

Retirement Villages Amendment Regulations 2014

DRAFT REGULATIONS FOR CONSULTATION

The Government proposes to amend the *Retirement Villages Regulations 1992* to prescribe provisions or matters that must be included, or provisions or matters that must not be included in retirement village residence contracts under the *Retirement Villages Act 1992* section 14A.

This draft of the proposed amendments to the regulations has been prepared for consultation purposes and it does not necessarily represent the Government's settled position.

Retirement Villages Amendment Regulations 2014

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Retirement Villages Amendment Regulations 2014*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 October 2014.

3. Regulations amended

These regulations amend the *Retirement Villages Regulations 1992*.

4. Part 1 heading inserted

Before regulation 1 insert:

Part 1 — Preliminary matters

5. Regulation 3 inserted

After regulation 2 insert:

3. Memorial prescribed information

The memorial approved by the Registrar of Titles under section 15(3) of the Act must contain the following information —

- (a) a description of the relevant land;
- (b) the name of the registered proprietor of the land;
- (c) the date on which the memorial is lodged.

6. Part 2 heading and regulation 4A inserted

Before regulation 4 insert:

Part 2 — Residence contracts

4A. Terms used

In this Part —

Code means the *Code of Fair Practice for Retirement Villages 2014* set out in the *Fair Trading (Retirement Villages Code) Regulations 2014* Schedule 1;

communal amenity means any amenity provided or made available by the administering body of a retirement village for the use of all residents of the village;

Note, followed by a number, means the note of that number in the Notes section of the residence contract set out in Schedule 2 clause 2;

personal amenity means any amenity provided or made available for the use of a resident by the administering body of a retirement village, other than —

- (a) residential premises; and
- (b) communal amenities in the retirement village;

reserve fund has the meaning given in the Code and includes a reserve fund established under the *Strata Titles Act 1985* in respect of a retirement village;
specified means specified in a residence contract.

7. Regulation 6 replaced

Delete regulation 6 and insert:

6. Section 13 information

For the purposes of section 13(2)(e) of the Act the following documents are prescribed —

- (a) a copy of the residence contract and each other contract that the resident will be required to enter into in order to reside in the retirement village, including details of the payments to be made by the resident under each contract;
- (b) if the residence contract relates to a retirement village that is already operating —
 - (i) if the financial statements of the village for the previous financial year have been audited — a copy of the audited financial statements and the audit report; and
 - (ii) if the financial statements of the village for the previous financial year have not been audited — a copy of the unaudited financial statements; and
 - (