, order the operator and the resident to enter into a new contract on the terms set out in the order.

(5) Section 47 (Operator must allow time for reading of village contract) does not apply to a new service contract arising out of an order of the ACAT under this section.

## 57 Consequences of resident's rescission of residence contract

(1) A rescission notice given by a resident of a retirement village in relation to a residence contract is taken also to apply to the service contract and any other village contract entered into by the resident.

(2) Each of the contracts mentioned in subsection (1) are void.

(3) As soon as practicable (but not later than 1 month) after a rescission notice that applies to a residence contract takes effect—

(a) the operator of the village must repay all money paid by or on behalf of the resident under the residence contract; and

(b) if the residence contract related to residential premises that are subject to a community title scheme, company title scheme or units plan and was rescinded under section 54 (Rescission of village contract on grounds relating to disclosure statement)—the resident must execute all instruments necessary to enable re-registration of—

(i) for premises that are subject to a company title scheme—the shares; or



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(ii) in any other case—title in the name of the operator under the rescinded contract.

(4) The ACAT may—

(a) on the application of the resident—order the operator to comply with subsection (3) (a); and

(b) on the application of the operator—order the resident to comply with subsection (3) (b).

(5) Any fees or costs associated with a rescission during the cooling-off period are to be paid by the party incurring them.

(6) Any fees or costs associated with a rescission at any other time (including registration fees) are payable by the operator, and the ACAT may, on the application of the resident, order the operator to make the payment.

(7) If subsection (3) (b) applies to the resident, the ACAT may only make an order under subsection (6) if the resident has complied with subsection (3) (b).

(8) The resident is not liable to make any payment to the operator in relation to the rescinded contract unless ordered to do so by the ACAT.

(9) Either party to a rescinded residence contract may make a claim to the ACAT for—

(a) if the resident has received the benefit of possession of the residential premises the subject of the rescinded contract—compensation, adjustment or accounting that is just and equitable between the parties; or

(b) damages, costs, or expenses arising out of a breach of any term, condition or warranty contained or implied in the contract (other than a term, condition or warranty mentioned in the *Civil Law (Sale of Residential Property) Act 2003*, section 11 (Certain conditions to be included in contract).



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(10) The ACAT must not make an order under subsection (9) that affects another right or obligation under this section.

(11) This section has effect despite the *Civil Law (Sale of Residential Property) Act 2003*, section 12 to section 17.

*Note* The *Civil Law (Sale of Residential Property) Act 2003*, ss 12 to 17 (the ***conveyancing provisions***) provide (among other things) for a cooling-off period in relation to a contract for the sale of residential property (within the meaning of that Act) and allow the contract to be rescinded during that period. However, the rights and obligations of the parties under the conveyancing provisions differ from those under this section. The conveyancing provisions do not allow rescission after completion of the contract, and the buyer under the rescinded contract forfeits 0.25% of the purchase price to the seller.

(12) In this section:

***cooling-off period***—see section 53 (5).

## 58 Consequence of resident's rescission of other village contract

(1) This section applies if a resident of a retirement village gives a rescission notice in relation to a village contract that is not a residence contract or a service contract.

(2) As soon as practicable (but not later than 1 month) after the rescission notice is given, the operator of the retirement village must repay all money paid by or on behalf of the resident under the rescinded contract.

(3) The ACAT may, on application by the resident, order the operator to comply with subsection (1).

(4) Either party to a contract rescinded under this section may make a claim to the ACAT for compensation, adjustment or accounting that is just and equitable between the parties taking into account any benefits that the rescinding party received under the contract before its rescission.



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(5) The ACAT must not make an order under subsection (2) that affects another right or obligation under this section.

## 59 Condition report for certain residential premises

(1) The operator of a retirement village must not allow a prospective resident of the village to occupy residential premises in the village unless the operator gives to the prospective resident a report relating to the condition of the premises at the start of the prospective resident's occupation of the premises (a ***condition report***).

*Note* If a form is approved under s 263 for this provision, the form must be used.

(2) A regulation may provide for how a condition report must be completed including in relation to the following matters:

(a) the time within which the condition report must be completed;

(b) the time within which the condition report must be given to a prospective resident.

(3) The operator of the retirement village must attach a copy of the condition report to the first village contract that the prospective resident enters into with the operator.

(4) If the operator allows a prospective resident to occupy residential premises in contravention of this section, the operator is prohibited from recovering any payment or other compensation for any alleged damage occurring to the premises during the prospective resident's occupancy of the premises.

(5) This section does not apply if—

(a) the prospective resident is to occupy the residential premises together with a resident who is already in occupation of the premises; or

(b) the prospective resident is, or will be, a registered interest holder in relation to the residential premises that the prospective resident intends to occupy.



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## 60 Operator to give resident or prospective resident copy of village contract

(1) The operator of a retirement village commits an offence if—

(a) the operator and a resident of the retirement village enter into a village contract; and

(b) the contract is entered into by the operator and resident signing the contract in each other's presence; and

(c) the operator does not give the resident a copy of the contract within 14 days after it is signed.

Maximum penalty: 50 penalty units.

(2) The operator of a retirement village commits an offence if—

(a) the operator and a resident of the retirement village enter into a village contract; and

(b) the contract is entered into by the operator and resident signing the contract other than in each other's presence; and

(c) the operator does not, within 14 days after the resident signs the contract, give the resident a copy of the contract signed by the operator.

Maximum penalty: 50 penalty units.

(3) The operator of a retirement village commits an offence if—

(a) a residence contract for the village is in the form of a sublease for a term longer than 3 years; and

(b) the operator does not—

(i) lodge the sublease for registration under the *Land Titles Act 1925* within 1 month after the day the sublease is given to the operator in registrable form; and



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(ii) give the resident a copy of the fully-executed sublease within 14 days after the day the sublease is returned to the operator after its registration.

Maximum penalty: 50 penalty units.

(4) An offence against this section is a strict liability offence.

## 61 Contractual rights of residents against new operator

(1) A village contract between a resident of a retirement village and a former operator of the village may be enforced against any operator for the time being of the village.

(2) However, a proceeding does not lie against the owner of land in a retirement village (not being a person involved in the management or control of the village) for the enforcement of rights under subsection (1) unless an operator other than the owner has failed to satisfy a judgment given for the enforcement of those rights and the owner is—

(a) a party to the contract; or

(b) a close associate of an operator involved in the management or control of the village.

## 62 New operator to convene meeting of residents

(1) A person must, within 28 days before the person becomes an operator of an existing retirement village—

(a) hold a meeting of residents and former occupants of the village; and

(b) give a report at the meeting about the operator's—

(i) financial ability to operate the village; and

(ii) plans for the management and operation of the village (including any changes that the operator proposes to make).



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(2) A person commits an offence if the person does not comply with subsection (1).

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

(4) A person must arrange a meeting for this section by sending to each resident and former occupant of the village, at least 7 days before the day of the meeting, a written notice setting out—

(a) the time and place of the meeting (which is to be held in the retirement village if practicable, or at a venue near the village); and

(b) the reason for the meeting.

## 63 Renovations and alteration of fixtures or fittings

(1) A resident of a retirement village may, with the written consent of the operator of the village—

(a) add, remove or alter a fixture or fitting on or within the resident's residential premises; or

(b) renovate the resident's residential premises.

(2) The operator may make the consent subject to reasonable conditions.

(3) Without limiting subsection (2), the operator may make the consent subject to the condition that, on the ending of the resident's village contract, the premises will be returned to the same condition as they were in immediately before the consent was given.

(4) The operator must not unreasonably withhold consent to an addition, removal or alteration of a fixture or fitting, or to a renovation, mentioned in subsection (1).



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(5) Despite subsection (1), the consent of the operator is not required—

(a) to remove or alter a fixture or fitting that was added by a resident, unless the removal or alteration of the fixture or fitting is likely to cause significant damage to the residential premises; or

(b) to renovate, or to add, remove or alter a fixture or fitting, prescribed by regulation.

## 64 Renovations and alteration of fixtures or fittings—ACAT orders

(1) A resident of a retirement village may apply to the ACAT for an order—

(a) allowing the addition, removal or alteration of a stated fixture or fitting on or within the resident's residential premises; or

(b) allowing a stated renovation to be made to the resident's residential premises; or

(c) amending a condition to which the operator's consent is subject.

(2) The ACAT may make the order if satisfied that—

(a) the operator of the retirement village has unreasonably withheld consent under section 63; or

(b) a condition to which consent is subject is unreasonable in the circumstances.

(3) If the ACAT makes an order under this section, the operator is taken to have given consent in accordance with the terms of the order.



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## 65 Renovations and alteration of fixtures or fittings—limitation of s 63 and s 64

(1) Nothing in section 63 or section 64 authorises a person—

(a) to add, remove or alter a fixture or fitting in, or renovate a residential premises within, a retirement village if consent to do so is required under a territory law and the consent has not been obtained; or

(b) to carry out development in contravention of the *Planning Act 2023*.

(2) In this section:

***development***—see the *Planning Act 2023*, section 14 (1).

## 66 Prescribed matters in village contracts

(1) A regulation may prescribe a matter that must be included in (or excluded from) a village contract.

*Note* Power to make a regulation in relation to a matter includes power to make provision in relation to a class of matter (see Legislation Act, s 48 (2)).

(2) If a regulation requires a village contract to include a term in the contract, the contract is taken to include the term.

(3) If a regulation requires a matter to be excluded from a village contract, the contract is void to the extent that it includes the matter.

## 67 Standard form of village contract

A regulation may prescribe a standard form of village contract (a ***standard form contract***).

*Note* Power to make a regulation in relation to a matter includes power to make provision in relation to a class of matter (see Legislation Act, s 48 (2)).



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## 68 Effect of noncompliance with standard form contract

(1) If a standard form contract is prescribed for a village contract, a village contract entered into after the day the form is prescribed is void to the extent to which it is not in the same form as, or does not have the same effect as, the standard form contract.

(2) A village contract that does not include a standard term is taken to include the standard term.

(3) An amendment of a standard term in a village contract has no effect.

(4) However—

(a) nothing in subsection (1) or (3) voids a person's residence right in relation to residential premises in a retirement village to which the village contract applies; and

(b) despite subsection (1) or (3), the parties to a village contract for which a standard form contract is prescribed may include an additional term in the contract if the term—

(i) does not contravene this Act or another territory law; and

*Note* A regulation may prescribe a matter that must be excluded from a village contract (see s 66).

(ii) is not inconsistent with a term—

(A) in the standard form contract; or

(B) required to be included by a regulation made under section 66 (Prescribed matters in village contracts).

(5) On application by a resident of a retirement village, the ACAT may order that an additional term included in a village contract under subsection (4) (b) is void if satisfied the additional term does not comply with subsection (4) (b).



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### 69 Provision for payment of ingoing contributions

A village contract that provides for the payment of an ingoing contribution may also provide—

(a) that the contribution must be paid by instalments at the intervals stated in the contract; and

(b) if the contribution must be paid by instalments—for interest on the unpaid portion of the contribution to be payable, worked out as prescribed by regulation.

### 70 Parties to minimise loss from breach of village contract

The rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of a village contract.

## Division 5.2 Settling-in period for residents

### 71 Meaning of *end of the settling-in period*—div 5.2

In this division:

***end of the settling-in period***, for a village contract, means the latest of the following days:

(a) the day that is 90 days after the day when the resident is entitled to occupy the residential premises under the residence contract for the premises;

(b) if the resident occupies the premises before the day mentioned in paragraph (a)—the day that is 90 days after the resident first occupies the residential premises;

(c) another day agreed to by the operator of the retirement village and the resident.



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## 72 Ending of village contract during settling-in period

(1) A resident under a village contract for a retirement village may, before the end of the settling-in period, end the village contract—

(a) by permanently vacating the residential premises within the village; or

(b) for a contract other than a residence contract—by written notice to the operator of the village indicating an intention to end the contract.

(2) Nothing in this section requires a resident to occupy the residential premises before ending a village contract under this division.

(3) The ending of a village contract under this division does not constitute a breach of contract or other civil wrong.

## 73 Liability of former occupant if village contract ended during settling-in period

(1) If a village contract is ended under this division, the former occupant is only liable to pay—

(a) fair market rent for the period (if any) that the former occupant occupied the residential premises under the contract; and

(b) for a village contract that is a residence contract—the cost of any repairs for damage to the residential premises in excess of fair wear and tear; and

(c) a reasonable administration fee; and

(d) any other amount prescribed by regulation.

(2) Despite subsection (1), if the former occupant has not occupied the residential premises before ending a village contract under this division, the occupant is only liable to pay—

(a) the cost of any repairs for damage to the residential premises in excess of fair wear and tear; and



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(b) a reasonable administration fee.

(3) The amount the former occupant is liable to pay under this section may be offset against any amounts that are to be refunded to the former occupant under section 74.

(4) An administration fee mentioned in this section must not be more than the maximum fee prescribed by regulation.

## 74 Operator to refund certain payments made by resident

If a village contract is ended under this division, the operator of the retirement village must refund or pay to the former occupant—

(a) for a former occupant who is a registered interest holder (other than a registered long-term sublessee)—the proceeds from the sale of the residential premises to which the resident is entitled under the village contract; and

(b) any ingoing contribution paid to the operator under the village contract; and

(c) any recurrent charges paid to the operator under the village contract; and

(d) any other amount prescribed by regulation.

## 75 Time for making of payments

(1) A refund or a payment under section 74 to a former occupant, other than a former occupant who is a registered interest holder, must be made within—

(a) 14 days after the day the village contract is ended; or

(b) if another period is ordered by the ACAT—the ordered period.



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(2) A refund or a payment under section 74 to a former occupant who is a registered interest holder must be made within 14 days after the earliest of the following:

(a) the day the operator receives full payment under a residence contract with an incoming resident of the premises;

(b) the day the operator enters into a village contract with an incoming resident of the premises;

(c) the day the operator enters into a residential tenancy agreement with an incoming tenant of the premises;

(d) the day a person takes up residence in the premises with the operator's consent;

(e) if the operator buys the premises from the former occupant—the day the operator completes the purchase.

(3) If a payment that is required to be made under this division is not paid within the time required by this section, the operator of a retirement village or former occupant may apply to the ACAT for an order requiring the amount to be paid within a stated time.

(4) If the operator and former occupant are unable to agree on an amount required to be paid under this division, the operator or former occupant may apply to the ACAT for an order in relation to—

(a) the amount of fair market rent (if any) required to be paid under section 73 (1) (a) (Liability of former occupant if village contract ended during settling-in period); or

(b) what damage (if any) to the residential premises is in excess of fair wear and tear, and the amount (if any) required to be paid under section 73 (1) (b); or

(c) the reasonable administration fee (if any) required to be paid under section 73 (1) (c).



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(5) The ACAT may consider, but is not bound by—

(a) for subsection (4) (a)—the rent (if any) stated in the village contract when deciding the fair market rent; and

(b) for subsection (4) (c)—the administration fee (if any) stated in the village contract when deciding a reasonable administration fee.

## 76 Former occupant not required to pay certain amounts

(1) If a village contract is ended under this division, the former occupant is not required to pay any of the following amounts that would, but for this section, be payable by the former occupant under the contract:

(a) any recurrent charges;

(b) any departure fee;

(c) the cost of refurbishment of residential premises the subject of the residence contract;

(d) the costs of sale or letting of the premises;

(e) any amount stated in the village contract as being payable for ending the contract during the settling-in period;

(f) any other amount prescribed by regulation.

(2) In this section:

***refurbishment***, of residential premises the subject of a residence contract—see section 218.



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# Part 6 General management of retirement villages

## Division 6.1 Village rules

### 77 Application—div 6.1

This division does not apply in relation to—

(a) a part of a retirement village that is subject to a community title scheme or units plan; or

(b) the residents of that part of the village.

*Note* The body corporate's by-laws (for a community title scheme) or the owners corporation's rules (for a units plan) apply to the part of a retirement village that is subject to the scheme or plan (see *Community Title Act 2001* and *Unit Titles (Management) Act 2011*).

### 77A Meaning of *resident*—pt 6

In this part:

***resident***, of a retirement village, includes a former occupant of the retirement village.

*Note* ***Resident*** is defined for the Act in the dictionary.

### 78 Subject-matter of village rules

(1) Written rules relating to the use, enjoyment, control and management of a retirement village may be made in accordance with this division.

(2) The rules may relate to (but are not limited to) any of the following:

(a) people other than residents or employees of the retirement village living in the village;

(b) visitors, including overnight or short-stay guests;

(c) the making of noise;



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(d) the parking of motor vehicles;

(e) the disposal of garbage;

(f) the keeping of pets;

(g) gardening and landscaping;

(h) the use and operation of services or facilities (including restrictions on their use);

(i) any other matter prescribed by regulation.

## 79 Village rules to be consistent with other laws

A village rule has no effect to the extent that it is inconsistent with this Act or any other territory law.

## 80 Model village rules

A regulation may prescribe model village rules that may be adopted in relation to a retirement village.

## 81 Operator may make village rules for new villages

(1) The operator, or proposed operator, of a proposed retirement village may make village rules for the village.

(2) The operator of a retirement village may make village rules for the village if, when the rules are made, the village has no residents.

## 82 Villages without rules

If a retirement village has no village rules, the operator of the village may make rules for the village in the same way as village rules may be amended under section 83.



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## 83 Proposed amendment of village rules

(1) The operator of a retirement village must propose an amendment of the village rules if either of the following requests the operator in writing to do so:

(a) a minimum of 5 residents, or 10% of the residents, (whichever is the greater) of the village (or, if the village has fewer than 10 occupied residential premises, residents from a majority of the occupied residential premises);

(b) the residents committee for the village.

(2) The operator may propose an amendment of the village rules even if there has been no request under subsection (1).

(3) A proposed amendment is not to be made unless the residents of the village, by a special resolution, consent to the amendment.

(4) An operator who receives a request under subsection (1) must call a meeting of the residents of the village, to be held not later than 28 days after the day the request is received, to consider a special resolution about the proposed amendment.

(5) The residents committee for the retirement village or, if there is no residents committee, a representative of the residents of the retirement village, must tell the operator of the outcome of the vote taken to obtain the residents' consent to a proposed amendment.

(6) Within 7 days after the day the operator is told of the outcome of the vote taken to obtain the residents' consent under this section, the operator must tell the residents of the outcome of the vote.

(7) If consent is given, the amendment takes effect 7 days after the day the operator is told about the special resolution giving consent (or from any later date stated in the resolution).



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(8) However subsection (6) does not apply if the operator, within the 7-day period mentioned in subsection (6)—

(a) makes an application to the ACAT under section 84 (Operator's objection to proposed amendment of village rules); or

(b) seeks the residents' consent to an amendment to the approved annual budget (if any) under section 85 (Operator's concern that amendment will impose additional cost).

(9) Nothing in this section prevents the ACAT from making an order under section 86 (Other applications to ACAT about village rules) modifying or setting aside a village rule as amended.

(10) For this section:

***amendment***, of the village rules, includes the following:

(a) an amendment of a village rule;

(b) the addition of a new rule to the village rules;

(c) the omission of a village rule that is in force.

## 84 Operator's objection to proposed amendment of village rules

(1) This section applies if the operator of a retirement village objects to a proposed amendment of the village rules to which the residents have consented under section 83 (Proposed amendment of village rules).

(2) The operator may apply to the ACAT for an order prohibiting the proposed amendment.

(3) On application, the ACAT may, after considering the circumstances of the case, make an order—

(a) prohibiting the proposed amendment; or

(b) directing that the proposed amendment (or the proposed amendment modified as stated in the order) takes effect from a stated day.



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## 85 Operator's concern that amendment will impose additional cost

(1) This section applies if the operator of a retirement village considers that a proposed amendment of the village rules to which the residents have consented under section 83 (Proposed amendment of village rules) will impose a cost on the operator additional to that allowed for in the approved annual budget.

(2) The operator must seek the residents' consent to a proposed amendment of the approved annual budget.

*Note* Div 7.4 provides for proposed and approved annual budgets. Section 167 allows an operator to seek the residents' consent to a proposed amendment of the approved annual budget if unforeseen requirements for expenditure arise.

(3) Section 163 (ACAT orders—decisions about spending) does not apply in relation to a consent sought under this section.

(4) If the residents refuse to consent to the proposed amendment of the approved annual budget, the operator may apply to the ACAT for an order in relation to the proposed amendment.

(5) On application, the ACAT may, after considering the circumstances of the case, order that the approved annual budget—

(a) be amended as stated in the order; or

(b) not be amended.

(6) On making the order, the ACAT may also order—

(a) that the proposed amendment of the village rules has no effect; or

(b) that the proposed amendment of the village rules (or the proposed amendment modified as stated in the order) takes effect from a stated date.



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(7) This section does not apply in relation to a retirement village if the residents have consented under section 160 (Residents may consent to not receiving proposed annual budget) to not being supplied with a proposed annual budget.

## 86 Other applications to ACAT about village rules

(1) The operator or a resident of a retirement village may, at any time, apply to the ACAT for an order in relation to 1 or both of the following:

(a) a dispute concerning the legal validity of a village rule in force in the village;

(b) a village rule in force in the village that the operator or resident considers to be unjust, unconscionable, harsh or oppressive.

(2) The ACAT may decide the application by making an order—

(a) setting aside the village rule; or

(b) modifying the operation of the rule in its application to 1 or more residents of the village; or

(c) upholding the rule.

## 87 Compliance with village rules

(1) The operator and residents of a retirement village must comply with the village rules.

*Note* The ACAT may make various orders in relation to compliance with the village rules (see s 181). It may also end a resident's residence contract for serious or persistent breaches of the village rules (see s 188).

(2) If a village rule is inconsistent with a term of a village contract, the village rule prevails to the extent of the inconsistency.

(3) However, if the inconsistent term of the village contract is a standard term, that term prevails over the rule.



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### 88 Compliance with village rules by people other than operator and residents

(1) It is a term of a village contract that the resident of the retirement village or former occupant (the ***occupant***) who is a party to the contract will use the occupant's best endeavours to ensure compliance with the village rules by—

(a) a tenant or subtenant, under division 10.5 (Sale or letting of premises by certain residents), of the occupant; and

(b) any other person who is lawfully on the occupant's residential premises (other than a person who has a right of entry to the premises without the occupant's consent); and

(c) any other person who is in the village at the occupant's invitation.

(2) It is also a term of a village contract that the operator of the retirement village will use the operator's best endeavours to ensure compliance with the village rules by—

(a) the operator's tenants; and

(b) the operator's employees; and

(c) any other person who is in the village at the operator's invitation.

## Division 6.2 Certain obligations of operators

### 89 Certain people not to be operators

(1) A person to whom this section applies commits an offence if the person—

(a) is the operator of a retirement village; or

(b) is involved in the promotion or sale of a residence right in relation to residential premises in a retirement village; or



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(c) in any way (whether directly or indirectly) is involved in, or takes part, in the management or control of a retirement village.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) This section applies to the following people:

(a) a person who is bankrupt or personally insolvent;

(b) a person who is a director of a Chapter 5 body corporate;

(c) a person who was a director of a company that has been wound up (otherwise than voluntarily);

(d) a person who has been convicted (in the ACT or elsewhere) of an offence involving—

(i) physical violence to another person; or

(ii) fraud or dishonesty, if the offence is punishable on conviction by imprisonment for a period of not less than 3 months.

(4) However, this section applies—

(a) to a person mentioned in subsection (3) (c)—only for the period of 5 years following the day the company is wound up; and

(b) to a person mentioned in subsection (3) (d)—only for the period of 5 years following the person's conviction (or, if the person was sentenced to imprisonment, within the period of 5 years following the person's release).

(5) In this section:

***Chapter 5 body corporate***—see the Corporations Act, section 9.



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## 90 Operator to provide secure premises

(1) The operator of a retirement village must ensure that the village generally is reasonably secure.

(2) Without limiting subsection (1), the operator must ensure that—

(a) all residential premises in the village have enough locks or other security devices necessary to make the premises reasonably secure; and

(b) the locks and other security devices are in good working order.

(3) Subsection (2) does not apply in relation to residential premises that are subject to a community title scheme, company title scheme or units plan unless the operator, or a close associate of the operator, is the owner of the premises.

(4) If a tradesperson, or someone else, requires access to residential premises to carry out works, the operator must give reasonable notice of the access needed to each affected resident.

(5) A resident of a retirement village who believes on reasonable grounds that the village is not reasonably secure may apply to the ACAT for the following:

(a) an order directing the operator to comply with subsection (1) or (2);

(b) any other order mentioned in section 181 (1) (ACAT orders).

## 91 Operator to provide safe premises

(1) The operator of a retirement village must ensure that the village generally is reasonably safe.

(2) Without limiting subsection (1), the operator must—

(a) prepare written safety and emergency procedures; and

(b) take reasonable steps to ensure that all residents and staff are familiar with those procedures; and



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(c) provide emergency assembly point signage consistent with those procedures; and

(d) provide signage at key points in the village to assist local emergency and home care service agencies to locate village premises; and

(e) give residents an emergency out-of-hours number to contact the operator in case of serious disturbances in the village; and

(f) do a safety inspection at least once each year, and make a safety inspection report on the findings of the inspection; and

(g) make a copy of the inspection report available to the residents committee for the retirement village (if any) and place a copy of the report on the notice board in a communal area within the village; and

(h) take any other action prescribed by regulation to ensure that the village generally is reasonably safe.

(3) Without limiting subsection (2) (h), a regulation may provide for the following:

(a) the form of the written safety and emergency procedures;

(b) the conduct of safety inspections required under subsection (2) (f);

(c) the manner and form of a safety inspection report;

(d) the period that the safety inspection report must remain on the notice board as mentioned in subsection (2) (g).

(4) A resident who believes on reasonable grounds that the retirement village is not reasonably safe may apply to the ACAT for any of the following:

(a) an order directing the operator to comply with subsection (1) or (2);

(b) any other order mentioned in section 181 (1) (ACAT orders).



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## 92 Operator to provide village emergency system on request

(1) The residents of a retirement village may, by a special resolution, ask the operator of the village to provide or arrange for a village emergency system of a stated kind in the village.

(2) If a request is made, the residents are taken to have consented to the inclusion, in the proposed annual budget relating to the financial year following the date of the resolution, of the cost of providing or arranging for the village emergency system.

(3) If the operator fails to comply with the request, any resident of the village may apply to the ACAT for an order directing the operator to provide or arrange for a village emergency system of the kind requested by the residents.

(4) The operator must ensure that any village emergency system provided in the village (whether or not it was provided at the request of the residents) is regularly and adequately monitored and serviced.

(5) Nothing in this section prevents a resident from arranging, at the resident's expense, for the provision of a system that will enable the resident to call for assistance in an emergency.

(6) A system mentioned in subsection (5) is not a village emergency system.

(7) In this section:

***village emergency system*** means a system that enables a resident to call for assistance in an emergency.

**Examples**

1 an emergency call button in residential premises and common areas

2 an emergency call bracelet that can be worn by a resident



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## 93 Failure to provide emergency and home care service vehicles access to retirement village

(1) The operator of a retirement village commits an offence if the operator fails to take all reasonable steps to ensure that—

(a) emergency and home care service personnel have unimpeded vehicular access to the residential premises in the village at all times; and

(b) the residents of the village, and local emergency and home care service agencies, are consulted and kept informed about any arrangements made to secure the access.

**Examples**

1 information about access arrangements available at meetings of residents

2 signs indicating areas to be kept clear

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

## 94 Change in services or facilities provided at village

(1) The operator of a retirement village must propose a change in the services and facilities provided at the village if either of the following requests the operator in writing to do so:

(a) a minimum of 5 residents, or 10% of the residents, (whichever is the greater) of the village (or, if the village has fewer than 10 occupied residential premises, residents from a majority of the occupied residential premises); or

(b) the residents committee for the village.

(2) The operator may propose a change in the services and facilities provided at the village even if there has been no request under subsection (1).



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(3) The services and facilities provided at the village are not to be changed as proposed unless the residents of the village, by a special resolution, consent to the change.

(4) An operator who receives a request under subsection (1) must call a meeting of the residents of the village, to be held not later than 28 days after the day the request is received, to consider a special resolution about the proposed change.

(5) A resident is not entitled to vote on the special resolution unless the proposed service or facility is (or is proposed to be) available to the resident.

(6) If consent is given, the operator may change the service or facility in accordance with the consent as soon as practicable (unless the resolution provides that the change takes effect on a stated later day).

(7) Despite the terms of a village contract, the operator does not breach the contract by changing services or facilities.

(8) If the operator considers that a proposed change in services or facilities will impose a cost on the operator additional to that allowed for in the approved annual budget, the operator must seek the residents' consent to an amendment of the approved annual budget.

*Note* Div 7.4 provides for proposed and approved annual budgets. Section 167 allows an operator to seek the residents' consent to an amendment of the approved annual budget if unforeseen requirements for expenditure arise.

(9) Section 163 (ACAT orders—decisions about spending) does not apply in relation to a consent sought under this section.

(10) If the residents refuse to consent to the amendment, section 85 (4) to (6) (Operator's concern that amendment will impose additional cost) applies to the refusal in the same way that it applies to a refusal under that section.



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(11) In this section:

***change***, in a service or facility, includes the following:

(a) a reduction in the service or facility;

(b) the withdrawal of the service or facility;

(c) an increase in the service or facility;

(d) any other change in the service or facility;

(e) the provision of a new service or facility.

## 95 Operator not to reduce or withdraw certain services and facilities

If a development approval for a retirement village requires that a particular service or facility be provided for the life of the village, the operator of the village must not reduce or withdraw that service or facility (despite any consent of the residents) unless the development approval is amended to omit or amend that requirement.

## 96 Consequence of unlawful change in services or facilities

(1) If the operator of a retirement village reduces or withdraws, or allows the reduction or withdrawal of, a service or facility otherwise than in accordance with section 94 (Change in services or facilities provided at village), a resident of the village may apply to the ACAT for an order for 1 or more of the following:

(a) the reinstatement of the service or facility;

(b) the payment of compensation in relation to the reduced or withdrawn service or facility;

(c) a reduction in the recurrent charges payable by 1 or more of the residents;

(d) the payment of the whole or part of those recurrent charges to the ACAT until the service or facility is reinstated.



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(2) On application, the ACAT may make—

(a) the order sought; or

(b) any other order mentioned in subsection (1).

## 97 Operator not to require residents to patronise particular businesses

(1) The operator of a retirement village commits an offence if the operator restricts the capacity of a resident of the village to buy goods and services from a person.

Maximum penalty: 10 penalty units.

**Example**

preventing a resident from obtaining meals-on-wheels services

(2) An offence against subsection (1) is a strict liability offence.

(3) Subsection (1) does not apply if the operator prohibits a goods or service provider from entry (or further entry) into the retirement village because the provider has—

(a) unduly disturbed the peace and quiet of the village; or

(b) failed to observe reasonable rules of conduct established by the operator; or

(c) contravened a village rule about motor vehicle traffic that is displayed in, or near the boundary of, the village.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).



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### 98 Operator not to demand power of attorney

(1) The operator of a retirement village commits an offence if the operator requires a resident or prospective resident of the village to give the operator a power of attorney in favour of—

(a) the operator; or

(b) a close associate of the operator; or

(c) a person nominated by the operator.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) A power of attorney given in favour of a person mentioned in subsection (1) (a) to (c) by a resident or prospective resident is void.

(4) Subsection (3) does not apply if the resident or prospective resident who gave the power of attorney is a relative of the operator.

(5) This section has effect despite—

(a) the *Powers of Attorney Act 2006*; and

(b) the terms of the instrument creating the power of attorney.

*Note* The *Powers of Attorney Act 2006*, s 32 provides that an enduring power of attorney is not revoked even if the person who gave the power of attorney becomes a person with impaired decision-making capacity.

## Division 6.3 Certain rights of residents

### 99 Operator to respect rights of residents

(1) The operator of a retirement village must respect the rights of residents of the village.

(2) Without limiting subsection (1), the operator—

(a) must not interfere, or cause or allow any interference, with the reasonable peace, comfort or privacy of a resident; and



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(b) must take all reasonable steps to ensure that all residents meet their obligations under their village contracts, the village rules and this Act, so that a resident does not unreasonably interfere with the peace, comfort and quiet enjoyment of fellow residents; and

(c) must not interfere with the right of a resident to autonomy over the resident's possessions and personal, financial and other matters; and

(d) must not inhibit any resident from exercising self-reliance in matters relating to the resident's personal, domestic or financial affairs; and

(e) must use the operator's best endeavours to ensure that each resident lives in an environment free from harassment and intimidation.

(3) A resident who reasonably believes that the operator of the village has contravened this section in relation to the resident may apply to the ACAT for an order for either or both of the following:

(a) an order directing the operator to pay compensation to the resident;

(b) an order directing the operator to comply with this section.

(4) On application, the ACAT may make—

(a) the order sought; or

(b) any other order mentioned in subsection (3).



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## 100 Restriction of operator's access to residential premises

(1) The operator of a retirement village and any person authorised by the operator (an ***authorised person***) commits an offence if—

(a) a person has a residence right in relation to residential premises in the village; and

(b) the operator or authorised person enters the residential premises.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) Subsection (1) does not apply if the operator or authorised person enters the residential premises in any of the following circumstances:

(a) if the resident consents to the entry;

(b) in an emergency, or if the operator has reasonable cause for concern about the health or safety of a person that the operator believes is on the premises;

(c) to carry out urgent repairs;

(d) to carry out general maintenance, but only if 7 days' written notice has been given to the resident;

(e) to carry out a general inspection of the premises, but only if—

(i) the resident is not a registered interest holder in relation to the premises; and

(ii) 7 days' written notice has been given to the resident; and

(iii) a general inspection of the premises has not been carried out more than once in the preceding 12 months;

(f) in accordance with an order of the ACAT;

(g) in any other circumstance prescribed by regulation.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).



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(4) The ACAT may, on application by the operator, make an order authorising the operator or another person to enter residential premises in the village.

(5) A resident who reasonably believes that the operator has contravened this section in relation to the resident may apply to the ACAT for either or both of the following:

(a) an order directing the operator to pay compensation to the resident;

(b) an order directing the operator to comply with this section.

(6) On application, the ACAT may make—

(a) the order sought; or

(b) any other order mentioned in subsection (4).

## 101 Right to appoint agent

(1) A resident of a retirement village may appoint a person as the resident's agent for receiving notices or other documents to be given to the resident under a village contract or under this Act.

**Examples**

1 if the resident cannot read or write English

2 if the resident is sick

3 if the resident is going to be away from the resident's residential premises for some time

(2) An appointment of the operator of the retirement village (or a close associate of the operator or a person nominated by the operator) as an agent under this section is void.

(3) An appointment—

(a) may be made in a village contract or at any time after the day the contract commences; and

(b) may be revoked at any time by the resident.



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(4) However, the appointment or revocation has no effect until it is notified in writing to the operator of the village.

(5) The operator must give to the resident's agent, until the time the appointment expires or is revoked, any notice or other document that the operator is required to give to the resident under a village contract or this Act.

(6) A notice or other document that is required by this section to be given to the resident's agent and that is not given to the agent, is taken not to have been given to the resident.

## 102 Residents to be given access to information about them

(1) The operator of a retirement village—

(a) must, if asked at any reasonable time, give a resident of the village access to any information about the resident that is held by the operator; and

(b) must give the resident a copy of that information if the resident asks for it; and

(c) if the resident satisfies the operator that any of the information is incorrect—must correct the information, if asked, in accordance with the resident's instructions.

*Note* Section 258 prohibits the operator of a retirement village from charging the resident for giving access to the information or providing a copy of it.

(2) If the operator fails to comply with a request made under this section, the resident may apply to the ACAT for an order directing the operator to comply.



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## 103 Residents committees and organisations

(1) The residents of a retirement village may consent to the establishment of a residents committee for the village.

(2) The residents committee for a retirement village—

(a) if the retirement village is subject to a units plan—is the executive committee of the owners corporation for the units plan; or

(b) in any other case—must be elected by the residents.

(3) Only 1 residents committee may be established for a retirement village.

(4) Only a resident of a retirement village may be a member of the residents committee for the village.

(5) If more than 1 entity (regardless of its name) purports to be the residents committee for a retirement village, the operator or a resident of the village may apply to the ACAT for an order deciding which entity (if any) is the residents committee for the village.

(6) A residents committee may, subject to a regulation—

(a) decide its own procedure; and

(b) form 1 or more subcommittees and decide their procedure; and

(c) call meetings of all the residents of the village to consider and vote on matters mentioned in section 112 (1) (Meetings of residents).

(7) The operator of a retirement village commits an offence if the operator—

(a) discourages or prevents the establishment of a residents committee; or

(b) obstructs a residents committee in the exercise of its functions; or



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(c) attempts to prevent residents from joining an organisation for residents of retirement villages.

Maximum penalty: 50 penalty units.

(8) An offence against subsection (7) is a strict liability offence.

(9) The operator must provide reasonable administrative assistance to the residents committee on request by the committee, but only if an estimate of the cost of providing the assistance has been included in the approved annual budget for the financial year in which the assistance is requested.

**Example**

printing or distributing notices

(10) Nothing in this section prevents the residents from establishing other committees of residents for other purposes.

(11) In this section:

***executive committee***, of an owners corporation—see the *Unit Titles (Management) Act 2011*, dictionary.

## 104 Membership of residents committee

(1) A person must not hold the same office, or hold an office exercising the same (or substantially the same) function, on the residents committee for a retirement village for more than 3 consecutive years, except as provided by regulation.

(2) For subsection (1), the 3 consecutive year period starts on the day the person starts performing the functions of the office.

(3) The election of a person to an office in contravention of subsection (1) is void.



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(4) Any act, matter or thing done by a residents committee, in good faith, even though at the time that the act, matter or thing was done the election of a member of the committee was void under subsection (3), is valid as if the election of the member was not void under that subsection.

(5) Anything done by a residents committee is not invalid only because the election of a committee member was void under subsection (3).

(6) This section does not apply to a residents committee for a retirement village that is subject to a units plan.

(7) In this section:

***office***, on a residents committee for a retirement village—

(a) means a position on the committee with stated functions; and

**Examples**

president, treasurer, secretary

(b) does not include the position of ordinary member.

## 105 Regulations about residents committees

A regulation may—

(a) provide for matters in relation to the election, functions and procedure of a residents committee and subcommittee; and

(b) prescribe model rules that may be adopted by a residents committee.

## 106 Meetings between residents committee and operator

(1) The operator of a retirement village must, on the reasonable request of a residents committee for the village, meet the residents committee (or a representative of the committee).

(2) Subsection (1) does not apply to an operator who owns land in the village unless the operator is also involved in the management and control of the village.



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(3) A residents committee (or a representative of the committee) must, on the reasonable request of the operator, meet the operator.

(4) If a reasonable request under this section is not complied with, the operator or the residents committee that made the request may apply to the ACAT for an order directing compliance with the request.

## 107 Operator must hold annual management meeting

(1) The operator of a retirement village commits an offence if the operator does not hold, in each financial year for the village, an annual management meeting of the residents of the village in accordance with this section.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) The annual management meeting must be held not more than 4 months after the end of each financial year.

(4) Nothing in this section prevents the operator from calling a meeting of the residents at any other time.

## 108 Operator must give notice of annual management meeting

(1) The operator of a retirement village commits an offence if the operator does not give written notice to the residents of the village at least 14 days before the annual management meeting of—

(a) the time and place of the meeting; and

(b) the agenda for the meeting.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is a strict liability offence.



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(3) A notice under subsection (1) must include an invitation to the residents to submit—

(a) written questions to the operator at least 7 days before the meeting; and

(b) other questions at the meeting.

(4) A regulation may prescribe matters that must be included in the agenda for an annual management meeting.

## 109 Annual management meeting—chair

(1) The annual management meeting of the residents of a retirement village must be chaired by—

(a) the operator of the village; or

(b) a representative of the operator who is authorised to answer questions put at the meeting in accordance with section 110.

(2) If the operator or representative is required to leave any part of the meeting under section 113 (4), that part of the meeting must be chaired by a resident agreed to by the residents at the meeting.

*Note* The annual management meeting is a meeting of the residents of a retirement village and, accordingly, the provisions of this Act applying to meetings of the residents also apply to an annual management meeting.

## 110 Questions to be answered at annual management meeting

(1) The chair of the annual management meeting must ensure that the residents of a retirement village have a reasonable opportunity to put questions to the operator of the village or a representative of the operator at the meeting.



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(2) The operator or representative of the operator must answer questions submitted in writing under section 108 (3) (a) (Operator must give notice of annual management meeting) or put to the operator or representative at the meeting—

(a) if possible—in reasonable detail at the relevant meeting; and

(b) to the extent that compliance with paragraph (a) is not possible—in reasonable detail, as soon as practicable after the meeting, in writing given to all of the residents of the retirement village.

(3) Nothing in this section requires the operator or representative to—

(a) answer an unreasonable question; or

(b) answer a question relating to an excluded matter prescribed by regulation.

## 110A Operator must keep minutes of meetings with residents

(1) This section applies to the following meetings of a retirement village—

(a) an annual management meeting; or

(b) a meeting between the operator and the residents of the village convened by the operator, whether under this Act or otherwise.

(2) The operator of the retirement village must keep minutes of the meeting.

*Note* If minutes or other records kept by the operator of a retirement village contain personal information, the operator must comply with the Australian Privacy Principles under the *Privacy Act 1988* (Cwlth) in relation to that information.

(3) The operator must—

(a) make the minutes available for inspection by residents at the retirement village; and



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(b) for minutes in relation to a meeting held on a regular basis—arrange for the minutes to be adopted at the following meeting.

(4) The operator may keep the minutes in an electronic form.

## 111 Villages without residents committee

If there is no residents committee elected for a retirement village, the operator of the village must call a meeting of the residents (to be held in or near the village) if requested to do so by—

(a) for a village with fewer than 10 occupied residential premises—residents from a majority of the occupied residential premises; or

(b) for a village with 10 or more occupied residential premises—the greater of—

(i) 5 residents of the village; and

(ii) 10% of the residents of the village.

## 112 Meetings of residents

(1) The residents of a retirement village may meet to consider and vote on—

(a) any matter for which the consent of the residents is required under this Act; and

(b) any other matter affecting the management and operation of the village; and

(c) any other matter prescribed by regulation.

(2) A meeting of residents of a retirement village (other than an annual management meeting) must be chaired by a resident agreed to by the residents at the meeting.

(3) A vote of the residents of a retirement village on a matter mentioned in subsection (1) (b) does not bind the operator of the village.



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(4) If 2 or more residents occupy the same residential premises in the village—

(a) each of them may attend a meeting mentioned in subsection (1); but

(b) only 1 of them may vote on a matter mentioned in subsection (1).

(5) Despite subsection (4), the residents of a retirement village may, by special resolution at a meeting, consent to each resident occupying the same residential premises having a separate vote at the meeting, on a matter mentioned in subsection (1).

(6) Subsections (4) and (5) do not apply to the residents of a retirement village that is subject to a units plan.

*Note* For voting procedures for residents of a retirement village that is subject to a units plan, see the *Unit Titles (Management) Act 2011*, sch 3, s 3.22.

(7) A meeting of residents may be held simultaneously with a meeting that the residents, in another capacity, are required to hold or participate in under another Act.

**Example**

a meeting required under the *Unit Titles (Management) Act 2011*

(8) The operator of a retirement village commits an offence if the operator interferes with a resident exercising a power under subsection (1).

Maximum penalty: 50 penalty units.

(9) An offence against subsection (8) is a strict liability offence.



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## 112A Meetings of residents—methods of communication

(1) This section applies to a meeting of residents of a retirement village mentioned in section 112 (1).

(2) The residents committee may authorise that the meeting be held using a method of communication, or a combination of methods of communication, that allows a resident taking part to hear or otherwise know what each other resident taking part says without the residents being in each other's presence.

**Examples**

a phone link, a satellite link, an internet or intranet link, in writing

(3) If there is no residents committee for a retirement village, the residents of the village may make an authorisation under subsection (2) if requested to do so by—

(a) for a village with fewer than 10 occupied residential premises—residents from a majority of the occupied residential premises; or

(b) for a village with 10 or more occupied residential premises—the greater of—

(i) 5 residents of the village; and

(ii) 10% of the residents of the village.

(4) A person who takes part in a meeting conducted under subsection (2) is taken, for all purposes, to be present at the meeting.

## 113 Attendance at meetings of residents

(1) A resident of a retirement village is not obliged to attend, or vote at, a meeting of the residents of the village.



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(2) A person (other than a proxy of a resident) who is not a resident of the village (including a person who occupies residential premises in the village otherwise than under a residence right) must not attend, or remain at, a meeting of the residents unless the residents at the meeting consent to the person attending the meeting.

*Note* A person is not a proxy for a resident unless the person is appointed under s 116 (see s 116 (3)).

(3) Subsection (2) does not apply to the operator of a retirement village, or a representative of the operator, during the annual management meeting of the village.

(4) An operator or representative who is attending a meeting of the residents (with the residents' consent), or attending an annual management meeting of the village, must leave the meeting during any vote that is taken by the residents at the meeting, but may return to the meeting after the vote.

(5) Despite subsection (2), a person may attend a meeting of the residents of a retirement village and vote at the meeting on behalf of a resident if the person—

(a) is authorised to do so under a power of attorney given in favour of the person by the resident; or

(b) is a person appointed under the *Guardianship and Management of Property Act 1991* as guardian for the resident.

## 114 Meetings of residents—attendance by investigator

(1) The operator of a retirement village commits an offence if—

(a) the residents of the village consent to an investigator attending a meeting of the residents; and



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(b) the operator prevents or hinders the investigator attending the meeting.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 115 No restrictions on voting

(1) A village contract may explain the system under which, at the time the contract is entered into, the residents of the retirement village meet and consider and vote on matters mentioned in section 112 (1) (Meetings of residents).

(2) However, a term of the contract that purports to bind a resident to a particular system is void to the extent that it does so.

(3) A covenant, and any contract or other arrangement between the operator of a retirement village and a resident of the village, under which a particular vote of the resident (or the resident's failure to vote) on a matter relating to the village attracts a penalty, is void to the extent of that provision.

## 116 Proxies

(1) A resident of a retirement village may, from time to time, appoint a person as the proxy of the resident.

*Note* If a form is approved under s 263 for this provision, the form must be used.

(2) The appointment must be made in the way prescribed by regulation.

(3) A person is not the proxy of a resident of a retirement village for this Act unless the person is appointed under this section.

(4) An appointment of the operator of a retirement village or close associate of the operator as a proxy is void.



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(5) A person appointed as the proxy of a resident of a retirement village cannot vote on a matter on the resident's behalf if the resident personally votes on the matter.

(6) This section applies despite the terms of the instrument appointing a person as the proxy of the resident.

(7) This section does not apply to residents of a retirement village that is subject to a units plan.

*Note* For proxy votes for residents of a retirement village that is subject to a units plan, see the *Unit Titles (Management) Act 2011*, sch 3, s 3.26.

## 117 Certain limitations on proxies

(1) If a person holds appointments as the proxy of 2 residents (or any other number of residents prescribed by regulation) in any 1 retirement village at any 1 time, the appointment of the person as proxy of another resident of the village, while the person continues to hold the other appointments, is void.

(2) An appointment of a person as the proxy of a resident of a retirement village—

(a) may be revoked at any time by the appointor by written notice to the person; and

(b) if it is not revoked, ends—

(i) after the first meeting at which it is exercised; or

(ii) if it is not exercised during the period of 6 months immediately following the day the appointment is made—on the end of that period.

(3) Nothing in this section prevents a resident of a retirement village from reappointing a person as the resident's proxy after the revocation or ending of an appointment.



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(4) This section does not apply to residents of a retirement village that is subject to a units plan.

*Note* For proxy votes for residents of a retirement village that is subject to a units plan, see the *Unit Titles (Management) Act 2011*, sch 3, s 3.26.

## 118 Effect of certain votes

A vote or resolution of the residents of a retirement village that purports to oblige the operator of the village to do either of the following is void:

(a) to abandon or amend plans for development in the village;

(b) to stop acting as the operator of the village.

*Note* Submissions about proposed development in the village can be made under the *Planning Act 2023* at the time the operator seeks development approval under that Act.

Retirement villages may contain residential premises that are subject to a company title scheme, a community title scheme or a units plan. Resolutions of directors or members of the companies, and votes of relevant bodies corporate for community title schemes and owners corporations for unit titles have no relevance to decisions of residents under this Act.

## 119 Notice of intention to vacate

The maximum notice of an intention to vacate residential premises in a retirement village that the operator of the village may require from a resident of the premises (whether under a contract or otherwise) is 1 month's written notice.



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# Division 6.4 Right of certain relatives to become residents

## 120 Relative may ask to enter into residence contract

(1) This section applies to a relative of a resident of residential premises in a retirement village if the relative—

(a) is a retired person; and

(b) is occupying the residential premises at the time that the resident dies or vacates the premises; and

(c) had been occupying those premises for at least 6 months immediately before that time.

(2) The relative of the resident may ask the operator of the retirement village to enter into a residence contract in relation to the premises.

(3) This section does not apply if—

(a) the resident is, or was, a registered interest holder (other than a registered long-term sublessee) in relation to the residential premises; or

(b) the resident is taken to be a resident under section 8 (2) (Meaning of *residence right*).

## 121 Application to ACAT by relative of resident

(1) This section applies if the operator of a retirement village does not enter into a residence contract mentioned in section 120 (2) with a relative of a resident of residential premises in the village.

(2) The relative of the resident may apply to the ACAT for an order directing the operator to enter into the contract within the time stated in the order.



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## 122 Application to ACAT by operator in relation to possession of premises by relative of resident

(1) This section applies if a relative of a resident of residential premises in a retirement village—

(a) does not enter into a residence contract mentioned in section 120 (2) with the operator of the village in relation to the residential premises; and

(b) fails to give vacant possession of the residential premises to the operator.

(2) The operator may apply to the ACAT for an order directing the relative of the resident to deliver vacant possession of the residential premises to the operator within the time stated in the order.

(3) However, if the ACAT is satisfied that the relative of the resident failed to enter into a residence contract only because the terms of the proposed contract were unreasonable, the ACAT may—

(a) set the terms of the contract, taking into account the following:

(i) the terms of other residence contracts in force in the village;

(ii) the terms in the standard form contract;

(iii) a term required to be included by a regulation made under section 66 (Prescribed matters in village contracts); and

(b) direct the operator and the relative to enter into the contract within the time stated in the order.

(4) The operator must not enter into a residence contract in relation to the residential premises with a person other than the relative of the resident unless—

(a) the relative gives vacant possession of the premises to the operator; or

(b) the ACAT orders the relative to do so.



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(5) A contract entered into in contravention of subsection (4) is void.

### 123 Application to ACAT by operator in relation to possession of premises by other person

(1) This section applies if—

(a) a person who was occupying residential premises in a retirement village with a resident of the village who has vacated the premises is not a person mentioned in section 120 (1) (Relative may ask to enter into residence contract); and

(b) the person fails to give vacant possession of the premises to the operator.

(2) The operator may apply to the ACAT for an order requiring the person to give vacant possession of the premises to the operator within the time stated in the order.

## Division 6.5 Certain obligations of residents

### 124 Residents to respect rights of other people

(1) It is a term of every residence contract for residential premises in a retirement village that the resident of the village must respect the rights of other residents of, and other people in, the village.

(2) Without limiting subsection (1), a resident—

(a) must not interfere, or cause or allow any interference, with the reasonable peace, comfort or privacy of another resident; and

(b) must respect the rights of the operator of the village, and agents and employees of the operator, to work in an environment free from harassment or intimidation; and

(c) must not act in a manner that adversely affects the occupational health and safety of people working in the village.



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(3) If the operator reasonably believes that a resident has contravened this section, the operator may apply to the ACAT for an order directing the resident to comply with this section.

## Division 6.6 Administrators, receivers and managers

### 125 Application for order appointing administrator

(1) The director-general may apply to the Supreme Court for an order appointing a stated person as an administrator in relation to the operator of a retirement village—

(a) to exercise all the functions of the operator; or

(b) to exercise stated functions of the operator; or

(c) to exercise all the functions other than stated functions of the operator.

(2) The director-general may apply for an order only if—

(a) the director-general reasonably believes that the wellbeing or financial security of the residents of the retirement village has been, or is likely to be, seriously affected by the continued operation of the retirement village by the operator; or

(b) the director-general reasonably believes that the operator is wilfully and repeatedly acting in contravention of an order made by the ACAT or a court in relation to the retirement village; or

(c) the retirement village is the subject of an existing order under this section.

(3) For the purpose of determining whether an application for an order should be made, the director-general may appoint a person to inquire into, and report to the director-general on, the wellbeing and financial security of the residents of the retirement village.



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(4) More than 1 order may be made under this division in relation to the same retirement village.

## 126 No application without consent

The director-general must not apply for an order appointing a person as an administrator under this division unless the person has given written consent to the appointment.

## 127 Order may exempt administrator from certain obligations

Without limiting the terms of the order of appointment of an administrator, the order may exempt the administrator from complying with stated obligations of the operator of a retirement village.

## 128 Effect of appointment

(1) The operator of a retirement village must not, while an order of appointment of an administrator is in force in relation to the village, exercise any function of the operator that the administrator is authorised to exercise.

(2) However, the appointment of an administrator does not relieve the operator of any of the operator's liabilities under a village contract.

(3) Subject to the terms of the appointment, a person appointed as an administrator—

(a) must comply with all the obligations of the operator in relation to the functions that the person is authorised to exercise (including functions under a village contract); and

(b) is, in the exercise of the operator's functions, taken to be the operator.



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## 129 Expenses of administration

(1) The expenses incurred by an administrator in exercising the functions of the operator of a retirement village are payable from—

(a) recurrent charges; and

(b) any other funds that would be available to the operator for those expenses if the administrator had not been appointed.

(2) The Territory is not liable for—

(a) any expenses incurred by an administrator to exercise the functions of the operator; or

(b) any liability of the operator for which an administrator is appointed.

## 130 Administrator may amend village contract

(1) Despite any other provision of this Act, an administrator may, with the director-general's consent—

(a) amend or revoke an approved annual budget; or

(b) amend the recurrent charges payable by the residents of the retirement village; or

(c) change the services offered by the retirement village.

(2) The director-general may give consent under subsection (1) only if, in the director-general's opinion, the proposed revocation, amendment or change is done to—

(a) assist in the process of finding a new operator for the retirement village; or

(b) ensure the financial viability of the retirement village.



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(3) Nothing done by the administrator in accordance with this section constitutes a breach of contract or other civil wrong.

(4) No compensation is payable to any person because of the operation of this section or anything done under this section.

### 131 Revocation of appointment

The appointment of an administrator may be revoked or amended by the Supreme Court (whether or not on application by the director-general).

### 132 Receivers and managers

(1) If a receiver, or a receiver and manager, is appointed in relation to the operator of a retirement village, the person appointed must (subject to the terms of the appointment) comply with the operator's obligations under this Act as if that person were the operator.

(2) The terms of appointment of a receiver, or a receiver and manager, may exempt the appointee from complying with stated obligations.

(3) This section does not apply to the extent that it is inconsistent with the Corporations Act.

### 133 Protection from liability—administrator, receiver or receiver and manager

An administrator, a receiver or receiver and manager is not civilly liable for anything done or omitted to be done honestly and without recklessness—

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the conduct was in the exercise of a function under this Act.



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# Part 7 Financial management of retirement villages

## Division 7.1 Preliminary

### 133A Meaning of *resident*—pt 7

In this part:

***resident***, of a retirement village, includes a former occupant of the retirement village.

### 134 Financial year for retirement village

(1) The operator of a retirement village must fix a financial year for the village.

(2) The financial year must be a period of 12 months beginning and ending on dates fixed by the operator.

## Division 7.2 Capital maintenance and replacement

### 135 Definitions—div 7.2

(1) In this division:

***capital item***, for which the operator of a retirement village is responsible—

(a) means—

(i) a building or structure in the village; and

(ii) plant, machinery or equipment used in the village's operation; and



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(iii) any part of a building or structure in the village, including any part of a building or structure in a community area, amenity area, service area or access area; and

(iv) any other item prescribed by regulation; but

(b) does not include a capital item that is—

(i) owned by a resident of the village; or

(ii) common property under a community title scheme or units plan; or

(iii) prescribed by regulation.

*Note* Power to make a regulation in relation to a matter includes power to make provision in relation to a class of matter (see Legislation Act, s 48 (2)).

***capital maintenance***—

(a) means works carried out for repairing or maintaining a capital item; and

(b) includes works prescribed by regulation as being capital maintenance; but

(c) does not include works prescribed by regulation as not being capital maintenance.

***capital replacement—***

(a) means works carried out for replacing a capital item; but

(b) does not include—

(i) capital maintenance; or

(ii) replacing a part of a capital item (unless replacing the part substantially improves, adds to or alters the capital item).



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(2) In this section:

***common property***—

(a) under a community title scheme—see the *Community Title Act 2001*, section 18; and

(b) under a units plan—see the *Unit Titles Act 2001*, section 13.

## 136 Meaning of *urgent*—div 7.2

In this division:

***urgent***—repair or replacement of a capital item in a retirement village is ***urgent*** if it is to rectify any of the following:

(a) a burst water service;

(b) a blocked or broken lavatory service;

(c) a serious roof leak;

(d) a gas leak;

(e) a dangerous electrical fault;

(f) flooding or serious flood damage;

(g) serious storm or fire damage;

(h) a failure or breakdown of the gas, electricity or water supply to residential premises in the village;

(i) a failure or breakdown of any essential service on the residential premises for hot water, cooking, heating or laundering;

(j) any fault or damage that causes the village to be unsafe or insecure;

(k) anything else prescribed by regulation.



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## 136A Capital maintenance and replacement guidelines

(1) The Minister may make guidelines in relation to this division.

(2) Without limiting subsection (1), a guideline may make provision in relation to the following:

(a) the operation of this division;

(b) the classification of, including the distinction between, capital maintenance and capital replacement.

(3) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## 137 Operator's obligations—capital maintenance or replacement

(1) The operator of a retirement village must maintain each item of capital for which the operator is responsible in a reasonable condition taking into account the following:

(a) the age of the item;

(b) the prospective life of the item;

(c) the money paid to the operator by the residents under a village contract (including ingoing contributions).

*Note* ***Capital maintenance***—see the dictionary.

(2) If it is not practical to maintain a capital item, the operator may replace the item.

(3) The operator must repair or replace a capital item for which the operator is responsible within a reasonable time after becoming aware of the need to repair or replace the item.



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## 138 Residents' obligations—capital maintenance or replacement

(1) If a resident of a retirement village becomes aware that a capital item for which the operator of the village is responsible and that is located in the resident's residential premises needs to be repaired or replaced, the resident must notify the operator as soon as practicable after becoming aware of it.

(2) The resident must reimburse the operator in relation to any damage (other than fair wear and tear) caused by the resident to a capital item for which the operator is responsible.

(3) The resident must not hinder or obstruct the operator, or a person authorised by the operator, from maintaining (including repairing) or replacing a capital item for which the operator is responsible.

*Note* Section 100 sets out the circumstances in which an operator of a retirement village or a person authorised by the operator may enter residential premises for which a person has a residence right.

## 139 Resident may carry out urgent work

(1) A resident of a retirement village may carry out capital maintenance or capital replacement (the ***work***) in relation to a capital item for which the operator of the village is responsible—

(a) if the work is urgent; and

(b) after the resident gives the operator a reasonable opportunity to carry out the work.

(2) The operator of the retirement village must reimburse the resident for the reasonable costs incurred by the resident in carrying out the work.

(3) If the operator does not reimburse the resident within 21 days after the resident seeks reimbursement, the resident may apply to the ACAT for an order requiring the operator to reimburse the resident.

(4) The ACAT may also, if the ACAT considers it appropriate, make an order for the payment of interest at a rate determined by the ACAT.



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## 140 ACAT may make orders for capital maintenance and replacement

(1) If a resident of a retirement village considers that the operator of the village is not maintaining or replacing capital items for which the operator is responsible when necessary, the resident may apply to the ACAT for an order directing the operator—

(a) to carry out stated maintenance of a capital item within the time stated in the order; or

(b) to replace a stated capital item within the time stated in the order.

*Note* Maintaining a capital item includes repairing the item—see s 135 (1), def ***capital maintenance***, par (a).

(2) If the operator of a retirement village considers that a resident of the village has caused damage (other than fair wear and tear) to a capital item for which the operator is responsible, the operator may apply to the ACAT for an order directing the resident to reimburse the operator for the cost of the maintenance or replacement of the capital item as a result of the damage.

## 141 Funding of certain capital maintenance and capital replacement

(1) The operator of a retirement village may fund the cost of capital maintenance for which the operator is responsible from the following sources:

(a) the capital works fund for the village (if any);

(b) recurrent charges.

(2) The operator must bear the cost of capital replacement of a capital item for which the operator is responsible.



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(3) This section does not authorise the funding of any of the following from the capital works fund or recurrent charges for the retirement village:

(a) the construction of a new building or a new stage of the village;

(b) any work arising from the breach of a statutory warranty under the *Building Act 2004*, section 88 (Statutory warranties), in relation to which a proceeding may be started under that Act;

(c) the depreciation of capital items;

(d) the refurbishment of vacant residential premises in the village;

(e) anything else prescribed by regulation.

## 142 Capital maintenance to be included in proposed annual budget

(1) This section applies if—

(a) the operator of a retirement village is required to supply the residents of the village with a proposed annual budget; and

(b) the operator proposes to use any recurrent charges or any part of the capital works fund (if any) for the village to fund capital maintenance.

(2) The operator must, in the proposed annual budget—

(a) list each item of capital maintenance that is proposed to be carried out; and

(b) state, in relation to each item, the expected cost; and

(c) include, in relation to each item, any quotes the operator has obtained; and

(d) include provision for urgent capital maintenance.



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## 143 Capital works fund

(1) This section applies if an approved annual budget for a retirement village provides for the setting aside of any part of the recurrent charges for funding capital maintenance in a period that extends beyond the end of the financial year to which the budget relates.

(2) The operator of the village must establish and maintain a capital works fund.

(3) However, this section does not require that a separate fund be established for each financial year.

(4) A capital works fund must be held in an account with an authorised deposit-taking institution or as otherwise prescribed by regulation.

(5) The operator must pay the following into the capital works fund:

(a) an amount of the recurrent charges as may be needed under an approved annual budget;

(b) any interest received from the investment of the whole, or part of, the capital works fund.

## 144 Misuse capital works fund amounts

(1) The operator of a retirement village commits an offence if the operator uses a capital works fund amount for a purpose other than any of the following:

(a) to meet the cost of capital maintenance;

(b) if the residents of the village consent to a proposal that the operator distribute any part of the fund that is not required to fund capital maintenance to the residents in equal shares—to give effect to that proposal;

(c) for a purpose prescribed by regulation.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.



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(3) A proposal mentioned in subsection (1) (b) may be made by the operator or the residents committee.

(4) If the residents consent to a proposal made by the residents committee under subsection (1) (b), the operator may apply to the ACAT for an order that—

(a) the distribution is not to be made; or

(b) approves or amends the proposed distribution.

(5) In making an order under subsection (4), the ACAT may consider the following:

(a) the proportion of the capital works fund proposed to be distributed;

(b) whether the proportion of the capital works fund proposed to be distributed is reasonably likely to be required to fund capital maintenance;

(c) anything else the ACAT considers appropriate.

## 145 Retirement village to be insured

(1) The operator of a retirement village commits an offence if the operator does not insure and keep insured the village in accordance with this section.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) The village must have insurance that—

(a) covers the following:

(i) damage;

(ii) costs incidental to the reinstatement or replacement of insured buildings;

(iii) public liability; and



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(b) provides for the reinstatement of property to its condition when new.

(4) A regulation may prescribe a minimum amount of public liability insurance that is required under this section.

(5) Insurance for damage and costs incidental to the reinstatement or replacement of insured buildings in the retirement village must cover the full replacement value of the buildings.

(6) Nothing in this section requires the operator to insure a capital item other than a capital item for which the operator is responsible.

(7) The operator may fund insurance required under this section from recurrent charges if the cost of the insurance is included in the approved annual budget.

## 146 Sale of capital items to residents

(1) The operator of a retirement village commits an offence if—

(a) the operator sells a capital item for which the operator is responsible; and

(b) the sale is to a resident of the village; and

(c) the sale is not in accordance with the requirements prescribed by regulation.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

(3) A contract, agreement, scheme or arrangement is unenforceable to the extent that it purports to sell, or pass responsibility for the maintenance or replacement of, capital items in contravention of subsection (1).



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(4) Subsection (1) does not apply to the sale of residential premises, or fixtures in residential premises, in a retirement village.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) In this section:

***resident*** includes a prospective resident.

***sell***, a capital item to a resident, includes pass responsibility for the capital item, directly or indirectly, to the resident.

## Division 7.3 Recurrent charges

### 147 Operator to pay certain recurrent charges

(1) The operator of a retirement village must pay, in relation to new residential premises in the village, an amount equal to the recurrent charges for general services payable under a village contract in relation to comparable (or the most nearly comparable) residential premises in the village.

(2) In this section:

***new*** residential premises means residential premises that have not and have never been the subject of a village contract.

### 148 Amendment of recurrent charges

(1) A village contract may provide that any recurrent charges payable under the contract—

(a) are to be amended at stated intervals (or on stated dates) according to a fixed formula; or

**Example—fixed formula**

in proportion to variations in the Consumer Price Index

(b) may be amended otherwise than according to a fixed formula.



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(2) If a village contract provides for any recurrent charges payable under the contract to be amended otherwise than according to a fixed formula—

(a) the recurrent charges must not be amended more than once in a financial year; and

(b) any subsequent amendment within that period has no effect.

(3) A village contract must not provide for more than 1 method of amending the recurrent charges payable under the contract.

(4) If a village contract provides for more than 1 method of amending recurrent charges, the method that results in the lowest increase in recurrent charges is the applicable method.

## 149 Recurrent charges amended by fixed formula

(1) If a village contract provides that recurrent charges are to be amended according to a fixed formula, the operator of a retirement village must give a resident who is a party to the contract written notice of the amendment at least 14 days before it takes effect.

(2) The notice must state the following:

(a) the amount of the new recurrent charges;

(b) the day when the new recurrent charges take effect;

(c) anything else prescribed by regulation.

(3) The resident is not required to pay any increase in the resident's recurrent charges until notice of the increase is given in accordance with subsection (1).

(4) The operator of a retirement village commits an offence if—

(a) a village contract provides that recurrent charges under the contract must be amended according to a fixed formula; and

(b) the operator amends the recurrent charges; and



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(c) the amendment does not comply with—

(i) the fixed formula; or

(ii) this section.

Maximum penalty: 50 penalty units.

(5) An offence against this section is a strict liability offence.

## 150 Recurrent charges amended otherwise than by fixed formula

(1) This section applies to the amendment of recurrent charges payable under a village contract if the contract provides that the recurrent charges are to be amended otherwise than in accordance with a fixed formula.

*Note* Amendment of recurrent changes otherwise than in accordance with this Act is an offence (see s 152).

(2) The operator of a retirement village must give a resident of the village written notice of a proposed amendment of recurrent charges under this section—

(a) on a day, at least 30 days before the day the proposed amendment takes effect, agreed to by the operator and the residents; or

(b) if no day is agreed—at least 60 days before the day the proposed amendment takes effect; or

(c) if a regulation prescribes another time—at the prescribed time.

(3) The notice must—

(a) state the amount of the proposed recurrent charges; and

(b) state the date it is intended that the proposed recurrent charges are to be payable; and

(c) include details of any action taken to minimise the proposed amendment of recurrent charges; and



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(d) state that the amendment will take effect only if the residents affected by the proposed amendment consent to the amendment or the ACAT orders that it take effect; and

(e) include anything else prescribed by regulation.

(4) A notice may—

(a) cancel an earlier notice under this section; or

(b) provide for a lesser increase than the increase stated in an earlier notice.

(5) A notice that provides for a lesser increase than the increase stated in an earlier notice is taken to have been given on the day the earlier notice was given.

(6) However, the 30-day period mentioned in section 153 (2) (Residents consent to amendment) begins, in relation to a later notice, on the day the later notice is actually given.

(7) If the operator operates more than 1 retirement village, the operator must deal with each village separately under this section.

## 152 Amending certain recurrent charges otherwise than in accordance with Act

(1) The operator of a retirement village commits an offence if—

(a) a village contract provides that recurrent charges payable under the contract are to be amended as set out in section 150 (Recurrent charges amended otherwise than by fixed formula); and

(b) the operator increases the recurrent charges; and



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(c) the increase is—

(i) beyond the upper limit (if any) stated in the contract; or

(ii) not in accordance with section 150.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 153 Residents consent to amendment

(1) An amendment of recurrent charges payable under a village contract takes effect under section 150 (Recurrent charges amended otherwise than by fixed formula) only if—

(a) the residents of the retirement village consent to it; or

(b) the ACAT orders under section 154 that the amendment takes effect.

(2) The residents must, not later than 30 days after receiving a notice under section 150—

(a) meet, consider and vote on the proposed amendment; and

(b) tell the operator of the retirement village that they consent, or do not consent, to the amendment.

*Note* Consent by residents to the amendment of recurrent charges under a village contract is not consent to spending stated in a proposed annual budget for the village (see s 162 (10)).

(3) If the operator is told nothing under subsection (2) (b), the residents are taken to have refused to consent to the amendment.

(4) If the residents committee for the village (or, if there is no residents committee, a resident) requests information about the proposed amendment for the purpose of deciding whether to consent to it, the operator must give the information requested.

(5) However, the operator does not have to give information prescribed by regulation.



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(6) If the operator fails to give the information within the time prescribed by regulation, the residents committee or resident may apply to the ACAT for an order requiring the operator to give the information stated in the order.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).

## 154 ACAT orders—recurrent charges

(1) The operator of a retirement village may apply to the ACAT for an order in relation to a proposed amendment of recurrent charges payable under a village contract for residential premises in the village if—

(a) the consent of the residents of the village is required under section 153 (2) before the proposed amendment can take effect; and

(b) the residents do not consent to the proposed amendment.

(2) The ACAT may, on application by the operator, make an order that—

(a) the proposed amendment is to take effect, with or without modification; or

(b) the proposed amendment is not to take effect.

(3) An order under subsection (2) (a) may—

(a) state the date the amendment is to take effect; and

(b) order that the recurrent charges are not to be further amended for a stated period of not longer than 12 months.

(4) In making an order, the ACAT may consider the following:

(a) the general market level of recurrent charges paid at similar retirement villages in the same or a similar locality as the retirement village;

(b) the level and cost of services and facilities provided for in the proposed annual budget or approved annual budget;



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(c) any proposed amendments (including additions) to the services and facilities to which the residents have consented;

(d) the cost of general services required to be provided by the operator;

(e) the frequency and amount of past amendments of the recurrent charges;

(f) if the village is subject to a community title scheme or units plan—the amounts of levies and other contributions payable by the residents under the *Community Title Act 2001* or the *Unit Titles (Management) Act 2011*;

(g) any other matter the ACAT considers relevant.

## 155 ACAT orders—refund of recurrent charges

(1) A resident of a retirement village may apply to the ACAT for an order directing the refund of overpaid recurrent charges on any grounds, including the ground that an increase in the charges came into effect otherwise than in accordance with this division.

(2) An application must be lodged not later than 12 months after the day the increase in the charges came into effect.

(3) The ACAT may make an order directing a refund of overpaid recurrent charges.

## 156 Failure to give receipt for payment of recurrent charges

(1) A person commits an offence if the person—

(a) receives a payment for recurrent charges owing under a resident's village contract; and

(b) fails to give a receipt for the payment to the person entitled to it—

(i) if the payment was made in person—at the time the payment is made; or



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(ii) if the payment was not made in person—as soon as practicable after the payment is made.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

(3) A receipt for the payment of recurrent charges must include the following:

(a) the name of the operator of the retirement village;

(b) the name of the resident paying the recurrent charges;

(c) the resident's address at the village;

(d) the period for which the recurrent charge is paid;

(e) the day the payment is received;

(f) the amount of the payment.

(4) Subsection (1) does not apply to recurrent charges paid by agreement between the resident and the operator into an account at an authorised deposit-taking institution nominated by the operator.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

## 157 Reduction of recurrent charges in certain circumstances

(1) This section applies if residential premises, or a part of residential premises, in a retirement village—

(a) are destroyed or cease to be usable as residential premises, or become unsuitable for habitation, other than as a result of a breach of the village contract for the residential premises; or

(b) are compulsorily appropriated or acquired by a Commonwealth or Territory entity.



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(2) The recurrent charges payable by the resident of the village are reduced accordingly.

*Note* The operator or resident may also want to end the residence contract—see s 185.

(3) If the operator and resident do not agree that the recurrent charges should be reduced, or do not agree on the extent to which they should be reduced, either party may apply to the ACAT for an order declaring that the recurrent charges—

(a) are not to be reduced; or

(b) are to be reduced by the amount, and from the date, stated in the order.

## Division 7.4 Proposed and approved annual budgets

### 158 Meaning of *proposed annual budget*—div 7.4

In this division:

***proposed annual budget***, for a financial year for a retirement village, means a document setting out the way the operator of the village proposes to spend the money the operator receives as recurrent charges during the financial year.

### 159 Proposed annual budget

(1) The operator of a retirement village must give each resident in the village a copy of the proposed annual budget for each financial year for the village—

(a) on a day, at least 30 days before the beginning of the financial year to which the budget relates, agreed to by the operator and the residents; or

(b) if no day is agreed—at least 60 days before the beginning of the financial year to which the budget relates; or



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(c) if a regulation prescribes another time—at the prescribed time.

Maximum penalty: 50 penalty units.

*Note* If a form is approved under s 263 for this provision, the form must be used.

(2) An offence against this section is a strict liability offence.

(3) If the operator operates more than 1 retirement village, the operator—

(a) may give a combined proposed annual budget in relation to 2 or more villages; but

(b) when giving the budget to each resident and each former occupant of a particular village, must include a separate budget for that village.

(4) If the retirement village is subject to a units plan, the operator must ensure that a copy of the general fund budget for a financial year, required for the annual general meeting of the owners corporation under the *Unit Titles (Management) Act 2011*, section 75, is given to the residents of the village at the same time as the copy of the proposed annual budget for the year.

(5) A regulation may make provision in relation to—

(a) matters that must be dealt with in a proposed annual budget; and

(b) matters that must not be financed by way of using amounts received for recurrent charges.

(6) The proposed annual budget must be accompanied by a notice that includes the following:

(a) a statement to the effect that the operator of the retirement village—

(i) must seek the residents consent to spend the money in the way set out in the budget; and



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(ii) if the residents do not give their consent—may spend the money in accordance with an order of the ACAT;

(b) a brief statement explaining the reasons for any changes in spending from the previous financial year;

(c) a statement to the effect that if any change in spending results from a change in the services or facilities the operator provides at the village, consent to that change must be by special resolution of the residents;

(d) anything else prescribed by regulation.

(7) The notice may include a statement to the effect that the notice is the operator's formal request for the residents' consent to the spending of the money in the way set out in the budget.

(8) Nothing in this section prevents the operator cancelling a proposed annual budget and replacing it with an amended budget at any time.

(9) This section is subject to section 160.

## 160 Residents may consent to not receiving proposed annual budget

(1) The residents of a retirement village may consent to not being given a proposed annual budget for a financial year for the village if, in the year the consent is given, the total amount of the recurrent charges to be collected for the year is not more than—

(a) the amount prescribed by regulation; or

(b) if no amount is prescribed—$50 000.

(2) If the residents consent to not being given a proposed annual budget under section 159, that section, and section 161 to section 167 do not apply in relation to the retirement village while the consent is in force.



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(3) Consent given under subsection (1) remains in force until—

(a) it is revoked by a resolution of the residents of the retirement village; or

(b) the total amount of the recurrent charges to be collected for the financial year to which the consent relates is more than—

(i) the amount prescribed by regulation; or

(ii) if no amount is prescribed—$50 000.

(4) The operator of the retirement village must notify the residents of the name of the auditor of the accounts at the annual management meeting if—

(a) consent given under subsection (1) is in force; and

(b) the operator is required to have the accounts of the village audited under section 168 (Auditing of accounts).

## 161 ACAT order—proposed annual budget

If the operator of a retirement village does not give the residents of the village a proposed annual budget as required by section 159, a resident of the village may apply to the ACAT for an order directing the operator to give the budget.

## 162 Residents' consent to spending

(1) The operator of a retirement village must seek the residents' consent to the spending stated in the proposed annual budget for the village.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) An operator of a retirement village is taken to have complied with subsection (1) if the operator—

(a) provides a notice as required by section 159 (6) (a) (Proposed annual budget); and



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(b) includes a statement mentioned in section 159 (7).

(4) The operator must give any information in relation to the proposed spending that the residents committee for the retirement village (or, if there is no residents committee, a resident) reasonably asks for, for deciding whether to consent to the budget.

(5) Without limiting subsection (2), it is reasonable for the residents committee or a resident to ask to see quotations for any work proposed to be carried out, or for any service or facility proposed to be provided, at the retirement village.

(6) The residents must, within 30 days after receiving a request for consent to a proposed annual budget (or an amended budget)—

(a) meet, consider and vote on the budget; and

(b) tell the operator whether they consent or do not consent to the budget; and

(c) if the residents do not consent to the budget—state which item in the budget they object to.

(7) The residents are taken to have refused to consent to the budget—

(a) if the operator fails to seek the residents' consent to the budget; or

(b) if the residents fail to tell the operator whether they consent or do not consent to the budget.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).

(8) If the operator operates more than 1 retirement village, the operator must deal with each village separately under this section.

(9) The requirements in this section are in addition to the requirements that the operator of a retirement village that is subject to a units plan must comply with under the *Unit Titles (Management) Act 2011*, section 17 (Owners corporation—general meetings) in relation to a general meeting of the owners corporation for the village.



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(10) To remove any doubt, consent by residents to the amendment of recurrent charges under a village contract is not consent to spending stated in a proposed annual budget for the village under this section.

## 163 ACAT orders—decisions about spending

(1) If the residents of a retirement village refuse to consent to the spending stated in the proposed annual budget for a financial year for the village, the operator of the village or a resident may apply to the ACAT for an order in relation to the spending proposed for the financial year.

(2) On application under subsection (1), the ACAT may do 1 or more of the following:

(a) make an interim order allowing spending on all items in the proposed annual budget other than those stated under section 162 (6) (c) (Residents consent to spending);

(b) give a procedural direction to the parties to assist the parties to agree about the proposed spending, including a direction to prepare new spending for services and to meet and discuss disputed matters;

(c) make a recommendation to the parties about the proposed spending, including a recommendation about the cost and kind of the services to be provided;

(d) order that the spending is to be as itemised in the proposed annual budget;

(e) order that there is to be no spending, or reduced or increased spending, on a particular item in the proposed annual budget;

(f) order that there is to be spending of a stated amount on an item that does not appear in the proposed annual budget;

(g) order that the spending is to be as stated in the order;



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(h) determine liability for expenses (if any) incurred from the beginning of the financial year to which the proposed annual budget relates until the day when an order under paragraph (d), (e), (f) or (g) is made;

(i) make any other order prescribed by regulation.

(3) Subsection (4) applies if—

(a) the operator makes an application under this section; and

(b) the ACAT does not, before the beginning of the financial year to which the proposed annual budget relates, make an order that gives rise to an approved annual budget.

(4) The operator may spend money received for recurrent charges to meet the reasonable and necessary costs of operating the retirement village until the ACAT makes an order under subsection (2).

(5) In deciding an application made by the operator, the ACAT may—

(a) review any spending by the operator under subsection (4); and

(b) make an order that the operator is liable for so much of that spending it considers was not reasonable or necessary.

(6) If the ACAT gives a direction under subsection (2) (b) or makes a recommendation for further action under subsection (2) (c), it may—

(a) adjourn the proceeding for a report from the parties; and

(b) take further action under subsection (2) it considers necessary when the proceeding resumes.

(7) In deciding an application, the ACAT may consider the following:

(a) the reasonable cost of services provided (or proposed to be provided) in the retirement village;

(b) the need for the services to be provided in the retirement village;

(c) any other matter it considers relevant.



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(8) If the ACAT receives an application under this section at the same time it receives, or is considering, an application under section 154 (ACAT orders—recurrent charges) in relation to recurrent charges payable at the same retirement village, it must make a decision under this section before making a decision under section 154.

## 164 Proposed annual budget may provide for contingencies

A regulation may limit the amount a proposed annual budget may allocate for contingencies.

## 165 Spending to be in accordance with approved annual budget

(1) A proposed annual budget for a financial year for a retirement village is taken to be an approved annual budget if—

(a) the residents of the village consent to spending in accordance with the proposed annual budget; or

(b) the ACAT orders that the operator of the village is spending as itemised in the proposed annual budget.

(2) However, if the ACAT makes another order in relation to the proposed annual budget, the approved annual budget is taken to be the approved annual budget as amended in accordance with the order.

## 166 Spending otherwise than in accordance with approved annual budget

(1) The operator of a retirement village commits an offence if—

(a) the operator spends money received for recurrent charges for a financial year for the village; and

(b) the spending is not in accordance with—

(i) the approved annual budget; or



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(ii) the approved annual budget as amended under section 167 (Amendment of approved annual budget).

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply if the spending—

(a) was a change in spending between items in the approved annual budget; and

(b) does not reduce the level of services the retirement village provides; and

(c) does not cause the total spending provided for by the approved annual budget to be exceeded.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(4) Subsection (5) applies if the operator of a retirement village—

(a) commits an offence under subsection (1); or

(b) does not comply with an order under section 161 (ACAT order—proposed annual budget)) to give the residents of the village a proposed annual budget in relation to a current financial year for the village.

(5) A resident of the retirement village may apply to the ACAT for (and the ACAT may make) an order directing the operator to refund the recurrent charges paid by the resident during the financial year until the day when the order is made.



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## 167 Amendment of approved annual budget

(1) The operator of a retirement village may amend an approved annual budget if—

(a) the residents of the village approve the amendment; or

(b) if the residents do not approve the amendment—the ACAT makes an order approving the amendment.

(2) The ACAT may make an order relating to further spending only if satisfied that the further spending—

(a) is needed urgently; or

(b) was not reasonably foreseeable when the budget was approved under section 165 (Spending to be in accordance with approved annual budget).

(3) In this section:

***approved annual budget*** does not include—

(a) a budget taken to be an approved annual budget because of section 165 (1) (b); or

(b) a proposed annual budget amended in accordance with an order by the ACAT under section 165 (2).



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# Division 7.5 Annual accounts

## 168 Auditing of accounts

(1) The operator of a retirement village must ensure that the accounts of the village are audited annually by a person qualified to audit accounts under the Corporations Act.

Maximum penalty: 50 penalty units.

(2) If the audit fees are to be paid by the residents of the retirement village—

(a) the fees must be itemised in the proposed annual budget (if any); and

(b) the item must include the name of the auditor to be appointed; and

(c) if the auditor to be appointed did not audit the village's accounts for the previous financial year—the residents' consent to the auditor's appointment is required in the same way that it is required under section 162 (1) to (7) (Residents consent to spending) for the expenditure of the fees.

(3) The operator of a retirement village commits an offence if the operator—

(a) fails to give, not later than the prescribed time after the end of each quarter, a copy of the village's quarterly accounts for the quarter to the residents committee for the village; or

(b) if there is no residents committee—fails to display, not later than the prescribed time after the end of each quarter, a copy of the village's quarterly accounts for the quarter on the common property of the village in the way prescribed by regulation.

Maximum penalty: 20 penalty units.

*Note* ***Fail*** includes refuse (see Legislation Act, dict, pt 1).



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(4) An offence against this section is a strict liability offence.

(5) Subsection (3) does not apply if the operator of the retirement village need not give the residents of the village a copy of the quarterly accounts for the village under section 171 (Quarterly accounts need not be given to residents in certain circumstances).

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).

(6) If, more than 28 days after the end of the quarter to which the quarterly accounts relate, a resident asks the operator for a copy of the quarterly accounts, the operator must give the resident a copy of the accounts within 7 days after receiving the request.

(7) The quarterly accounts need not be audited.

(8) In this section:

***prescribed time*** means—

(a) the time prescribed by regulation; or

(b) if no time is prescribed—28 days.

## 169 Copies of annual accounts to be given to residents

(1) The operator of a retirement village commits an offence if the operator fails to give the residents of the village a copy of the audited accounts for a financial year for the village within the prescribed time.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) The audited accounts must include—

(a) the following particulars:

(i) details of the income and spending of the retirement village during the financial year, including income and spending of the capital works fund (if any);



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(ii) details of the balance of the capital works fund (if any);

(iii) details of amounts received for insurance claims made in relation to any matter mentioned in section 145 (3) (a) (i) or (ii) (Retirement village to be insured) relating to the retirement village during the financial year;

(iv) details of any interests, mortgages and other charges affecting the property of, or forming part of, the retirement village (other than property or premises owned by residents) as at the end of the financial year; and

(b) a statement that—

(i) states whether or not money payable by the operator to former occupants during the financial year was paid in full and on time; and

(ii) if any money payable under subparagraph (i) has not been paid—sets out the amount payable, details of the delay and the reasons for the delay; and

(iii) contains the matters mentioned in subsection (5); and

(iv) includes details of any matters that may prevent the operator from meeting those liabilities; and

(c) any other matter prescribed by regulation.

(4) Subsection (5) applies if the auditor—

(a) is not satisfied that the operator of a retirement village has the capacity, during the financial year immediately following, to meet the liabilities relating to the village when they become due; or

(b) believes that there is considerable uncertainty about an operator of a retirement village's ability to meet the liabilities relating to the village when they become due during the financial year immediately following.



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(5) The audited accounts must include a statement setting out the auditor's concerns.

(6) The format of the accounts must correspond as closely as possible with the layout of the proposed annual budget.

(7) If the operator operates more than 1 retirement village, the operator—

(a) may give audited consolidated accounts in relation to 2 or more villages; but

(b) when giving the accounts to the residents of a particular village, must include a separate statement of income and spending for that village.

(8) The operator of a retirement village complies with this section if—

(a) the operator—

(i) gives a copy of the accounts to the residents committee for the village; or

(ii) if there is no residents committee—displays a copy of the accounts on the common property of the village in the way prescribed by regulation; and

(b) the operator gives a copy of the accounts to a resident who asks for a copy.

(9) This section is subject to section 170.

(10) In this section:

***prescribed time***, for a financial year, means—

(a) the period prescribed by regulation; or

(b) if no period is prescribed—4 months after the end of the financial year.



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## 170 Accounts need not be audited in certain circumstances

(1) This section applies to the accounts of a retirement village prepared under section 169 for a financial year if the total of the recurrent charges collected in relation to the village for the financial year are less than—

(a) the amount prescribed by regulation; or

(b) if no amount is prescribed—$50 000.

(2) The operator of the retirement village—

(a) need not have the accounts audited if the residents of the village consent; but

(b) must instead—

(i) comply with the requirements of section 169 (other than section 169 (3), (4) and (5)); and

(ii) include a statement about whether the operator will be able to meet the liabilities relating to the village when they become due during the financial year immediately following.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(3) The residents consent remains in force until the earlier of—

(a) the day the total of the recurrent charges collected for the retirement village for a financial year is—

(i) the amount prescribed by regulation or more; or

(ii) if no amount is prescribed by regulation—$50 000 or more; and

(b) the residents revoke the consent.

(4) The residents may revoke the consent at any time.



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### 171 Quarterly accounts need not be given to residents in certain circumstances

(1) This section applies if the total of the recurrent charges collected for a retirement village in the financial year to which accounts of the village relate is less than—

(a) the amount prescribed by regulation; or

(b) if no amount is prescribed—$50 000.

(2) The operator of the retirement village need not give the residents of the village a copy of the quarterly accounts of the village under section 168 (Auditing of accounts) if the residents consent.

(3) The residents consent remains in force until the earlier of—

(a) the day the total of the recurrent charges collected for the village for a financial year is—

(i) the amount prescribed by regulation or more; or

(ii) if no amount is prescribed by regulation—$50 000 or more; and

(b) the residents revoke the consent.

(4) The residents may revoke the consent at any time.

## Division 7.6 Surplus or deficit of accounts

### 173 Any surplus to be carried over

(1) A surplus in the annual accounts of a retirement village for a financial year (a ***surplus***) must be carried forward to the accounts for the next financial year unless—

(a) the residents of the village consent to a proposal for the spending of the whole or any part of the surplus; or



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(b) the residents consent to a proposal that the operator of the village distribute the whole or any part of the surplus to the operator and existing residents.

(2) A proposal under subsection (1) may be made by the operator or the residents committee (if any).

(3) A proposal under subsection (1) (b) must provide for the distribution to be made to the operator and existing residents in the same proportion as their contribution to the surplus.

(4) If the residents consent under subsection (1) (b) to a proposal made by the residents committee, the operator may apply to the ACAT for an order that—

(a) the distribution is not to be made; or

(b) approves or amends the proposed distribution.

(5) In making an order, the ACAT may consider the following:

(a) the proportion of the surplus proposed to be distributed;

(b) any other matter the ACAT considers appropriate.

## 174 Making good of deficit

(1) The operator of a retirement village must make good a deficit in the annual accounts of the village for a financial year of the village (a ***deficit***).

(2) The operator of a retirement village must not—

(a) carry forward a deficit to a later financial year for the village; or

(b) ask or receive from the residents of the village a special additional payment for making good a deficit; or

(c) increase or purport to increase recurrent charges payable by the residents of the village in a financial year for the village for making good a deficit; or



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(d) use all or part of the recurrent charges collected by the operator in a financial year for the village to make good a deficit; or

(e) use all or part of the capital works fund for the village to make good a deficit.

(3) Despite subsection (2), a regulation may prescribe circumstances in which an operator of a retirement village may—

(a) increase the recurrent charges payable by the residents of the village for making good a deficit; or

(b) use all or part of the recurrent charges collected by the operator for making good a deficit; or

(c) carry forward a deficit to a later financial year for the village.

(4) The operator of a retirement village must not charge the residents of the village interest in relation to a deficit.



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# Part 8 Disputes

## Division 8.1 Preliminary

### 174A Meaning of *resident*—pt 8

For this part (except division 8.1A), ***resident***, of a retirement village, includes a former occupant of the retirement village.

*Note* ***Resident*** is defined for the Act in the dictionary.

### 175 Other options for dispute resolution

Nothing in this part requires a resident to attempt to resolve a dispute under this Act before making a complaint under the *Human Rights Commission Act 2005*.

## Division 8.1A Dispute resolution—disputes committee

### 175A Disputes committee

(1) The operator of a retirement village must establish a committee (a ***disputes committee***) to resolve disputes that arise between residents and the operator.

(2) The disputes committee must consist of the following members:

(a) a member appointed by residents;

(b) a member appointed by the operator;

(c) a chair agreed upon by the members mentioned in paragraphs (a) and (b) to be independent.



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## 175B Dispute between operator and resident—notice to dispute committee

(1) If a resident or the operator of a retirement village claims that a dispute has arisen between the resident and the operator, the resident or operator may give written notice of the dispute to the disputes committee for the retirement village.

(2) To remove any doubt, a dispute mentioned in subsection (1) includes a dispute about whether the operator is discharging the operator's obligations under section 99 (2) (b) (Operator to respect rights of residents).

*Note* The disability and community services commissioner can deal with complaints about services for older people (including a complaint about a service provided by the operator of a retirement village) under the *Human Rights Commission Act 2005*, s 42. A retirement village complaint that leads to a conciliation agreement is enforceable as if it were an order of the ACAT (see *Human Rights Commission Act 2005*, s 62)

## 175C Disputes committee—decision

(1) The disputes committee must, within 30 days after receiving notice of a dispute—

(a) resolve the dispute and tell the parties, in writing, of the decision; or

(b) if the committee decides that the dispute is unable to be resolved by the committee (including if the dispute is unsuitable to be considered by the committee) but is reasonably likely to be resolved by mediation—arrange for mediation of the dispute; or

(c) if the committee decides that the dispute is unable to be resolved by the committee and is not reasonably likely to be resolved by mediation—tell the parties that the dispute is unresolved.



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(2) If the dispute is resolved by the disputes committee or by mediation, the parties must take all reasonable steps to give effect to the decision or agreement.

### 175D Costs of dispute resolution

(1) The costs of establishing and maintaining the dispute resolution process for a retirement village under this division must be funded from recurrent charges.

(2) Any other costs of a dispute taken to the disputes committee must be paid by the person incurring the costs.

## Division 8.2 Dispute resolution—ACAT

### 176 Dispute between operator and resident—application to ACAT

(1) If a resident or the operator of a retirement village claims that a dispute has arisen between the resident and the operator, the resident or operator may apply to the ACAT for (and the ACAT may make) an order in relation to the dispute.

*Note* Section 181 states some of the kinds of orders that the ACAT can make.

(2) Two or more residents who claim that a dispute mentioned in subsection (1) has arisen may nominate, in accordance with any requirement prescribed by a regulation, any resident as their representative in the dispute.

(3) The nominated representative may apply to the ACAT for an order in relation to the dispute, and the ACAT may make an order that applies to the residents who are represented by the nominated representative.

(4) To remove any doubt, a dispute mentioned in subsection (1) includes a dispute about whether the operator is discharging the operator's obligations under section 99 (2) (b) (Operator to respect rights of residents).



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## 177 ACAT jurisdiction

(1) A resident of a retirement village may apply directly to the ACAT for an order in relation to a village contract to which the resident is a party that the resident considers to be unjust, unconscionable, harsh or oppressive.

(2) The ACAT has, and may exercise, the same jurisdiction as the Supreme Court, and all the powers and authority of the Supreme Court, in a proceeding in which relief is sought in relation to a contract between an operator of a retirement village and a resident of the village.

(3) This section does not affect the jurisdiction of the Supreme Court in relation to contracts between operators and residents of retirement villages.

## 178 Informal resolution of dispute

(1) Nothing in division 8.1A (Dispute resolution—disputes committee) or this division—

(a) requires a resident or the operator of a retirement village to attempt to resolve a dispute under either or both of those divisions; or

(b) prevents a resident and the operator of a retirement village from attempting to resolve a dispute in another way agreed between the parties.

(2) Also, nothing in division 8.1A requires a resident or the operator of a retirement village to attempt to resolve a dispute under that division before applying to the ACAT for an order in relation to the dispute.

*Note* A resident need not use the dispute resolution procedures in this division before pursuing a retirement village complaint under the *Human Rights Commission Act 2005* (see s 175).



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(3) However, any term of a village contract that provides that the parties to the contract must attempt to resolve disputes between them by a process other than the process provided for under this Act is void.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 35 provides for the ACAT to, before the hearing of an application, order mediation if the ACAT considers that the matter is suitable for mediation and is reasonably likely to be resolved by mediation.

## Division 8.3 The ACAT

### 180 No monetary limit on jurisdiction of ACAT

The ACAT is not, in exercising the jurisdiction conferred on it by this Act, limited in the amount of money that it may order to be paid.

### 181 ACAT orders

(1) The ACAT may, on application by a resident or the operator of a retirement village, make 1 or more of the following orders:

(a) an order directing the resident or operator to comply with a requirement of this Act;

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(b) an order that amends or sets aside a provision of a village contract that conflicts with this Act;

(c) an order that—

(i) restrains any action in breach of a village contract or village rule; or

(ii) requires the performance of a village contract or village rule;

(d) an order directing the resident or operator to perform the work, or take the steps, stated in the order to remedy a breach of a village contract or village rule;



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(e) an order for the payment of an amount of money;

(f) an order for compensation;

(g) an order that requires payment to the ACAT of all or part of any recurrent charges payable by a resident to the operator until the whole or part of a village contract has been performed or an application for compensation has been decided;

(h) an order that requires payment (out of recurrent charges paid to the ACAT) towards the cost of remedying a breach of a contract or towards the cost of compensation;

(i) for an application in relation to any other dispute made by the resident or the operator that is subject to a community title scheme, and with the agreement of the other party to the dispute—any order that the ACAT may make under the *Community Title Act 2001* to decide the dispute;

(j) for an application in relation to any other dispute made by the resident or the operator that is subject to a units plan, and with the agreement of the other party to the dispute—any order that the ACAT may make under the *Unit Titles (Management) Act 2011* to decide the dispute;

(k) any other order prescribed by regulation.

(2) Nothing in this section limits the orders that the ACAT may make under this Act.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 35 provides for the ACAT, before the hearing of an application, to order mediation if the ACAT considers that the matter is suitable for mediation and is reasonably likely to be resolved by mediation.



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# Part 9 Ending residence contracts

## Division 9.1 General principles about ending residence contracts

### 182 How and when residence right or contract ends

(1) A residence right arising from a contract relating to residential premises in relation to which the resident is a registered interest holder (other than a registered long-term sublessee) ends only on the completion of the sale of the premises.

(2) A residence right arising from a residence contract that is in the form of an assignable sublease ends on the assignment of the sublease.

(3) A residence contract (other than a contract mentioned in subsection (1) or (2)) and the residence right under the contract, end—

(a) on the day the resident permanently vacates the premises that is (except as otherwise provided under this part) at least 1 month after the day the resident gives the operator of the village written notice of intention to vacate the premises (or any earlier date as the residence contract may allow); or

(b) on the day the resident permanently vacates the premises; or

(c) on the day the resident permanently vacates the premises after receiving notice of the operator's intention to apply to the ACAT for an order ending the resident's residence contract; or

(d) on disclaimer (for example, on renunciation by the resident accepted by the operator); or

(e) on the death of the last surviving resident under the contract; or

(f) on the day stated by the ACAT in an order under section 198 (Abandoned premises) declaring that the resident has abandoned the premises; or



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(g) on the day the contract is ended by the ACAT; or

(h) if a termination notice is given under section 185 (Ending of residence contract if premises uninhabitable etc)—

(i) on the 8th day after the day stated in the termination notice, unless—

(A) application is made to the ACAT within the time allowed by section 186 (Ending of residence contract if premises uninhabitable etc—application to ACAT); or

(B) the notice to end the contract is withdrawn within that time; or

(ii) if the ACAT confirms the termination notice—on the day stated by the ACAT.

(4) The ending of a residence contract does not affect any other right or obligation of the parties under a village contract.

## 183 ACAT cannot end certain residence contracts

The ACAT does not have jurisdiction under this Act—

(a) to end a residence contract if the resident is a registered interest holder (other than a registered long-term sublessee) in relation to the premises; or

(b) to decide any question as to the title to any land.



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## 184 Notice of intention to seek ending of contract

(1) If the operator or a resident of a retirement village intends to apply to the ACAT for an order ending a residence contract, the intending applicant must give the other party to the contract written notice of that intention, except as otherwise provided by this Act.

(2) The notice must be given within the time prescribed by regulation.

*Note 1* If a form is approved under s 263 for this provision, the form must be used.

*Note 2* A fee may be determined under s 262 for this provision.

(3) The ACAT must not make an order ending a residence contract unless satisfied that the notice (if required) has been given.

## 185 Ending of residence contract if premises uninhabitable etc

(1) This section applies if residential premises in a retirement village are—

(a) otherwise than as a result of a breach of a village contract—

(i) destroyed or rendered wholly or partly uninhabitable; or

(ii) cease to be lawfully usable as residential premises; or

(b) compulsorily appropriated or acquired by a Commonwealth or Territory entity.

(2) The resident or the operator of the village may give immediate notice (a ***termination notice***) of the ending of the residence contract relating to the residential premises to the other party to the contract.

*Note* The operator and the resident may choose not to end the contract. However, recurrent charges payable in relation to the premises are reduced according to the extent to which the premises are uninhabitable (see s 157).



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(3) Subsection (2) does not apply if the resident is a registered interest holder (other than a registered long-term sublessee) in relation to the premises.

(4) A termination notice may state any day as the day the resident must vacate the residential premises.

(5) A termination notice may be withdrawn with the consent of both parties at any time before the ending of the residence contract takes effect.

## 186 Ending of residence contract if premises uninhabitable etc—application to ACAT

(1) This section applies if—

(a) a party to a residence contract for residential premises in a retirement village gives the other party (the ***recipient***) a termination notice; and

(b) the recipient tells the other party within 7 days after the day the termination notice is received that the recipient considers that the premises are not in the condition stated in the termination notice.

(2) A party may apply to the ACAT for an order deciding the condition of the residential premises in the village.

(3) On application, the ACAT—

(a) must—

(i) set aside the termination notice; or

(ii) confirm the termination notice and state—

(A) the day the residence contract relating to the residential premises ends; and

(B) the day the resident must vacate the residential premises; and



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(b) may make any other order it considers appropriate.

(4) If an application is made to the ACAT, the termination notice is suspended pending the ACAT's decision.

(5) An application to the ACAT under this section also operates as an application under section 157 (Reduction of recurrent charges in certain circumstances).

(6) In this section:

***termination notice***—see section 185 (2).

## Division 9.2 Ending of residence contract by ACAT on application of either operator or resident

### 187 Ending of residence contract on medical grounds

(1) A party to a residence contract for residential premises in a retirement village may apply to the ACAT for an order ending the residence contract if the party considers that residential premises occupied by the resident under the contract are unsuitable because of the resident's physical or mental incapacity.

(2) On application, the ACAT may make an order ending the residence contract if—

(a) the ACAT reasonably believes that the residential premises occupied by the resident are unsuitable because of the resident's physical or mental incapacity; and

(b) having considered the circumstances of the case, the ACAT reasonably believes that it is otherwise appropriate to make an order ending the residence contract.

(3) The ACAT must not form a belief under subsection (2) (a) unless—

(a) the ACAT has considered a medical report in relation to the resident prepared by a doctor nominated by the resident; or



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(b) if the ACAT does not receive a medical report—the ACAT has given the resident a reasonable opportunity to give a report.

(4) In deciding whether to end a residence contract, the ACAT may—

(a) with the resident's consent, ask the director-general or someone else to prepare a report in relation to the resident's physical or mental capacity; and

(b) consider the report and any other report prepared on behalf of the resident or the operator; and

(c) consider any term of the residence contract relating to the transfer of the resident to other residential premises.

(5) If the ACAT makes an order ending a residence contract under this section, the ACAT must state in the order a day by when the resident must vacate the residential premises.

## 188 Ending of residence contract on grounds of breach of village contract or rules

(1) The operator of a retirement village may apply to the ACAT for an order ending the residence contract of a resident of the village who breaches—

(a) a village contract between the resident and the operator; or

(b) a village rule.

(2) A resident of a retirement village may apply to the ACAT for an order ending the resident's residence contract if the operator of the village breaches—

(a) a village contract between the resident and the operator; or

(b) a village rule.



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(3) On application, the ACAT may make an order ending the residence contract if satisfied that—

(a) the breach, in the circumstances of the case, justifies ending the contract; or

(b) persistent breaches by the resident or operator, in the circumstances of the case, justify ending the contract.

(4) If the ACAT makes an order ending a residence contract, the ACAT must state in the order a day by when the resident under the contract must vacate the residential premises.

(5) If the ACAT forms the reasonable belief, in the course of a proceeding, that a village rule is unjust, unconscionable, harsh or oppressive, the ACAT may make an order—

(a) setting aside the rule; or

(b) modifying the operation of the rule, either in its application to the operator or to a resident (or to some or all of the residents) of the retirement village.

## Division 9.3 Ending of residence contract by ACAT on application of operator

### 189 Ending of residence contract on grounds of resident causing serious damage or injury

(1) The ACAT may, on application by the operator of a retirement village, make an order ending a residence contract if satisfied that the resident under the contract has intentionally or recklessly caused or allowed, or is likely to intentionally or recklessly cause or allow—

(a) serious damage to a part of the village; or

(b) injury to the operator, an employee of the operator or another resident.



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(2) If the ACAT makes an order ending a residence contract, the ACAT must state in the order a day by when the resident under the contract must vacate the residential premises.

(3) An application may be made whether or not the operator has given notice of the operator's intention to apply to the ACAT for an order ending the residence contract.

*Note* The operator may apply under s 184 for an order ending a residence contract.

## 190 Ending of residence contract on grounds of upgrade or change of use

(1) The ACAT may, on application by the operator of a retirement village, make an order ending a residence contract for residential premises in the village if satisfied that—

(a) the operator intends to carry out substantial works to improve the village that requires vacant possession of the residential premises; or

(b) it is appropriate that the land that the village is on should be used for a purpose other than a retirement village.

(2) However, the ACAT must not make an order ending a residence contract unless also satisfied that—

(a) the operator has given the resident at least 12 months written notice of the operator's intention to apply to the ACAT for an order ending the residence contract; and

(b) development approval and any other necessary approval to carry out the works or use the land for the other purpose have been obtained; and



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(c) the operator has obtained (or made available) for the resident alternative accommodation—

(i) that is of approximately the same standard as, and requires no greater financial outlay on the part of the resident than, the residential premises the subject of the residence contract; and

(ii) that is acceptable to the resident or reasonably ought to be acceptable to the resident.

(3) If the ACAT makes an order ending a residence contract, the ACAT—

(a) must state in the order a day by when the resident must vacate the residential premises; and

(b) must state in the order the penalty that the operator will incur if the works are not substantially commenced, or action to facilitate the use of the land for the other purpose not taken, within 6 months after the day mentioned in paragraph (a); and

(c) may order the operator to allow the resident to return to the residential premises, under a contract identical to the contract being ended, on completion of the works; and

(d) may make any other order (including an order that the operator pay to the resident compensation for the resident's loss of rights under the residence contract) it considers appropriate.



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# Division 9.4 Ending of residence contract by Supreme Court on application of administrator

## 191 Ending of residence contract on grounds of retirement village ceasing to operate

(1) The Supreme Court may, on application by the administrator of a retirement village, make an order ending the village contracts in relation to the village if satisfied there is no reasonable prospect of finding a new operator for the village.

(2) If the court makes an order, the court—

(a) must, as far as the order relates to residence contracts, state in the order a day by when the residents who are affected by the order must vacate their residential premises in the retirement village; and

(b) may order the operator or former operator (other than an administrator of the retirement village) to pay compensation to each resident affected by the order for the resident's loss of the benefit of the village contract; and

(c) may make any other order it considers appropriate.



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# Division 9.5 Suspension or refusal of orders for ending of residence contract

## 192 ACAT may suspend or refuse to make order ending residence contract

(1) The ACAT may suspend the operation of an order setting a day by when a resident of a retirement village must vacate residential premises if satisfied that it is desirable to do so, taking into account the relative hardship likely to be caused by the order to—

(a) the resident; or

(b) other residents or the operator of the village.

(2) The ACAT may, as a condition of the suspension of the operation of an order for possession, require the resident to pay to the operator an occupation fee stated by the ACAT for the period for which the order for possession is suspended.

(3) The ACAT may refuse to make an order ending a residence contract if satisfied that—

(a) the operator was wholly or partly motivated to end the contract because—

(i) the resident had applied or proposed to apply to the ACAT for an order; or

(ii) the resident had complained to a governmental authority or had taken some other action to secure or enforce the resident's rights as a resident; or

(iii) an order of the ACAT was in force in relation to the resident and the operator; or

(b) for an application under section 188 (Ending of residence contract on grounds of breach of village contract or rules)—the resident or operator who had breached the village contract or village rule remedied the breach.



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## Division 9.6 Recovery of possession of premises

### 193 Prohibition on certain recovery proceedings in courts

The operator of a retirement village may not commence a proceeding in the Supreme Court or the Magistrates Court to obtain recovery of possession of residential premises in the village (except as mortgagee of the premises).

### 194 Person not to recover possession of premises except by order

(1) A person commits an offence if the person (whether acting on the person's own behalf or on behalf of another)—

(a) does any of the following things for the purpose of recovering possession of residential premises in a retirement village:

(i) enters residential premises within the village;

(ii) removes a resident from residential premises within the village;

(iii) takes any other action that is intended, or is likely, to cause a resident to vacate residential premises within the village; and

(b) does a thing mentioned in paragraph (a) otherwise than in accordance with this Act or another territory law.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) In a proceeding for an offence under this section, the court may order that the person who committed the offence, or any person on whose behalf that person acted, pay to the entitled person compensation as the court considers appropriate.



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(4) In this section:

***entitled person*** means the person entitled, or formerly entitled, to occupy the residential premises the subject of the offence.

## 195 Enforcement of orders for possession

(1) This section applies if—

(a) the ACAT makes an order setting a day for vacation of residential premises in a retirement village; and

(b) the order (or a condition of suspension of the order) is not complied with by the resident of the premises.

(2) The operator of the retirement village may apply to the ACAT for a warrant authorising the sheriff to enter the residential premises and to give possession to the operator.

(3) An order for possession of residential premises in a retirement village made by the ACAT is not to be enforced otherwise than under the authority of a warrant issued under this section.

(4) In this section:

***sheriff*** means the person appointed as the sheriff of the Territory under the *Supreme Court Act 1933*, section 46 (2) (Appointments).

## 196 Liability of resident remaining in possession

(1) If a resident of a retirement village fails to comply with an order made by the ACAT setting a day for vacation of residential premises, the resident is liable to pay compensation to the operator of the village for any loss caused to the operator by that failure.

(2) The operator must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided taking those steps.



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(3) The ACAT may, on application by the operator, order the resident to pay to the operator compensation (including compensation for loss of recurrent charges) as it considers appropriate.

## Division 9.7 Abandonment of premises

### 197 Application—div 9.7

(1) This division applies to residential premises in a retirement village that are the subject of a residence contract under which the resident is not entitled to any repayment of the resident's ingoing contribution, or other payment, on the ending of the contract.

(2) However, this division does not apply to residential premises that are occupied by a resident who is a registered interest holder in relation to the premises.

### 198 Abandoned premises

(1) The ACAT may, on application by the operator of a retirement village, make an order declaring that residential premises occupied by a resident of the village were abandoned by the resident on a day stated in the order.

(2) However, the ACAT is not entitled to make an order only because the resident has died.

(3) The resident is taken to have abandoned the residential premises on the stated day.

### 199 Right of operator to compensation where resident abandons premises

(1) If a resident of a retirement village abandons the resident's residential premises, the resident is liable to pay compensation to the operator of the village for any loss (including loss of recurrent charges) caused to the operator by the abandonment.



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(2) The operator must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided taking those steps.

(3) The ACAT may, on application by the operator, order the resident to pay to the operator compensation (including compensation for loss of recurrent charges) as it considers appropriate.

## Division 9.8 Uncollected goods

### 200 Application—div 9.8

This division does not apply to residential premises that are occupied by a resident who is a registered interest holder in relation to the premises.

### 201 Uncollected Goods Act does not apply

The *Uncollected Goods Act 1996* does not apply to goods left on residential premises in a retirement village by a former occupant of the village.

### 202 Delivery of uncollected goods

(1) This section applies if a residence contract for residential premises in a retirement village is ended and goods are left on the residential premises by a former occupant of the village.

(2) The former occupant, or any other person having an interest in the goods, may apply to the ACAT for an order for the delivery of the goods into the former occupant's or the other person's possession.

(3) On application, the ACAT may make 1 or more of the following orders:

(a) an order for the delivery of the goods into the possession of the former occupant or other person;



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(b) an order directing the former occupant or other person to pay any reasonable costs incurred by the operator of the village in connection with the removal, storage or delivery of the goods.

## 203 Disposal of uncollected goods

(1) If a residence contract for residential premises in a retirement village is ended and goods are left on the residential premises by the former occupant, the operator of the village may—

(a) apply to the ACAT for an order under this section; or

(b) sell or dispose of the goods in accordance with a regulation.

(2) Before making the application, or selling or disposing of the goods, the operator must, if the operator has a forwarding address for the former occupant of the premises, send notice of the operator's intention to the former occupant (or to the executor or administrator of the estate of the former occupant).

(3) On application, the ACAT may make 1 or more of the following orders if satisfied on reasonable grounds that the operator has given, or was not able to give, the notice required by subsection (2):

(a) an order authorising the removal, destruction or disposal of the goods;

(b) an order authorising the sale of the goods;

(c) an order about the manner of the sale of the goods;

(d) an order about the proceeds of the sale of the goods.

## 204 Title to sold goods

(1) This section applies if a person (the ***buyer***) buys goods sold by the operator of a retirement village under this division.

(2) The buyer acquires title to the goods free of any mortgage, lien or charge in favour of another person affecting the goods that the buyer was unaware at the time of buying the goods.



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## 205 Sale of uncollected goods in contravention of this Act

(1) The operator of a retirement village commits an offence if the operator sells, removes, destroys or disposes of goods mentioned in section 203 (1) (Disposal of uncollected goods) otherwise than as provided by this division.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

## 206 Protection from liability—operator

(1) The operator of a retirement village does not incur civil liability in relation to the delivery, removal, destruction, disposal or sale of goods in accordance with this division.

(2) However, if the operator deals with the goods otherwise than in accordance with this division, a person who has an interest in the goods may apply to the ACAT for an order directing the operator to pay compensation to the applicant.



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# Part 10 Matters relating to vacation of premises

## Division 10.1 Preliminary

### 207 Meaning of *permanently vacated* residential premises—pt 10

(1) For this part, a former occupant who died or vacated residential premises in a retirement village in the circumstances described in section 120 (1) (b) (Relative may ask to enter into residence contract) is taken to have ***permanently vacated*** the premises on the day the occupant died or vacated the premises.

(2) This section applies in addition to section 14 (Meaning of *permanently vacated* residential premises).

(3) Nothing in division 6.4 (Right of certain relatives to become residents) affects any right or obligation of the resident under this part.

### 208 Meaning of *sale of residential premises*—pt 10

For this part, a reference to the ***sale of residential premises*** occupied by a registered long-term sublessee includes a reference to the sale of the residence right in relation to the premises.



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# Division 10.2 Recurrent charges

## 209 Recurrent charges for optional services

(1) A resident of a retirement village who is temporarily absent from the village for a period of at least 28 days is not liable to pay, in relation to the period over 28 days, recurrent charges for optional services.

(2) The liability to pay recurrent charges for optional services—

(a) if the resident has moved out of the residential premises—stops on the day the resident moved out; or

(b) if the resident has died—stops on the day the operator of the village is notified of the resident's death; but

(c) does not stop in relation to services provided before that day.

(3) If the operator and the resident cannot agree on the proportion of recurrent charges that are payable for optional services, either party may apply to the ACAT for an order apportioning the resident's recurrent charges between optional services and general services.

(4) In subsection (3):

***resident*** includes a former occupant of residential premises in a retirement village.



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## 210 Recurrent charges for general services—registered interest holders

(1) This section applies to a former occupant of residential premises in a retirement village who is a registered interest holder in relation to the premises.

(2) Subject to subsection (3), the former occupant's liability to pay recurrent charges in relation to general services that arise after the former occupant permanently vacated the residential premises stops on—

(a) the day the operator of the village enters into—

(i) a village contract with an incoming resident in relation to the premises; or

(ii) a residential tenancy agreement with an incoming tenant in relation to the premises; or

(b) the day a person takes up residence in the premises with the operator's consent; or

(c) if the operator buys the premises from the former occupant—the day contracts for the purchase are exchanged; or

(d) if the former occupant is a registered long-term sublessee—unless the contract between the former occupant and the operator provides for an earlier day, the earlier of the following:

(i) if the ACAT ended the residence contract—the day the former occupant permanently vacated the premises;



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(ii) if the former occupant permanently vacated the premises after receiving notice of the operator's intention to apply to the ACAT for an order ending the residence contract—the day the former occupant permanently vacated the premises.

(3) The former occupant's liability to pay recurrent charges in relation to general services that arise after the former occupant has permanently vacated the residential premises must be met—

(a) in relation to a liability arising during the 42 days immediately after the day the former occupant permanently vacated the premises—by the former occupant; and

(b) in relation to a liability arising after the period mentioned in paragraph (a)—by the former occupant and the operator of the village in the same proportions as the former occupant and the operator would share any capital gain under the village contract.

(4) If the departure fee payable by a resident under the village contract is worked out in relation to the incoming resident's ingoing contribution, for subsection (3) (b)—

(a) the operator's share is taken to be the percentage of the capital gain equal to the percentage of the incoming resident's ingoing contribution in relation to which the departure fee is worked out; and

(b) the former occupant's share is taken to be the remaining percentage.



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(5) Subsection (4) applies despite any provision in the village contract about how the former occupant and the operator of the retirement village are to share in the capital gain.

**Example**

Lewis has moved from the retirement village operated by Henry into a residential care home. Lewis's village contract states that he is entitled to 100% of the capital gain. However, under his contract, Lewis is liable to pay a departure fee worked out as 25% of an incoming resident's ingoing contribution. Therefore, Henry's share of the capital gain is taken to be 25% and he is liable to pay 25% of the recurrent charges for general services, and Lewis is liable to pay the remaining 75%.

## 211 Recurrent charges for general services—generally

(1) This section applies to a former occupant of residential premises in a retirement village who is not a registered interest holder in relation to the premises.

(2) The former occupant's liability to pay recurrent charges in relation to general services that arise after the former occupant permanently vacated the residential premises stops on the earlier of the following days or, if the operator and former occupant agree to another date, the date agreed:

(a) the day the operator of the retirement village enters into—

(i) a village contract with an incoming resident in relation to the premises; or

(ii) a residential tenancy agreement with an incoming tenant in relation to the premises;

(b) the day a person takes up residence in the premises with the operator's consent;

(c) if the ACAT ended the residence contract—the day the former occupant permanently vacated the premises;



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(d) if the former occupant permanently vacated the premises after receiving notice of the operator's intention to apply to the ACAT for an order ending the residence contract—the day the former occupant permanently vacated the premises;

(e) the day that is 42 days after the day the former occupant otherwise permanently vacated the premises.

(3) On and from the day the former occupant's liability to pay recurrent charges in relation to general services stops under subsection (2), the operator of the retirement village must pay the recurrent charges payable in relation to those residential premises until the day the operator enters into a village contract with an incoming resident.

## 212 Time of payment of recurrent charges

(1) A former occupant of residential premises in a retirement village may choose to—

(a) discharge (wholly or in part) as the liability arises the former occupant's liability for recurrent charges that arise after the former occupant permanently vacated the residential premises; or

(b) discharge the liability mentioned in paragraph (a) (wholly or in part)—

(i) for a former occupant who is a registered interest holder (other than a registered long-term sublessee) in relation to the residential premises—from the proceeds of the sale of the premises; or

(ii) for any other case—from the money payable to the former occupant by the operator of the village under a village contract.

(2) The former occupant must notify the operator in writing of the former occupant's choice as soon as practicable after permanently vacating the premises.



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### 213 Interest on recurrent charges

(1) The operator of a retirement village may charge interest on the amount of the recurrent charges that are not paid by a former occupant of the village as the liability to pay those charges arises.

(2) Subsection (1) does not apply if a contract between the operator and the former occupant states that interest is not payable on the recurrent charges.

(3) A regulation may prescribe a maximum rate of interest.

(4) However, if the operator and the former occupant agree to a lower rate of interest, or if a contract between the operator and the former occupant states a lower rate of interest for this section, the interest is payable by the former occupant at that lower rate.

## Division 10.3 Departure fees

### 214 Meaning of *departure fee*

(1) In this Act:

***departure fee*** means—

(a) an amount payable under a village contract by a former occupant of a retirement village that is calculated in relation to all or part of the period during which the former occupant has or had a residence right in relation to residential premises in the village; or

(b) any other amount payable by a former occupant declared by regulation to be a departure fee; but

(c) does not include recurrent charges.

*Note* Departure fees include deferred fees under the *Fair Trading (Retirement Villages Industry) Code of Practice 1999* (NI1999-277).

(2) A departure fee must be calculated on a daily basis.



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(3) If a resident or former occupant of a retirement village moves to other residential premises in the village (or in another retirement village managed or controlled by the same operator or a close associate of that operator), the resident or former occupant is taken to have a continuous residence right in relation to residential premises for calculating the departure fee.

## 215 Meaning of *village contract*—div 10.3

In this division:

***village contract*** means a village contract that provides for payment of a departure fee.

## 216 Payment of departure fee

(1) A departure fee is payable by a former occupant of residential premises in a retirement village to the operator of the village.

(2) The departure fee is payable out of the former occupant's ingoing contribution.

(3) However, if the former occupant is, or was, a registered interest holder in relation to the residential premises, the departure fee is payable out of the proceeds of the sale of the residential premises.

(4) A departure fee must be deducted from the amount of the refund of the ingoing contribution, or the proceeds of the sale, payable to the former occupant as stated in the former occupant's village contract.

## 217 Departure fees payable

A departure fee is not payable to the extent that it is calculated in relation to a period occurring after a former occupant has permanently vacated the residential premises.



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# Division 10.4 Repair and refurbishment of residential premises

## 218 Meaning of *refurbishment*—div 10.4

In this division:

***refurbishment***, of residential premises the subject of a residence contract, means any improvement of the premises that is more than what is needed to restore them to the condition they were in (excluding fair wear and tear) at the start of their occupation by the resident under the contract.

## 219 Condition of premises on ending of residence contract

(1) This section does not apply to a former occupant of residential premises in a retirement village who is, or was, a registered interest holder in relation to the residential premises.

(2) A former occupant must leave the residential premises as nearly as possible in the same condition as set out in the condition report for the premises, excluding fair wear and tear, and renovations or alterations to fixtures or fittings made with the consent of the operator of the village under section 63 (Renovations and alteration of fixtures or fittings).

(3) The operator may require the former occupant to meet the cost of any repairs needed (the ***repair work***) to the former occupant's residential premises because the former occupant did not leave the premises in the condition required by this section.

(4) The former occupant may apply to the ACAT for an order in relation to the costs of the repair work if the resident—

(a) disagrees that the repair work is necessary; or

(b) considers that the cost of the repair work is excessive.



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(5) In an application to the ACAT—

(a) the operator bears the onus of proving the cost of the repair work; and

(b) the ACAT may—

(i) if it considers that the operator has not proved the cost—order the operator to withdraw the claim; or

(ii) if it considers that the operator has proved the cost, in whole or in part—order the former occupant to pay the cost or an amount ordered by the ACAT to meet the cost of the repair work.

### 220 No refurbishment required

A former occupant of residential premises in a retirement village is not liable to refurbish (or pay for the cost of the refurbishment of) the premises.

## Division 10.5 Sale or letting of premises by certain residents

### 221 Application—div 10.5

This division applies to a resident of a retirement village who is a registered interest holder in relation to the resident's residential premises in the village.

### 221A Meaning of *resident*—div 10.5

In this division:

***resident***, of a retirement village, includes a former occupant of the retirement village.



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## 222 Options

(1) The operator of a retirement village who holds an option to buy residential premises from a resident of the village must—

(a) decide whether to exercise the option; and

(b) give the resident written notice of the decision, not later than 28 days after—

(i) the resident permanently vacates the premises; or

(ii) if the resident has not lived in the premises—the resident gives the operator written notice that the premises are for sale.

(2) If the operator does not give the notice required by subsection (1) within the time required, the option lapses.

(3) This section has effect despite any term of the option.

## 223 Sale of premises

(1) A resident of a retirement village may—

(a) set the sale price of the resident's residential premises in the village; and

(b) appoint a selling agent of the resident's choice.

(2) The resident may, but need not, appoint the operator of the village as a selling agent if the operator is licensed as a real estate agent under the *Agents Act 2003*.

(3) If the resident appoints the operator as selling agent of the resident's residential premises, the resident may also, but need not, allow the operator to set the sale price of the premises.



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(4) The operator must not make it a condition of entry into the village that the operator or someone appointed by the operator—

(a) act as the selling agent of residential premises in the village; or

(b) set the sale price of residential premises in the village.

(5) If the operator purports to impose a condition mentioned in subsection (4), the condition is void.

(6) The operator, or a person chosen by the operator, who is appointed as a selling agent under subsection (2) must—

(a) notify the resident of all offers to buy the premises; and

(b) if the resident asks—give the resident a report at the end of each stated month about the following in relation to that month:

(i) the marketing program (including details of all advertising of the premises or the village);

(ii) details about all inquiries received about the sale;

(iii) the names and telephone numbers (or other contact details) of the people who made the inquiries (if the operator knows those details);

(iv) details (including the asking price) of all other residential premises for sale in the village during that month.

(7) If a person other than the operator is appointed as selling agent, the resident must give the operator written notice of the following:

(a) the selling agent's name and contact details;

(b) the asking price for the premises;

(c) any changes to—

(i) the selling agent's appointment or contact details; and

(ii) the asking price for the premises.



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## 224 Operator not to interfere in sale

(1) The operator of a retirement village who is not appointed a selling agent for residential premises in the village commits an offence if the operator interferes with the sale of the premises.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) Without limiting subsection (1), the operator interferes with the sale of the premises if the operator interferes with any "For Sale" sign relating to the premises.

(4) Subsection (2) does not apply if the sign has been erected contrary to the village rules or in a way that interferes with the peace, comfort and quiet enjoyment of another resident of the retirement village.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(5) In this section:

***village rules***, of a retirement village, includes by-laws if the village is part of a community title scheme or units plan.

## 225 Costs of sale

(1) A resident of a retirement village who sells residential premises in the village and the operator of the village are to share the costs of the sale in the same proportion (if any) as they are to share any capital gain on the sale in accordance with a village contract.

(2) However, if the resident appointed a person other than the operator or a person chosen by the operator as a selling agent, the resident is liable to pay the selling agent's commission.

(3) The resident is not liable to pay commission to the operator or a person chosen by the operator if the premises are sold otherwise than as a result of the operator (or person) acting as the selling agent.



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(4) In this section:

***costs of sale—***

(a) includes costs prescribed by regulation; but

(b) does not include costs prescribed by regulation.

## 226 Buyer and operator to enter contract

(1) This section applies if the seller of residential premises in a retirement village is not the operator of the village.

(2) The seller must give the operator of the village sufficient notice of the proposed sale to enable the operator to give the buyer a disclosure statement and the information required under section 28 (Information to be given to prospective residents) at least 14 days before the contract is entered into.

(3) The contract is taken to include a provision to the effect that the contract is conditional on the buyer entering into a service contract with the operator on or before completion of the purchase.

(4) As soon as practicable after the contract for the sale of the premises is entered into, the seller must give the operator written notice of that fact.

(5) If the operator decides not to enter into a service contract with the buyer, the operator must, not more than 14 days after being notified under subsection (4)—

(a) give the seller written notice of the decision and the reasons for it; and

(b) apply to the ACAT for an order declaring that the operator is not obliged to enter into the service contract.



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## 227 Seller's application to ACAT concerning proposed buyer

(1) Subsection (2) applies if the operator of a retirement village does not, within 14 days after receiving written notice under section 226 (4)—

(a) enter into a service contract with the buyer; or

(b) apply to the ACAT under section 226 (5).

(2) The seller may apply to the ACAT for an order directing the operator to enter into a service contract with the buyer.

(3) Subsection (4) applies if—

(a) the operator offers the buyer a service contract containing terms and conditions (the ***differing terms and conditions***) substantially different from the terms and conditions of the sample contracts available for inspection under section 29 (Copies of certain documents to be made available); and

(b) the differing terms and conditions are to the buyer's detriment.

(4) The seller may apply to the ACAT for an order directing the operator to enter into a service contract with the buyer that is substantially in accordance with the sample contract.

## 228 ACAT decision in relation to proposed buyer

(1) On application under section 226 (5) or section 227 (2), the ACAT must decide whether the operator's decision not to enter into a service contract is reasonable in the circumstances, taking into account—

(a) whether the residential premises are suitable for occupation by the intended occupant, taking into account the intended occupant's physical and mental capacity; and

(b) anything else the ACAT considers relevant.

(2) However, the intended occupant's age is not relevant if the intended occupant is a retired person.



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(3) On making a decision under subsection (1), the ACAT may make an order of the kind mentioned in section 226 (5) or section 227 (2), whether or not that is the order sought.

(4) If the ACAT considers it appropriate, an order mentioned in section 227 (2) or (4) may also set the terms of the service contract to be entered into, taking into account the service contracts in force in the retirement village and the sample contract available for inspection under section 29 (Copies of certain documents to be made available).

(5) If the ACAT makes the order mentioned in section 227 (4), the ACAT may also order the operator to pay compensation to the seller or the buyer (or both) for delay and inconvenience that it considers just in the circumstances.

(6) In this section:

***intended occupant***, of residential premises in a retirement village, means—

(a) the buyer of the premises; or

(b) another person the buyer intends to allow to live in the premises.

## 229 Letting or subletting of premises

(1) A resident of residential premises in a retirement village—

(a) if the resident of the premises is a registered long-term sublessee—may sublet the premises under a residential tenancy agreement under this division; or

(b) in any other case—may let the premises under a residential tenancy agreement under this division.

(2) A residential tenancy agreement under this division—

(a) must comply with the requirements of the *Residential Tenancies Act 1997*, section 6A (What is a *residential tenancy agreement*?); and



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(b) must be for a term that, together with any option to renew, is not more than 3 years.

*Note* A residential tenancy agreement under this division is subject to the *Residential Tenancies Act 1997*. The tenant is not a ***resident*** of the retirement village.

(3) The tenant or subtenant under the residential tenancy agreement must be a retired person.

(4) A resident may let or sublet the premises only if—

(a) the resident has given the operator of the village written details of—

(i) the name and age of the proposed tenant or subtenant; and

(ii) the term of the proposed residential tenancy agreement; and

(iii) any other matters in relation to the proposed agreement that the operator may reasonably require; and

(b) the operator has consented in writing to the agreement.

(5) The operator may refuse to consent to a second or later residential tenancy agreement if the proposed term of the agreement, when added to the term of a preceding agreement relating to the premises and to which the same resident was a party, would be more than 3 years.

(6) If the operator decides not to consent to the residential tenancy agreement (other than for a reason mentioned in subsection (5)), the operator must, not later than 7 days after receiving the written details mentioned in subsection (4) (a)—

(a) give the resident written notice of the decision and the reasons for it; and

(b) apply to the ACAT for an order declaring that the operator is not obliged to consent to the agreement.



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(7) If the operator does not apply for an order within the time allowed, the operator is taken to have consented to the residential tenancy agreement.

## 230 ACAT decision in relation to proposed tenant or subtenant

(1) On application under section 229, the ACAT must decide whether the operator's decision not to consent to a residential tenancy agreement mentioned in that section is reasonable in the circumstances, taking into account—

(a) whether the residential premises are suitable for occupation by the proposed tenant or subtenant, taking into account the proposed tenant's or subtenant's physical and mental capacity; and

(b) anything else the ACAT considers relevant.

(2) However, the age of the proposed tenant or subtenant is not relevant if the proposed tenant or subtenant is a retired person.

(3) On making a decision under subsection (1), the ACAT may make an order—

(a) directing the operator to consent to the residential tenancy agreement and pay the compensation (if any) stated in the order; or

(b) declaring that the operator is not obliged to consent to the agreement.

(4) The operator is taken to have consented to the residential tenancy agreement on the making of an order under subsection (3) (a).



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## 231 Effect of granting of residential tenancy agreement under this division

(1) This section applies if a resident of residential premises in a retirement village enters into a residential tenancy agreement with a tenant or subtenant in relation to the premises.

(2) Services under the service contract between the operator of the retirement village and the resident are to be provided to the tenant or subtenant of the resident as if the tenant or subtenant were the resident.

(3) The tenant or subtenant may enforce the service contract.

(4) The letting or subletting of residential premises under this division does not affect any right or obligation of the resident and the operator under a village contract.

## 232 Operator not to interfere in letting

(1) The operator of a retirement village commits an offence if the operator interferes with a resident's attempt to let the resident's residential premises in the village.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

(3) Subsection (1) does not apply if the operator refused to consent to a second or subsequent tenancy agreement under section 229 (5).

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(4) Without limiting subsection (1), the operator interferes with a resident's attempt to let residential premises if the operator interferes with a "For Lease" sign relating to the premises.



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(5) Subsection (4) does not apply if the sign has been erected contrary to the village rules or in a way that interferes with the peace, comfort and quiet enjoyment of another resident of the retirement village.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).

(6) In this section:

***village rules***, of a village, includes by-laws if the village is part of a community title plan or unit titles plan.

## 233 No assignment or subletting

(1) A person who is a tenant or subtenant under a residential tenancy agreement under this division must not—

(a) assign the person's interest under the agreement; or

(b) sublet the premises the subject of the agreement.

(2) This section has effect despite any term in the agreement and despite the *Residential Tenancies Act 1997*.

## 234 Legal ability to sublet

(1) For this division, and despite the ending of the resident's residence contract, a resident of a retirement village who is a registered long-term sublessee is taken to possess a legal estate in the resident's residential premises in the village that enables the resident to lease the premises to another person under a residential tenancy agreement.

(2) The resident ceases to possess the estate on completion of the sale of the premises.



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# Division 10.6 Payments to former occupants

## 235 Payments to former occupants who were registered interest holders

(1) This section applies to a former occupant of residential premises in a retirement village who is, or was, a registered interest holder in relation to the residential premises.

(2) The operator of the village must make any payment needed to be made to the former occupant following the sale of the premises within 14 days after the earliest of the following days:

(a) the day the operator receives full payment under a residence contract with an incoming resident of the premises;

(b) the day the operator enters into a village contract with an incoming resident of the premises;

(c) the day the operator enters into a residential tenancy agreement with an incoming tenant of the premises;

(d) the day a person takes up residence in the premises with the operator's consent;

(e) if the operator buys the premises from the former occupant—the day the operator completes the purchase.

(3) The operator of the village commits an offence if the operator does not comply with subsection (2).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is a strict liability offence.

(5) Subsection (3) does not apply if the contract between the operator and former occupant provides for earlier payment.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).



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(6) If a payment is not made to the former occupant within the time required by subsection (2)—

(a) the former occupant may apply to the ACAT for an order directing the operator to make the payment; and

(b) interest is payable, at the rate prescribed by regulation, on the unpaid amount on and from the day the amount becomes overdue.

## 236 Statements to former occupants who were registered interest holders

(1) This section applies if the operator of a retirement village makes a payment to a former occupant of residential premises in the village under section 235.

(2) At the same time as the payment is made, the operator must give the former occupant a statement setting out the following and showing how the amounts were calculated:

(a) the departure fee, if any, payable by the former occupant;

(b) accrued or outstanding recurrent charges, if any, payable by the former occupant;

(c) any amount payable by the former occupant in relation to the sale of the residential premises;

(d) any other amount payable by the former occupant under a village contract;

(e) if the former occupant is a registered long-term sublessee—the sale price of the premises;

(f) the amount of the payment to the former occupant.



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(3) The operator of the retirement village commits an offence if the operator does not comply with subsection (2).

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

## 237 ACAT order—recalculation of amount under s 235

(1) This section applies if the operator of a retirement village must make a payment to a former occupant under section 235 and, in the former occupant's opinion—

(a) the amount of the payment was not calculated in accordance with this Act or any relevant village contract; or

(b) the operator's conduct has unfairly had a negative financial impact on the former occupant.

(2) The former occupant may apply to the ACAT for an order directing the operator to recalculate the amount in accordance with the directions of the ACAT and pay any additional amount due to the former occupant as a result of the recalculation.

(3) If the ACAT considers it appropriate, the ACAT may also order the payment of interest on the additional amount at the rate prescribed by regulation.

(4) Without limiting subsection (1), conduct of the operator that may unfairly have a negative impact on a former occupant includes entering into a village contract with a subsequent resident that contains terms that—

(a) are substantially different from those contained in the village contract to which the former occupant was a party; and

(b) will have a negative financial impact on the former occupant to the benefit of the operator.



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## 238 Payments to former occupants who were not registered interest holders

(1) This section applies to a former occupant of residential premises in a retirement village who is not, or was not, a registered interest holder in relation to the residential premises.

(2) The operator of a retirement village must make any refund of the ingoing contribution needed to be made to the former occupant under the village contract not later than the earliest of the following:

(a) the day for payment stated in the village contract;

(b) the day for payment agreed between the operator and former occupant;

(c) the day that is 14 days after the day the operator receives full payment under the residence contract of an incoming resident of the premises;

(d) the day that is 14 days after the day the operator enters into a residential tenancy agreement with an incoming tenant of the premises;

(e) the day that is 14 days after the day a person takes up residence in the premises with the operator's consent;

(f) if the ACAT ended the residence contract—the day that is 1 month after the day the contract ended;

(g) if the former occupant delivered up vacant possession of the premises to the operator after receiving notice of the operator's intention to apply to the ACAT for an order ending the residence contract—the day that is 1 month after the day vacant possession was delivered;

(h) the day that is 6 months after the day the former occupant otherwise delivered up vacant possession of the premises to the operator.



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(3) The operator commits an offence if the operator does not comply with subsection (2).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (2) is a strict liability offence.

(5) Any other payment dependent on the amount of the ingoing contribution of the incoming resident of the premises that is required, under a village contract, to be made to the former occupant must be paid to the former occupant within 14 days after the earlier of—

(a) the payment, under a village contract, of any money to the operator, by the incoming resident; or

(b) the incoming resident's taking up residence in the premises.

*Note* A contract may provide that the resident, when the resident permanently vacates residential premises in the village, is to receive a refund of a fixed amount of the resident's ingoing contribution plus a share of any capital gain (that is, any greater amount of ingoing contribution payable by the incoming resident compared with the ingoing contribution paid by the former occupant). The refund of the ingoing contribution must be paid by the time mentioned in s (2), while the share of capital gain (if any) must be paid by the time mentioned in s (5).

(6) If, in the operator's opinion, the operator will not be able to enter into a residence contract with another person in relation to the premises within the time required under subsection (2) (h), the operator may apply to the ACAT for 1 of the following orders on the grounds that compliance within the time required under subsection (2) (h) would cause undue hardship to the operator:

(a) an order extending the time allowed for payment under this section;

(b) an order allowing payment by instalments.



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(7) In deciding an application made under subsection (6), the ACAT may—

(a) consider the hardship to be caused to the former occupant if an order of the kind set out in subsection (6) is made; and

(b) make an order of that kind; and

(c) if it considers it appropriate to do so, make a further order for the payment of interest at a rate decided by the ACAT.

(8) If a payment is not made to the former occupant within the time required by this section—

(a) the former occupant may apply to the ACAT for an order directing the operator to make the payment; and

(b) interest is payable, at the rate prescribed by regulation, on that unpaid amount on and from the day the amount becomes overdue.

## 238A Statements to former occupants who were not registered interest holders

(1) This section applies if the operator of a retirement village—

(a) refunds a former occupant's ingoing contribution under section 238 (2); or

(b) makes another payment to a former occupant of residential premises in the village under section 238 (5).

(2) At the same time as the payment is made, the operator must give the former occupant a statement setting out the following and showing how the amounts were calculated:

(a) the departure fee (if any) payable by the former occupant;

(b) accrued or outstanding recurrent charges (if any) payable by the former occupant;



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(c) any amount payable by the former occupant in relation to repairs required to the residential premises under section 219 (Condition of premises on ending of residence contract);

(d) any other amount payable by the former occupant under a village contract;

(e) in relation to the part of a refund mentioned in section 238 (5)—the amount of the ingoing contribution of the incoming resident of the premises;

(f) the amount of the payment to the former occupant.

(3) The operator of the village commits an offence if the operator does not comply with subsection (2).

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

## 239 ACAT order—recalculation of payment under s 238

(1) This section applies if the operator of a retirement village must make a payment to a former occupant under section 238 and, in the former occupant's opinion—

(a) the amount of the payment was not calculated in accordance with this Act or any relevant village contract; or

(b) the operator's conduct has unfairly had a negative financial impact on the former occupant.

(2) The former occupant may apply to the ACAT for an order directing the operator to recalculate the amount in accordance with the directions of the ACAT and pay any additional amount due to the former occupant as a result of the recalculation.

(3) If the ACAT considers it appropriate, the ACAT may order the payment of interest on the additional amount at the rate prescribed by regulation.



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(4) Without limiting subsection (1), conduct of the operator that may unfairly have a negative impact on a former occupant includes entering into a village contract with a subsequent resident that contains terms that—

(a) are substantially different from those contained in the village contract to which the former occupant was a party; and

(b) will have a negative financial impact on the former occupant to the benefit of the operator.

## 240 Payments to executors and administrators

(1) This section applies if, because of the death of a former occupant of residential premises in a retirement village, a payment under this division must be made to the executor or administrator of the former occupant's estate.

(2) The operator of the village must sight a grant of administration in relation to the estate before making a payment.

(3) However, if the operator is unable to find out the identity of the executor or administrator—

(a) the operator may apply to the ACAT for an order directing the operator to deal with the money as stated in the order; and

(b) the operator does not incur any liability in relation to the operator's dealing with the money in accordance with the order.

(4) In this section:

***grant of administration*** means—

(a) grant of probate, or of letters of administration, under the *Administration and Probate Act 1929*; or

(b) a grant of an order to collect and administer under that Act, section 88; or



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(c) an election to administer under that Act, section 87C; or

(d) a corresponding grant or election under a law in force in a State or another Territory.



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# Part 11 Protection of ingoing contributions paid by residents other than registered interest holders

## 241 Application—pt 11

(1) This part applies to a village contract if—

(a) a resident of the village under the contract has paid an ingoing contribution under the contract that includes a provision that entitles the resident to a refund of the whole, or any part, of the ingoing contribution; and

(b) the refund is more than the amount prescribed by regulation.

(2) However, this part does not apply to a village contract if the resident is a registered interest holder.

## 242 Creation of charge

(1) A charge is created over the land in a retirement village for the amount of the refund under the village contract for a resident's residential premises in the village on the day the contract is entered into.

(2) Nothing in this section creates a charge over land—

(a) that is not registered as a retirement village under section 42 (Retirement village land to be registered under Land Titles Act); or

(b) in relation to which a resident is a registered interest holder.



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## 243 Disposal of land subject to charge

(1) A person must not dispose of land in relation to which a charge is in force under this part except in accordance with an order under section 246 (Order for enforcement of charge).

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply in relation to the disposal of land in a retirement village in the course of the sale of a retirement village as a going concern.

## 244 Effect of charge on successors in title

A charge that is created over land under this part is binding on, and enforceable against, the owner of the land from time to time while the charge is in force.

## 245 Application for enforcement of charge

(1) A person may apply to the Supreme Court for an order under section 246 in relation to land in a retirement village in relation to which the person is a resident or former occupant if—

(a) either—

(i) the operator of the village—

(A) if an individual—becomes bankrupt or personally insolvent; or

(B) if a corporation—becomes insolvent; or

(ii) an administrator is appointed in relation to the operator; and



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(b) the person reasonably believes that it is unlikely that the operator will be able to refund the part of the ingoing contribution that the applicant is entitled to be refunded under a village contract relating to the village.

(2) A mortgagee, receiver or administrator of land in a retirement village may apply to the Supreme Court for an order under section 246 in relation to land in a retirement village if—

(a) either—

(i) the operator of the village—

(A) if an individual—becomes bankrupt or personally insolvent; or

(B) if a corporation—becomes insolvent; or

(ii) an administrator is appointed in relation to the operator; and

(b) the applicant reasonably believes that it is unlikely that the operator will be able to refund any part of an ingoing contribution that a resident or former occupant is entitled to be refunded under a village contract relating to the village.

## 246 Order for enforcement of charge

The Supreme Court may, on application under section 245 in relation to land in a retirement village, do any of the following:

(a) order the sale of land in the village, in relation to which a charge is in force;

(b) appoint a person to act as the agent for the sale;

(c) decide the entitlements of each of the residents or former occupants of the village, taking into account—

(i) the refund entitlement of each resident or former occupant under the relevant village contract; and



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(ii) the days on which charges were created under this part in relation to those contracts;

(d) make any other order relating to the distribution of the proceeds of the sale as the court considers appropriate, taking into account the order that interests are to be satisfied in accordance with section 247;

(e) make any other order the court considers appropriate.

## 247 Priority of interests

For an order under this part, interests in the land the subject of the order must be satisfied in the following order:

(a) the costs of the sale of the land and the applicant's costs in seeking the order;

(b) any interest, mortgage, lien or other charge on or over the land created or registered before the creation of a charge under this part, or otherwise taking priority over a charge over the land that has been created under this part;

(c) any entitlement of a resident or former occupant of the retirement village arising from a village contract in relation to which a charge over the land has been created under this part and registered under the *Land Titles Act 1925*;

(d) any other entitlement of a resident or former occupant of the retirement village arising from a village contract in relation to which a charge over the land has been created under this part;

(e) any interest, mortgage, lien or other charge on or over the land created or registered after the creation of a charge over the land under this part;

(f) the interest of the registered proprietor of the land immediately before the sale of the land.



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## 248 Order not to disadvantage residents

The Supreme Court must not make an order under this part unless satisfied that the order is in the best interests of the majority of the residents of the retirement village.

## 249 Removal of charge

A charge over land created under this part remains in force until—

(a) the village contract that caused the charge to be created is ended and all of the operator's liabilities under the contract have been met; or

(b) the land is sold in accordance with an order under this part.



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# Part 12 Administration

## 250 Meaning of *judicial body*—pt 12

In this part:

***judicial body*** means—

(a) the ACAT; or

(b) a court.

## 251 Functions of director-general

The director-general has the following functions:

(a) investigating and carrying out research into matters relating to or affecting retirement villages;

(b) investigating and attempting to resolve complaints by residents and operators of retirement villages and taking the action that the director-general considers appropriate;

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(c) distributing information about the services provided by the director-general and the ACAT in relation to residents of retirement villages and promoting awareness of the rights and responsibilities of residents and people involved in the retirement village industry;

(d) investigating and reporting on any matters, or making inquiries in relation to any matters, referred to the director-general by the Minister or by the ACAT in relation to this Act.



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## 252 Director-general may issue warning notices

(1) The director-general may authorise publication of a notice warning people of particular risks involved in dealing with a stated operator of a retirement village or with a stated person who appears to be the operator of a retirement village (a ***warning notice***).

**Example**

a notice about the risks involved in dealing with an operator who has a history of unconscionable conduct in dealings with consumers

(2) The director-general may authorise the publication of a warning notice in 1 or more of the following ways:

(a) to people making inquiries to the director-general about the stated operator or person;

(b) by advertisement by the use of any medium;

(c) to media representatives.

(3) Publication of a warning notice must not be authorised unless an investigation has been conducted by the director-general (whether or not the investigation is in relation to a complaint).

(4) Before authorising the publication of a warning notice, the director-general must make reasonable efforts to give the operator or person who is to be stated in the warning notice an opportunity, for a period of not less than 48 hours, to make representations to the director-general about the proposed notice.

(5) The opportunity to make representations need not be given if the director-general reasonably believes there is an immediate risk to the public.

(6) No liability is incurred by any person for publishing honestly and without recklessness—

(a) a warning notice; or

(b) a fair report or summary of a warning notice.



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## 253 Director-general may conduct proceedings

(1) The director-general may conduct a proceeding before a judicial body on behalf of a resident of a retirement village if—

(a) the resident has made a complaint to the director-general; and

(b) after investigating the complaint, the director-general is satisfied that the resident may have a right to conduct the proceeding; and

(c) the resident agrees to the director-general conducting the proceeding.

(2) The director-general must conduct a proceeding before a judicial body on behalf of a resident of a retirement village if—

(a) the Minister directs the director-general to do so; and

(b) the resident agrees to the director-general conducting the proceeding.

## 254 Conduct of proceedings by director-general

(1) If the director-general conducts a proceeding before a judicial body on behalf of a resident of a retirement village, the director-general—

(a) must conduct the proceeding on behalf of the resident; and

(b) may appear personally or by a lawyer or agent; and

(c) may do anything necessary or convenient to give effect to an order or a decision of the judicial body; and

(d) is liable to pay the costs (if any) of the resident.

(2) The resident is liable to pay any other amount that the judicial body orders the resident to pay.



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## 255 Intervention by director-general

(1) Without limiting section 254, the director-general may intervene in a proceeding arising under this Act if the director-general reasonably believes that it would be in the public interest to do so.

(2) The director-general must intervene in a proceeding arising under this Act if directed to do so by the Minister.

(3) On intervening in a proceeding, the director-general—

(a) becomes a party to the proceeding and has all the rights of a party; and

(b) has a right to be heard personally or by a lawyer or agent.

## 256 Protection from liability

(1) A person is not civilly liable for anything done or omitted to be done honestly and without recklessness—

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

(2) Any civil liability that would, apart from this section, attach to a person attaches instead to the Territory.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).



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# Part 13 Miscellaneous

## 257 Charging monetary penalty imposed on operator to village operating costs

(1) The operator of a retirement village commits an offence if—

(a) a penalty is imposed on the operator for an offence against this Act; and

(b) the operator charges the amount of the penalty to the operating costs of the village or to the residents of the village.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

## 258 Charging for certain information

(1) The operator of a retirement village commits an offence if the operator—

(a) is required to make information available, or give a document, to a person under this Act; and

(b) requires the payment of an amount for making the information available or giving the document.

Maximum penalty: 50 penalty units.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) An offence against this section is a strict liability offence.



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## 259 Inconsistency between this Act and Civil Law (Sale of Residential Property) Act

(1) Subsection (2) applies to the sale of a residential premises in—

(a) a community title scheme; or

(b) a units plan.

(2) To remove any doubt, to the extent of any inconsistency between a provision in this Act and a provision in the *Civil Law (Sale of Residential Property) Act 2003* (a ***conveyancing provision***), the conveyancing provision prevails.

## 260 Costs of operator's legal advice or proceeding

(1) The residents of a retirement village are not liable to pay any costs the operator of the village incurs or expects to incur in obtaining legal advice, or undertaking a legal proceeding, in relation to the village unless—

(a) the costs appear in the approved annual budget for the village; or

(b) section 52 (Costs of preparation of village contracts) applies.

(2) If the residents refuse to consent to the inclusion of the costs as an item in a proposed annual budget, the ACAT may, on application by the operator under section 163 (ACAT orders—decisions about spending), order spending on those costs if the ACAT decides that—

(a) the legal advice or proceeding is wholly in the interest of the residents; and

(b) the costs are reasonable in the circumstances.

(3) This section does not apply in relation to costs awarded in favour of the operator and against a resident of a retirement village in a legal proceeding.



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## 261 Contracting out of Act

(1) This Act has effect despite anything to the contrary in an agreement, contract, scheme or arrangement.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) An agreement, contract, scheme or arrangement, whether oral or wholly or partly in writing, does not operate to vary or exclude the operation of a provision of this Act.

(3) Subsection (1) and subsection (2) apply in relation to the constitution of a corporation in the same way as they apply in relation to an agreement, contract, scheme or arrangement.

(4) A person commits an offence if the person enters into an agreement, contract, scheme or arrangement to defeat, avoid or prevent, directly or indirectly, the operation of this Act.

Maximum penalty: 50 penalty units.

(5) Subsection (4) does not apply to a residential tenancy agreement that contains a term to the effect that this Act does not apply to the residential premises the subject of the agreement.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).

*Note 2* A retirement village does not include residential premises that are the subject of a residential tenancy agreement in certain circumstances (see s 10 (1), def ***retirement village***, par (b) (vi)).

## 261A Meetings of operators—methods of communication

(1) This section applies to a meeting to be held, including under any of the following provisions:

(a) section 62 (New operator to convene meeting of residents);

(b) section 83 (Proposed amendment of village rules);



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(c) section 94 (Change in services or facilities provided at village);

(d) section 107 (Operator must hold annual management meeting);

(e) section 111 (Villages without residents committee).

(2) The operator may authorise that the meeting be held using a method of communication, or a combination of methods of communication, that allows a resident taking part to hear or otherwise know what each other resident taking part says without the residents being in each other's presence.

**Examples**

a phone link, a satellite link, an internet or intranet link, in writing

(3) If the operator authorises that a meeting be held using a method of communication under subsection (2), the operator must ensure that—

(a) each resident has access to facilities that will allow them to take part in the meeting using the method; and

(b) each resident is able to use the facilities.

(4) A person who takes part in a meeting conducted under subsection (2) is taken, for all purposes, to be present at the meeting.

## 262 Determination of fees

(1) The Minister may determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.



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## 263 Approved forms

(1) The commissioner for fair trading may approve forms for this Act.

*Note* ***Commissioner for fair trading***—see the Legislation Act, dict, pt 1.

(2) If the commissioner for fair trading approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

(3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## 264 Regulation-making power

(1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(2) A regulation may make provision in relation to the following:

(a) applications to the ACAT, including applications by residents committees and operators of retirement villages;

(b) parties to applications to the ACAT by the operator of a retirement village.

(3) A regulation may create offences and fix maximum penalties of not more than 30 penalty units for the offences.



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# Schedule 1 Consent of residents

(see s 15)

## Part 1.1 Preliminary

### 1.1 Entitlement to vote

A former occupant of a retirement village may vote on a measure or action relating to the village if the former occupant is, or would have been, entitled to vote on the measure or action as a resident.

## Part 1.2 Consent generally

### 1.2 Vote to be taken

(1) If this Act provides that a particular measure or action is of no effect unless it is consented to by the residents of a retirement village, or otherwise requires the consent of the residents, the residents are taken to have given their consent if more than 50% of the residents who vote on the measure or action consent to it.

(2) Subsection (1) does not apply to a measure or action that requires a special resolution.

(3) In this section:

***resident*** means a resident entitled to vote.

***vote*** includes vote by proxy.

### 1.3 Method of voting

(1) A vote in relation to a measure or action (other than a measure or action that requires a special resolution) may be taken by means of—

(a) a show of hands; or

(b) a written ballot conducted in accordance with a regulation.



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(2) A regulation may require a vote in relation to a measure or action of a particular class or kind to be taken by means of a written ballot.

### 1.4 Result of vote

(1) The operator of a retirement village must accept as the residents' decision in relation to a measure or action that requires their consent the decision that is reported to the operator by—

(a) a person who holds an office on the residents committee for the village; or

(b) if there is no residents committee for the village—a resident elected in accordance with section 1.3 as the representative of the residents of the village in relation to the measure or action concerned.

(2) A regulation may make provision in relation to the election of a representative of residents under subsection (1) (b).

## Part 1.3 Consent requiring special resolution

### 1.5 Written ballot required for special resolution

A vote in relation to a measure or action that requires a special resolution must be taken by means of a written ballot conducted in the way prescribed by regulation.

### 1.6 How special resolution is carried

A special resolution is carried only if it is passed by at least 75% of the number of residents of the retirement village who participate in the written ballot.



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# Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- Australian statistician
- authorised deposit-taking institution
- bankrupt or personally insolvent
- commissioner for fair trading
- Corporations Act
- director-general (see s 163)
- doctor
- domestic partner (see s 169 (1))
- exercise
- fail
- function
- housing commissioner
- lawyer
- Magistrates Court
- public trustee and guardian
- registrar-general
- Supreme Court
- the Territory.

***accounts***, of a retirement village, means the accounts mentioned in division 7.5 (Annual accounts).

***administrator*** means an administrator appointed under an order made under division 6.6 (Administrators, receivers and managers).

***annual management meeting*** means the meeting mentioned in section 107.



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***approved annual budget***, for a financial year of a retirement village, means a proposed annual budget taken to be an approved annual budget under section 165.

***capital gain***—see section 13.

***capital item***, for which the operator of a retirement village is responsible, for division 7.2 (Capital maintenance and replacement)—see section 135 (1).

***capital maintenance***, for division 7.2 (Capital maintenance and replacement)—see section 135 (1).

***capital replacement***, for division 7.2 (Capital maintenance and replacement)—see section 135 (1).

***capital works fund*** means a fund established under section 143.

***close associate***, of the operator of a retirement village, means—

(a) an agent or employee of the operator; and

(b) if the operator is an individual—

(i) the domestic partner, parent, child or sibling of the operator; or

(ii) the parent, child or sibling by marriage of the operator; or

(iii) a body corporate of which the operator (or the operator's domestic partner, parent, child or sibling, or the operator's parent, child or sibling by marriage) is a director or secretary; and

(c) if the operator is a body corporate—

(i) a director or secretary of the body corporate or of a related body corporate (within the meaning of the Corporations Act); or

(ii) the domestic partner, parent, child or sibling (or the parent, child or sibling by marriage) of a director or secretary; or

(iii) a related body corporate.



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***community title scheme***—see the *Community Title Act 2001*, dictionary.

***company title scheme*** means a scheme under which a group of adjoining or adjacent premises (including residential premises) is owned or leased by a corporation each of whose shareholders has, because of the shareholder's shares, an exclusive right (under a lease or otherwise) to occupy 1 or more of the residential premises.

***condition report***—see section 59 (1).

***contract for the sale***, of residential premises occupied under a company title scheme—see section 9.

***departure fee***—see section 214.

***development approval***—see the *Planning Act 2023*, dictionary.

***disclosure statement*** means a statement mentioned in section 24.

***disputes committee***—see section 175A (1).

***end of the settling-in period***, for a village contract, for division 5.2 (Settling-in period for residents)—see section 71.

***financial year***, for a retirement village, means the period fixed under section 134.

***former occupant***, of a retirement village—

(a) means a resident, or a former resident, of the village—

(i) who has permanently vacated residential premises in the village; and

(ii) if the person is not a registered interest holder—whose residence contract has been ended; and

(iii) who continues to have rights or liabilities under a village contract in relation to the village; and

(b) includes the executor or administrator of the estate of a person mentioned in paragraph (a).



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***general inquiry document*** means a document mentioned in section 23.

***general services—***

(a) means services provided, or made available, by or on behalf of the operator of a retirement village, to all residents of the village; and

(b) includes services prescribed by regulation.

**Examples**

- management and administration
- gardening and general maintenance

***holding deposit***, for part 4 (Entry into retirement villages)—see section 32.

***ingoing contribution***—see section 11.

***investigator*** means an investigator appointed under the *Fair Trading (Australian Consumer Law) Act 1992*, section 36.

***judicial body***, for part 12 (Administration)—see section 250.

***operator***, of a retirement village—see section 7.

***optional services—***

(a) means optional services made available, by or on behalf of the operator of a retirement village, to individual residents of the village; and

(b) includes services prescribed by regulation.

**Examples**

laundry, meals, cleaning residential premises

***owners corporation***, for a units plan—see the *Unit Titles (Management) Act 2011*, dictionary.



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***permanently vacated***, residential premises—

(a) for this Act generally—see section 14; and

(b) for part 10 (Matters relating to vacation of premises)—see section 207.

***proposed annual budget***, for a financial year of a retirement village, for division 7.4 (Proposed and approved annual budgets)—see section 158.

***prospective resident***, of a retirement village, means a person who indicates (or on whose behalf it is indicated) to the operator of the village that the person is or might be interested in becoming a resident of the village.

***proxy***, of a resident of a retirement village, means a person appointed by the resident for voting on the resident's behalf at residents meetings.

***quarterly accounts***, for a quarter for a retirement village, means the accounts of the village's income and spending for the quarter.

***recurrent charge*** means an amount (including rent) payable under a village contract, on a recurrent basis, by a resident of a retirement village.

*Note* Levies payable under a community title scheme or units plan are not recurrent charges (because they are not payable under a village contract).

***refurbishment***, of residential premises the subject of a residence contract, for division 10.4 (Repair and refurbishment of residential premises)—see section 218.

***registered interest holder***, in relation to residential premises in a retirement village—see section 12 (1).

***registered long-term sublessee***, of residential premises in a retirement village—see section 12 (1).

***registered provider***, of a residential care home, means the registered provider under the *Aged Care Act 2024* (Cwlth).



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***relative***, of a person, means the following:

(a) a grandparent, parent, sibling or child of the person;

(b) a grandparent, parent, sibling or child of the person by marriage;

(c) a step-grandparent, step-parent, step-brother, step-sister or step-child of the person;

(d) an aunt or uncle of the person.

***rescission notice***—see section 55 (1).

***residence contract*** means a contract that gives rise to a residence right.

***residence right***, of a person—see section 8.

***resident***, of a retirement village—

(a) means a retired person who has a residence right in relation to residential premises in the village; and

(b) includes the following people (each of whom is taken also to have a residence right in relation to the residential premises):

(i) the domestic partner of the retired person, if the domestic partner occupies the residential premises with the retired person;

(ii) a person prescribed by regulation;

(iii) a person mentioned in section 15A (1) (a), (b) or (c) (Application to residents and operators of former retirement villages);

(iv) for part 6 (General management of retirement villages)—see section 77A;

(v) for part 7 (Financial management of retirement villages)—see section 133A;

(vi) for part 8 (except division 8.1A)—see section 174A;



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(vii) for division 10.5 (Sale or letting of premises by certain residents)—see section 221A.

***residential care home*** means a residential care home under the *Aged Care Act 2024* (Cwlth).

***residential premises*** means premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence.

***residential tenancy agreement***—see the *Residential Tenancies Act 1997*, section 6A.

***residents committee*** means a committee established under section 103.

***retired person*** means a person who is 55 years old or older or has retired from full-time employment.

***retirement village***—see section 10.

***sale***, of residential premises occupied under a company title scheme—see section 9.

***sale of residential premises***, for part 10 (Matters relating to vacation of premises)—see section 208.

***sale price***, of residential premises occupied under a company title scheme—see section 9.

***service contract*** means a contract under which general or optional services are provided to a resident of a retirement village.

***services and facilities*** means services and facilities provided by or on behalf of an operator of a retirement village.

***special resolution*** means a resolution under schedule 1, part 1.3.

***standard form contract***—see section 67.

***standard term***, in relation to a village contract, means a term in a standard form contract that applies to the village contract.



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***tenant*** means a person who has a right to occupy residential premises in a retirement village under a residential tenancy agreement—

(a) entered into under division 10.5 (Sale or letting of premises by certain residents); or

(b) that contains a term to the effect that this Act does not apply to the residential premises the subject of the agreement.

*Note* A tenant is not a ***resident*** because a tenant does not have a residence right in relation to residential premises in a retirement village—see div 10.5.

***termination notice***—see section 185 (2).

***trustee***, for part 4 (Entry into retirement villages)—see section 32.

***unit***—see the *Unit Titles Act 2001*, section 9.

***units plan***—see the *Unit Titles Act 2001*, dictionary.

***urgent***, for division 7.2 (Capital maintenance and replacement)—see section 136.

***village contract—***

(a) for this Act generally—means any of the following:

(i) a residence contract;

(ii) a service contract;

(iii) a contract under which a resident of a retirement village obtains the right to use a garage or parking space, or a storage room, in the village;

(iv) a contract of a kind prescribed by regulation; and

*Note* A residence contract, service contract and any other village contract may be contained in a single document.

(b) for division 10.3 (Departure fees)—see section 215.

***village rules*** means the rules made under division 6.1 (Village rules).

***waiting list fee***, for a retirement village, for part 4 (Entry into retirement villages)—see section 32.



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# Endnotes

## 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

## 2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired



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## 3 Legislation history

**Retirement Villages Act 2012 A2012-38**
notified LR 4 September 2012
s 1, s 2 commenced 4 September 2012 (LA s 75 (1))
remainder commenced 4 March 2013 (s 2 and LA s 79)

as amended by

**Justice and Community Safety Legislation Amendment Act 2013 A2013-7 sch 1 pt 1.7**
notified LR 1 March 2013
s 1, s 2 commenced 1 March 2013 (LA s 75 (1))
sch 1 pt 1.7 commenced 4 March 2013 (s 2 and see Retirement Villages Act 2012 A2012-38, s 2 and LA s 79)

as modified by

**Retirement Villages Regulation 2013 SL2013-5 s 60, sch 5 (as am by SL2013-21 s 8, s 9)**
notified LR 1 March 2013
s 1, s 2 commenced 1 March 2013 (LA s 75 (1))
s 60, sch 5 commenced 4 March 2013 (s 2 and see Retirement Villages Act 2012 A2012-38, s 2 and LA s 79)

as amended by

**Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.34**
notified LR 24 May 2013
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))
sch 3 pt 3.34 commenced 14 June 2013 (s 2)

**Retirement Villages Amendment Regulation 2013 (No 1) SL2013-21 s 8, s 9**
notified LR 15 August 2013
s 1, s 2 commenced 15 August 2013 (LA s 75 (1))
s 8, s 9 commenced 16 August 2013 (s 2)

*Note* This regulation only amends the Retirement Villages Regulation 2013 SL2013-5.



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**Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.21**
notified LR 4 November 2013
s 1, s 2 commenced 4 November 2013 (LA s 75 (1))
sch 2 pt 2.21 commenced 7 November 2013 (s 2 and CN2013-11)

*Note* The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)

**Statute Law Amendment Act 2014 A2014-18 sch 3 pt 3.18**
notified LR 20 May 2014
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))
sch 3 pt 3.18 commenced 10 June 2014 (s 2 (1))

**Protection of Rights (Services) Legislation Amendment Act 2016 (No 2) A2016-13 sch 1 pt 1.35**
notified LR 16 March 2016
s 1, s 2 commenced 16 March 2016 (LA s 75 (1))
sch 1 pt 1.35 commenced 1 April 2016 (s 2 and see Protection of Rights (Services) Legislation Amendment Act 2016 A2016-1 s 2)

**Retirement Villages Amendment Act 2016 A2016-30 pt 2**
notified LR 16 June 2016
s 1, s 2 commenced 16 June 2016 (LA s 75 (1))
pt 2 commenced 16 December 2016 (s 2 and LA s 79)

**Revenue Legislation Amendment Act 2017 A2017-1 sch 1 pt 1.10**
notified LR 22 February 2017
s 1, s 2 commenced 22 February 2017 (LA s 75 (1))
sch 1 pt 1.10 commenced 18 September 2017 (s 2 (1) and CN2017-5)

**Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.26**
notified LR 23 February 2017
s 1, s 2 commenced 23 February 2017 (LA s 75 (1))
sch 3 pt 3.26 commenced 9 March 2017 (s 2)

**Statute Law Amendment Act 2018 A2018-42 sch 3 pt 3.28**
notified LR 8 November 2018
s 1, s 2 taken to have commenced 1 July 2018 (LA s 75 (2))
sch 3 pt 3.28 commenced 22 November 2018 (s 2 (1))



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**Retirement Villages Legislation Amendment Act 2019 A2019-10 pt 4**
notified LR 11 April 2019
s 1, s 2 commenced 11 April 2019 (LA s 75 (1))
pt 4 commenced 1 July 2019 (s 2 (1) and CN2019-11)

**COVID-19 Emergency Response Legislation Amendment Act 2020 A2020-14 sch 1 pt 1.28**
notified LR 13 May 2020
s 1, s 2 taken to have commenced 30 March 2020 (LA s 75 (2))
sch 1 pt 1.28 commenced 14 May 2020 (s 2 (1))

**Land Titles (Electronic Conveyancing) Legislation Amendment Act 2020 A2020-16 sch 1 pt 1.11**
notified LR 13 May 2020
s 1, s 2 commenced 13 May 2020 (LA s 75 (1))
sch 1 pt 1.11 commenced 1 June 2020 (s 2 and see Electronic Conveyancing National Law (ACT) Act 2020 A2020-15 s 3)

**Emergencies Amendment Act 2020 A2020-47 sch 1 pt 1.6**
notified LR 3 September 2020
s 1, s 2 commenced 3 September 2020 (LA s 75 (1))
sch 1 pt 1.6 commenced 4 September 2020 (s 2)

**COVID-19 Emergency Response Legislation Amendment Act 2021 A2021-1 sch 1 pt 1.14**
notified LR 19 February 2021
s 1, s 2 commenced 19 February 2021 (LA s 75 (1))
sch 1 pt 1.14 commenced 20 February 2021 (s 2 (1))

**Operational Efficiencies (COVID-19) Legislation Amendment Act 2021 A2021-24 pt 11**
notified LR 13 October 2021
s 1, s 2 taken to have commenced 8 October 2021 (LA s 75 (2))
pt 11 commenced 14 October 2021 (s 2 (1))

**Fair Trading and Other Justice Legislation Amendment Act 2022 A2022-8 pt 8**
notified LR 11 May 2022
s 1, s 2 commenced 11 May 2022 (LA s 75 (1))
pt 8 commenced 12 May 2022 (s 2 (1))



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**Planning (Consequential Amendments) Act 2023 A2023-36 sch 1 pt 1.56**

notified LR 29 September 2023
s 1, s 2 commenced 29 September 2023 (LA s 75 (1))
sch 1 pt 1.56 commenced 27 November 2023 (s 2 (1) and see Planning Act 2023 A2023-18, s 2 (2) and CN2023-10)

**Justice and Community Safety Legislation Amendment Act 2025 A2025-2 pt 8**

notified LR 20 February 2025
s 1, s 2 commenced 20 February 2025 (LA s 75 (1))
pt 8 commenced 27 February 2025 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2025 (No 3) A2025-22 sch 1 pt 1.6**

notified LR 12 September 2025
s 1, s 2 commenced 12 September 2025 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 November 2025 (s 2 (3) (a) and see Aged Care Act 2024 (Cwlth) s 7)



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# 4 Amendment history

**Commencement**
s 2 om LA s 89 (4)

**Dictionary**
s 3 am A2023-36 amdt 1.328

**Meaning of *operator***
s 7 am A2013-7 amdt 1.12, amdt 1.13; A2017-4 amdt 3.174

**Meaning of *residence right***
s 8 am A2013-7 amdt 1.14; A2013-19 amdt 3.239; A2016-30 s 4, s 5; pars renum R7 LA

**Meaning of *sale*, *sale price* and *contract for the sale* of residential premises**
s 9 am A2013-7 amdt 1.15

**Meaning of *retirement village***
s 10 am A2025-22 amdt 1.14; pars renum R24 LA

**Meaning of *ingoing contribution***
s 11 am A2013-19 amdt 3.240

**Meaning of *registered interest holder* and *registered long-term sublessee***
s 12 am A2016-30 s 6, s 7

**Meaning of *permanently vacated* residential premises**
s 14 hdg sub A2013-7 amdt 1.16
s 14 am A2013-7 amdt 1.17, amdt 1.18

**Consent of residents**
s 15 am A2013-19 amdt 3.388

**Application to residents and operators of former retirement villages**
s 15A ins A2013-7 amdt 1.19
am A2013-19 amdt 3.241

**Advertising or promoting village before development approval given**
s 16 am A2016-30 s 8, s 9; ss renum R7 LA; A2023-36 amdt 1.329

**Advertising without approval for facilities**
s 17 am A2025-22 amdt 1.15

**Exceptions to prohibitions on advertising**
s 18 am A2023-36 amdt 1.330; A2025-22 amdt 1.15

**Representation that complex is retirement village**
s 19 am A2013-19 amdt 3.242

**Giving information inconsistent with disclosure statement**
s 20 am A2013-7 amdt 1.20



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**Information about services and facilities**
s 21 am A2013-7 amdt 1.21

**Making certain representations—promotional material**
s 22 hdg sub A2016-30 s 10
s 22 am A2013-7 amdt 1.22; A2013-19 amdt 3.243, amdt 3.388; A2016-30 s 11, s 12

**Making certain representations—aged care services**
s 22A ins A2016-30 s 13
am A2025-22 amdts 1.16-1.18

**General inquiry document**
s 23 am A2016-30 s 14; A2017-4 amdt 3.175

**Disclosure statement**
s 24 am A2013-19 amdt 3.388; A2016-30 s 15; A2017-4 amdt 3.176

**Copies of certain documents to be made available**
s 29 am A2013-19 amdt 3.244, amdt 3.245

**Definitions—pt 4**
s 32 def ***trustee*** am A2013-7 amdt 1.23; A2016-13 amdt 1.134

**Repayment of waiting list fees—prospective resident does not enter village contract**
s 35 am A2013-19 amdts 3.246-3.248

**Requesting or accepting holding deposit**
s 37 am A2013-7 amdt 1.24

**Failure to keep deposits in trust**
s 38 am A2013-19 amdt 3.249

**Repaying etc holding deposits and ingoing contributions**
s 39 am A2013-19 amdt 3.250; A2016-30 ss 16-18; ss renum R7 LA; A2025-22 amdt 1.19, amdt 1.20

**Retirement village land to be registered under Land Titles Act**
s 42 am A2013-7 amdt 1.25

**Application to remove retirement village notice from land titles register**
s 44 hdg sub A2020-16 amdt 1.33
s 44 am A2020-16 amdt 1.34

**Inconsistency between village contract and disclosure statement**
s 45 am A2013-19 amdt 3.251, amdt 3.252

**Failure to obtain certificate for amendment or replacement of village contract**
s 50 am A2013-19 amdt 3.253

**Costs of preparation of village contracts**
s 52 am A2016-30 s 19



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**Cooling-off period**
s 53 am A2016-30 s 20, s 21; ss renum R7 LA

**Effect of rescission notice**
s 55 am A2014-18 amdt 3.73

**Consequences of resident's rescission of service contract**
s 56 am A2014-18 amdt 3.73

**Consequences of resident's rescission of residence contract**
s 57 am A2013-19 amdt 3.254; A2017-1 amdt 1.113; A2020-16 amdt 1.35

**Consequence of resident's rescission of other village contract**
s 58 am A2013-7 amdt 1.26; ss renum R1 LA

**Operator to give resident or prospective resident copy of village contract**
s 60 hdg sub A2016-30 s 22
s 60 am A2016-30 s 23

**Renovations and alteration of fixtures or fittings—ACAT orders**
s 64 am A2013-19 amdt 3.255

**Renovations and alteration of fixtures or fittings—limitation of s 63 and s 64**
s 65 am A2013-19 amdt 3.256; A2023-36 amdt 1.331

**Effect of noncompliance with standard form contract**
s 68 am A2013-7 amdts 1.27-1.29; A2013-19 amdts 3.257-3.259

**Meaning of *end of the settling-in period*—div 5.2**
s 71 am A2013-19 amdt 3.260

**Operator to refund certain payments made by resident**
s 74 am A2016-30 s 24

**Time for making of payments**
s 75 am A2013-19 amdt 3.261; A2016-30 s 25

**Former occupant not required to pay certain amounts**
s 76 am A2013-19 amdt 3.262, amdt 3.263

**Meaning of *resident*—pt 6**
s 77A ins A2013-19 amdt 3.264

**Operator may make village rules for new villages**
s 81 am A2013-7 amdt 1.30

**Villages without rules**
s 82 hdg sub A2013-7 amdt 1.31
s 82 am A2013-7 amdt 1.32

**Operator's concern that amendment will impose additional cost**
s 85 am A2013-19 amdt 3.265, amdt 3.266



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**Compliance with village rules**
s 87 am A2013-19 amdt 3.267

**Certain people not to be operators**
s 89 am A2018-42 amdt 3.96, amdt 3.97

**Operator to provide secure premises**
s 90 am A2016-30 s 26, s 27; ss renum R7 LA

**Operator to provide safe premises**
s 91 am A2013-19 amdt 3.268; A2016-30 s 28; pars renum R7 LA

**Operator not to reduce or withdraw certain services and facilities**
s 95 am A2013-19 amdt 3.269

**Operator not to require residents to patronise particular businesses**
s 97 am A2013-19 amdt 3.270, amdt 3.271

**Operator to respect rights of residents**
s 99 am A2013-19 amdt 3.272, amdt 3.273

**Restriction of operator's access to residential premises**
s 100 am A2013-19 amdts 3.274-3.278

**Residents to be given access to information about them**
s 102 am A2013-19 amdt 3.279

**Residents committees and organisations**
s 103 am A2013-19 amdt 3.280, amdt 3.388; A2019-10 s 18, s 19

**Membership of residents committee**
s 104 am A2019-10 s 20; A2025-2 s 48, s 49; ss renum R23 LA

**Operator must hold annual management meeting**
s 107 am A2013-19 amdt 3.281; A2020-14 amdt 1.126; A2020-47 amdt 1.15
(3A) exp 8 April 2021 (s 265 (1))

**Annual management meeting—chair**
s 109 am A2022-8 s 216

**Operator must keep minutes of meetings with residents**
s 110A ins A2016-30 s 29

**Meetings of residents**
s 112 am A2013-19 amdt 3.282; A2019-10 s 21, s 22; ss renum R13 LA; A2022-8 s 217; ss renum R20 LA

**Meetings of residents—methods of communication**
s 112A ins A2020-14 amdt 1.127
am A2021-24 s 24

**Attendance at meetings of residents**
s 113 am A2022-8 s 218



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**Proxies**
s 116 am A2013-19 amdt 3.283; A2019-10 s 23, s 24

**Certain limitations on proxies**
s 117 am A2019-10 s 25; A2020-14 amdt 1.128; A2022-8 s 219 (1A), (1B) exp 29 September 2023 (s 265 (2))

**Effect of certain votes**
s 118 am A2013-7 amdt 1.33; A2023-36 amdt 1.332

**Application to ACAT by operator in relation to possession of premises by relative of resident**
s 122 am A2013-7 amdt 1.34

**Application for order appointing administrator**
s 125 am A2013-19 amdt 3.284, amdt 3.388

**Administrator may amend village contract**
s 130 am A2013-19 amdt 3.388

**Meaning of *resident*—pt 7**
s 133A ins A2013-19 amdt 3.285

**Financial year for retirement village**
s 134 hdg sub A2013-19 amdt 3.286

**Definitions—div 7.2**
s 135 sub A2013-7 amdt 1.35
textual correction R13 (RI)-R24 (RI)
def ***capital item*** sub A2013-7 amdt 1.35
am A2019-10 s 26
def ***capital maintenance*** ins A2013-7 amdt 1.35
def ***capital replacement*** ins A2013-7 amdt 1.35
am A2019-10 s 27

**Capital maintenance and replacement guidelines**
s 136A ins A2019-10 s 28

**Resident may carry out urgent work**
s 139 am A2016-30 s 30, s 31

**Funding of certain capital maintenance and capital replacement**
s 141 am A2013-19 amdt 3.287

**Retirement village to be insured**
s 145 am A2013-19 amdt 3.288

**Sale of capital items to residents**
s 146 am A2013-19 amdts 3.289-3.291; pars renum R2 LA

**Amendment of recurrent charges**
s 148 am A2019-10 s 29



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**Recurrent charges amended otherwise than by fixed formula**

s 150 am A2013-19 amdts 3.292-3.295
sub A2016-30 s 32
am A2019-10 s 30

**Recurrent charges amended otherwise than by fixed formula—exceeding variation in CPI**

s 151 am A2013-7 amdt 1.36; A2013-19 amdt 3.296, amdt 3.297
om A2016-30 s 33

**Amending certain recurrent charges otherwise than in accordance with Act**

s 152 am A2016-30 s 34

**Residents consent to amendment**

s 153 am A2013-19 amdt 3.298, amdt 3.299, amdt 3.388; A2016-30 ss 35-37

**ACAT orders—recurrent charges**

s 154 am A2013-7 amdt 1.37; A2013-19 amdt 3.300, amdt 3.388; A2016-30 s 38; ss renum R7 LA

**Failure to give receipt for payment of recurrent charges**

s 156 am A2013-19 amdt 3.301, amdt 3.302

**Reduction of recurrent charges in certain circumstances**

s 157 am A2013-7 amdt 1.38; A2013-19 amdt 3.303

**Proposed annual budget**

s 159 am A2013-7 amdt 1.39; A2013-19 amdt 3.304, amdt 3.388; A2016-30 s 39; pars renum R7 LA; A2019-10 s 31; ss renum R13 LA; A2020-14 amdt 1.129; A2020-47 amdt 1.15
(2A), (2B) exp 8 April 2021 (s 265 (1))

**Residents may consent to not receiving proposed annual budget**

s 160 am A2013-7 amdt 1.40; A2013-19 amdt 3.305, amdt 3.388

**Residents' consent to spending**

s 162 am A2013-7 amdts 1.41-1.43; ss renum R1 LA; A2013-19 amdt 3.388; A2016-30 s 40; A2019-10 s 32; ss renum R13 LA

**ACAT orders—decisions about spending**

s 163 am A2013-19 amdts 3.306-3.308, amdt 3.388

**Spending otherwise than in accordance with approved annual budget**

s 166 am A2013-7 amdt 1.44; A2013-19 amdt 3.309, amdt 3.310, amdt 3.388

**Auditing of accounts**

s 168 am A2013-7 amdt 1.45; A2013-19 amdts 3.311-3.313, amdt 3.388



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**Copies of annual accounts to be given to residents**
s 169 am A2013-7 amdt 1.46; A2013-19 amdts 3.314-3.316

**Accounts need not be audited in certain circumstances**
s 170 am A2013-7 amdt 1.47; A2013-19 amdt 3.317, amdt 3.318, amdt 3.388

**Quarterly accounts need not be given to residents in certain circumstances**
s 171 am A2013-19 amdt 3.319

**Meaning of *surplus*—div 7.6**
s 172 om A2013-19 amdt 3.320

**Any surplus to be carried over**
s 173 am A2013-19 amdt 3.321; A2016-30 s 41, s 42; ss renum R7 LA

**Meaning of *resident*—pt 8**
s 174A ins A2013-19 amdt 3.329
sub A2016-30 s 43

**Other options for dispute resolution**
s 175 sub A2019-10 s 33

**Dispute resolution—disputes committee**
div 8.1A hdg ins A2016-30 s 44

**Disputes committee**
s 175A ins A2016-30 s 44

**Dispute between operator and resident—notice to dispute committee**
s 175B ins A2016-30 s 44
am A2019-10 s 34

**Disputes committee—decision**
s 175C ins A2016-30 s 44

**Costs of dispute resolution**
s 175D ins A2016-30 s 44

**Dispute resolution—ACAT**
div 8.2 hdg sub A2016-30 s 45

**Dispute between operator and resident—application to ACAT**
s 176 hdg sub A2016-30 s 46
s 176 am A2013-19 amdts 3.330-3.332

**ACAT jurisdiction**
s 177 am A2013-7 amdt 1.48; A2013-19 amdt 3.333

**Informal resolution of dispute**
s 178 sub A2016-30 s 47
am A2019-10 s 35



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**Jurisdiction**
s 179 om A2013-7 amdt 1.49

**ACAT orders**
s 181 am A2013-19 amdt 3.334; A2016-30 s 48

**Notice of intention to seek ending of contract**
s 184 am A2013-7 amdt 1.50

**Ending of residence contract if premises uninhabitable etc**
s 185 am A2013-7 amdt 1.51, amdt 1.52

**Ending of residence contract if premises uninhabitable etc—application to ACAT**
s 186 am A2013-19 amdt 3.335

**Ending of residence contract by ACAT on application of either operator or resident**
div 9.2 hdg sub A2013-19 amdt 3.336

**Ending of residence contract on medical grounds**
s 187 hdg sub A2013-19 amdt 3.337
s 187 am A2013-7 amdt 1.53; ss renum R1 LA; A2013-19 amdt 3.338

**Ending of residence contract on grounds of breach of village contract or rules**
s 188 am A2013-19 amdt 3.339

**Ending of residence contract by ACAT on application of operator**
div 9.3 hdg sub A2013-19 amdt 3.340

**Ending of residence contract on grounds of resident causing serious damage or injury**
s 189 hdg sub A2013-19 amdt 3.341
s 189 am A2013-19 amdts 3.342-3.344

**Ending of residence contract on grounds of upgrade or change of use**
s 190 hdg sub A2013-19 amdt 3.345
s 190 am A2013-19 amdt 3.346, amdt 3.347

**Ending of residence contract by Supreme Court on application of administrator**
div 9.4 hdg sub A2013-19 amdt 3.348

**Ending of residence contract on grounds of retirement village ceasing to operate**
s 191 hdg sub A2013-19 amdt 3.349
s 191 am A2013-19 amdt 3.388

**Suspension or refusal of orders for ending of residence contract**
div 9.5 hdg sub A2013-19 amdt 3.350



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**ACAT may suspend or refuse to make order ending residence contract**
s 192 hdg sub A2013-19 amdt 3.351

**Enforcement of orders for possession**
s 195 am A2013-19 amdt 3.388

**Uncollected Goods Act does not apply**
s 201 am A2013-19 amdt 3.352

**Delivery of uncollected goods**
s 202 am A2013-19 amdt 3.353, amdt 3.354

**Disposal of uncollected goods**
s 203 am A2013-19 amdt 3.355

**Title to sold goods**
s 204 sub A2013-19 amdt 3.356

**Meaning of *permanently vacated* residential premises—pt 10**
s 207 hdg sub A2013-7 amdt 1.54
s 207 am A2013-7 amdt 1.55; ss renum R1 LA

**Recurrent charges for optional services**
s 209 am A2013-19 amdt 3.357

**Recurrent charges for general services—registered interest holders**
s 210 am A2016-30 s 49; A2025-22 amdt 1.21

**Recurrent charges for general services—generally**
s 211 am A2013-19 amdt 3.358

**Meaning of *departure fee***
s 214 am A2013-19 amdt 3.359, amdt 3.360

**Meaning of *resident*—div 10.5**
s 221A ins A2013-19 amdt 3.361

**Operator not to interfere in sale**
s 224 am A2013-19 amdt 3.362, amdt 3.363

**Costs of sale**
s 225 am A2013-19 amdt 3.364, amdt 3.365

**Buyer and operator to enter contract**
s 226 am A2013-19 amdt 3.366, amdt 3.367

**ACAT decision in relation to proposed buyer**
s 228 am A2013-19 amdt 3.388

**Effect of granting of residential tenancy agreement under this division**
s 231 am A2013-19 amdt 3.388

**Operator not to interfere in letting**
s 232 am A2013-19 amdt 3.368, amdt 3.369



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**Payments to former occupants who were registered interest holders**
s 235 am A2013-7 amdt 1.56

**Statements to former occupants who were registered interest holders**
s 236 am A2013-19 amdt 3.388

**Payments to former occupants who were not registered interest holders**
s 238 am A2013-7 amdt 1.57; ss renum R1 LA; A2013-19 amdt 3.370, amdt 3.371; A2016-30 s 50; ss renum R7 LA

**Statements to former occupants who were not registered interest holders**
s 238A ins A2013-7 amdt 1.58

**Payments to executors and administrators**
s 240 sub A2016-30 s 51

**Application—pt 11**
s 241 am A2013-19 amdt 3.372, amdt 3.373

**Application for enforcement of charge**
s 245 am A2013-19 amdt 3.374

**Priority of interests**
s 247 am A2016-30 s 52; pars renum R7 LA

**Director-general may conduct proceedings**
s 253 am A2013-19 amdt 3.375

**Costs of operator's legal advice or proceeding**
s 260 am A2013-7 amdt 1.59; ss renum R1 LA; A2013-19 amdt 3.376

**Contracting out of Act**
s 261 am A2013-7 amdt 1.60

**Meetings of operators—methods of communication**
s 261A ins A2020-14 amdt 1.130
am A2021-24 s 25

**Approved forms**
s 263 am A2013-7 amdt 1.61

**Expiry—COVID-19 Emergency Response Act 2020 amendments**
s 265 om A2017-4 amdt 3.177
ins A2020-14 amdt 1.131
sub A2021-1 amdt 1.25
am A2021-24 s 26; pars renum R19 LA
exp 29 September 2023 (s 265 (2))

**Transitional**
pt 20 hdg exp 4 March 2018 (s 505)



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**Definitions—pt 20**

s 500 exp 4 March 2018 (s 505)
def ***existing contract*** sub A2013-7 amdt 1.62
exp 4 March 2018 (s 505)
def ***existing residence contract*** ins A2013-7 amdt 1.62
exp 4 March 2018 (s 505)
def ***existing service contract*** ins A2013-7 amdt 1.62
exp 4 March 2018 (s 505)

**Existing residence contracts to be residence contracts**

s 501 hdg sub A2013-7 amdt 1.63
s 501 am A2013-7 amdt 1.64
exp 4 March 2018 (s 505)

**Existing service contracts to be service contracts**

s 501A ins A2013-7 amdt 1.65
exp 4 March 2018 (s 505)

**Existing contracts—contracting out prohibited**

s 502 am A2013-7 amdt 1.66
exp 4 March 2018 (s 505)

**Existing contracts—no acquisition of property**

s 503 exp 4 March 2018 (s 505)

**Meaning of *permanently vacated* residential premises— s 14 (1)**

s 503A ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Former retirement villages that stopped being retirement villages before the commencement day—s 15A (3)**

s 503B ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**General inquiry document—s 23**

s 503C ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Disclosure statement—s 24**

s 503D ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Copies of certain documents to be made available—s 29 (1) (c)**

s 503E ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Resident to enter village contract—s 41 (1)**

s 503F ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)



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**Retirement village land to be registered—s 42 (3)**
s 503G ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Inconsistency between village contract and disclosure statement—s 45**
s 503H ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Village contracts must be in writing—s 46**
s 503I ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Amendment or replacement of village contract—s 49**
s 503J ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Rescission of village contract on grounds relating to disclosure statement—s 54**
s 503K ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Condition report for certain residential premises—s 59 (4)**
s 503L ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Renovations and alteration of fixtures or fittings—s 63 (5) (a)**
s 503M ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Settling-in period for residents—div 5.2 and s 71**
s 503N ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Village rules—div 6.1**
s 503O ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Operator not to demand power of attorney—s 98**
s 503P ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Membership of Residents Committee—s 104**
s 503Q ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Operator must hold annual management meeting—s 107**
s 503R ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Proxies—s 116**
s 503S ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)



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**Relative may ask to enter into residence contract—s 120 (1) (c)**
s 503T ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Resident may carry out urgent work—s 139**
s 503U ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Sale of capital items to residents—s 146**
s 503V ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Amendment of recurrent charges—s 148 (2)**
s 503W ins as mod SL2013–5 mod 5.1 (as am by SL2013-21 s 8)
mod exp 4 March 2018 (SL2013–5 s 60)

**Residents' consent to spending—s 162 (9)**
s 503X ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**ACAT orders—decisions about spending—s 163**
s 503XA ins as mod SL2013–5 mod 5.1 (as am by SL2013-21 s 9)
mod exp 4 March 2018 (SL2013–5 s 60)

**Auditing of accounts—s 168 (3) and (6)**
s 503Y ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Existing disputes—pt 8**
s 503Z ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Informal resolution of disputes—s 178**
s 503ZA ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Ending residence contracts—pt 9**
s 503ZB ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Existing uncollected goods—div 9.8**
s 503ZC ins as mod SL2013–5 mod 5.1 (see endnote 6)
mod exp 4 March 2018 (SL2013–5 s 60)

**Meaning of *permanently vacated* residence—s 20**
s 503ZD ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Recurrent charges for general services—registered interest holders—s 210 (3) (a)**
s 503ZE ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)



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**Recurrent charges for general services—generally—s 211 (2) (e)**
s 503ZF ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Meaning of *departure fee*—s 214 (1)**
s 503ZG ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Meaning of *departure fee*—214 (1) (a)**
s 503ZH ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Departure fees payable—s 217**
s 503ZI ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Departure fees payable—registered interest holders**
s 503ZJ ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Departure fees payable—not registered interest holders**
s 503ZK ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Reduction or waiver of departure fee**
s 503ZL ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Condition of premises on ending of residence contract—s 219 (2)**
s 503ZM ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**No refurbishment required—s 220**
s 503ZN ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Refurbishment under existing contract**
s 503ZO ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Sale of premises—s 223 (4)**
s 503ZP ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Statements to former occupants who were registered interest holders—s 236 (2)**
s 503ZQ ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)



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**Statements to former occupants who were not registered interest holders—s 238A (2)**

s 503ZR ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Application of pt 11—s 241 (1)**

s 503ZS ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Creation of charge—s 242 (1**

s 503ZT ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Costs of operator's legal advice or proceeding—s 260**

s 503ZU ins as mod SL2013–5 mod 5.1
mod exp 4 March 2018 (SL2013–5 s 60)

**Transitional regulations**

s 504 am A2013-7 amdt 1.67
exp 4 March 2018 (s 505)

**Expiry—pt 20**

s 505 exp 4 March 2018 (s 505)

**Transitional—Retirement Villages Amendment Act 2016**

pt 21 hdg om LA s 89 (3)
ins A2016-30 s 53
exp 16 December 2017 (s 524)

**Legislation repealed**

s 506 om LA s 89 (3)

**Meaning of *commencement day*—pt 21**

s 520 ins A2016-30 s 53
exp 16 December 2017 (s 524)

**Holding deposits paid before the commencement day**

s 521 ins A2016-30 s 53
exp 16 December 2017 (s 524)

**Existing villages rules to be consistent**

s 522 ins A2016-30 s 53
exp 16 December 2017 (s 524)

**Priority of interests created before commencement day**

s 523 ins A2016-30 s 53
exp 16 December 2017 (s 524)

**Expiry—pt 21**

s 524 ins A2016-30 s 53
exp 16 December 2017 (s 524)



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**Method of voting**
sch 1 s 1.3 am A2022-8 s 220

**Result of vote**
sch 1 s 1.4 am A2022-8 s 221; A2025-2 s 50

**Written ballot required for special resolution**
sch 1 s 1.5 sub A2022-8 s 222

**How special resolution is carried**
sch 1 s 1.6 am A2022-8 s 223

**Dictionary**
dict am A2013-19 amdt 3.377, A2013-39 amdt 2.55 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)); A2014-18 amdt 3.74; A2016-13 amdt 1.135
def ***approved annual budget*** sub A2013-19 amdt 3.378
def ***body corporate*** om A2013-7 amdt 1.68
def ***capital maintenance*** sub A2013-7 amdt 1.69
def ***capital replacement*** sub A2013-7 amdt 1.69
def ***common property*** om A2013-7 amdt 1.70
def ***COVID-19 emergency*** ins A2020-14 amdt 1.132
exp 29 September 2023 (s 265 (2))
def ***CPI*** om A2016-30 s 54
def ***development approval*** sub A2023-36 amdt 1.333
def ***disputes committee*** ins A2016-30 s 55
def ***financial year*** am A2013-19 amdt 3.379
def ***item of capital*** om A2013-7 amdt 1.71
def ***permanently vacate*** om A2013-7 amdt 1.72
def ***permanently vacated*** ins A2013-7 amdt 1.73
def ***proposed annual budget*** am A2013-19 amdt 3.380
def ***quarterly accounts*** ins A2013-19 amdt 3.381
def ***registered provider*** ins A2025-22 amdt 1.22
def ***resident*** am A2013-19 amdt 3.382; A2016-30 s 56
def ***residential aged care facility*** om A2025-22 amdt 1.23
def ***residential care home*** ins A2025-22 amdt 1.24
def ***services and facilities*** am A2013-19 amdt 3.383
def ***surplus*** om A2013-19 amdt 3.384
def ***tenant*** am A2013-19 amdt 3.385, amdt 3.386
def ***unit*** am A2013-19 amdt 3.387
def ***units plan*** am A2013-7 amdt 1.74



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## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No and date | Effective | Last amendment made by | Republication for |
|---|---|---|---|
| R1<br>4 Mar 2013 | 4 Mar 2013–<br>13 June 2013 | A2013-7 | new Act, amendments by A2013-7 and modification by SL2013–5 |
| R2<br>14 June 2013 | 14 June 2013–<br>15 Aug 2013 | A2013-19 | amendments by A2013-19 |
| R3<br>16 Aug 2013 | 16 Aug 2013–<br>6 Nov 2013 | SL2013-21 | modifications by SL2013-5 as amended by SL2013-21 |
| R4<br>7 Nov 2013 | never effective | A2013-39 (never effective) | amendments by A2013-39 |
| R4 (RI)<br>24 Feb 2014 | 7 Nov 2013–<br>9 June 2014 | A2013-39 (never effective) | reissue because of High Court decision in relation to A2013-39 |
| R5<br>10 June 2014 | 10 June 2014–<br>31 Mar 2016 | A2014-18 | amendments by A2014-18 |
| R6<br>1 Apr 2016 | 1 Apr 2016–<br>15 Dec 2016 | A2016-13 | amendments by A2016-13 |
| R7<br>16 Dec 2016 | 16 Dec 2016–<br>8 Mar 2017 | A2016-30 | amendments by A2016-30 |
| R8<br>9 Mar 2017 | 9 Mar 2017–<br>17 Sept 2017 | A2017-4 | amendments by A2017-4 |



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| Republication No and date | Effective | Last amendment made by | Republication for |
|---|---|---|---|
| R9<br>18 Sept 2017 | 18 Sept 2017-<br>16 Dec 2017 | A2017-4 | amendments by A2017-1 |
| R10<br>17 Dec 2017 | 17 Dec 2017–<br>4 Mar 2018 | A2017-4 | expiry of transitional provisions (pt 21) |
| R11<br>5 Mar 2018 | 5 Mar 2018–<br>21 Nov 2018 | A2017-4 | expiry of modifications and transitional provisions (pt 20) |
| R12<br>22 Nov 2018 | 22 Nov 2018–<br>30 Jun 2019 | A2018-42 | amendments by A2018-42 |
| R13 (RI)<br>27 Jan 2026 | 1 July 2019–<br>13 May 2020 | A2019-10 | amendments by A2019-10 reissued for textual correction in s 135 (2) |
| R14 (RI)<br>27 Jan 2026 | 14 May 2020–<br>31 May 2020 | A2020-14 | amendments by A2020-14 reissued for textual correction in s 135 (2) |
| R15 (RI)<br>27 Jan 2026 | 1 June 2020–<br>3 Sept 2020 | A2020-16 | amendments by A2020-16 reissued for textual correction in s 135 (2) |
| R16 (RI)<br>27 Jan 2026 | 4 Sept 2020–<br>19 Feb 2021 | A2020-47 | amendments by A2020-47 reissued for textual correction in s 135 (2) |
| R17 (RI)<br>27 Jan 2026 | 20 Feb 2021–<br>8 Apr 2021 | A2021-1 | amendments by A2021-1 reissued for textual correction in s 135 (2) |



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5 Earlier republications

| Republication No and date | Effective | Last amendment made by | Republication for |
|---|---|---|---|
| R18 (RI)<br>27 Jan 2026 | 9 Apr 2021–<br>13 Oct 2021 | A2021-1 | expiry of provisions (s 107 (3A), s 159 (2A), (2B))<br>reissued for textual correction in s 135 (2) |
| R19 (RI)<br>27 Jan 2026 | 14 Oct 2021–<br>11 May 2022 | A2021-24 | amendments by A2021-24<br>reissued for textual correction in s 135 (2) |
| R20 (RI)<br>27 Jan 2026 | 12 May 2022–<br>29 Sept 2023 | A2022-8 | amendments by A2022-8<br>reissued for textual correction in s 135 (2) |
| R21 (RI)<br>27 Jan 2026 | 30 Sept 2023–<br>26 Nov 2023 | A2022-8 | expiry of provisions (s 117 (1A), (1B), s 265, dict def ***COVID-19 emergency***)<br>reissued for textual correction in s 135 (2) |
| R22 (RI)<br>27 Jan 2026 | 27 Nov 2023–<br>26 Feb 2025 | A2023-36 | amendments by A2023-36<br>reissued for textual correction in s 135 (2) |
| R23 (RI)<br>27 Jan 2026 | 27 Feb 2025–<br>31 Oct 2025 | A2025-2 | amendments by A2025-2<br>reissued for textual correction in s 135 (2) |



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## 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation 'exp' followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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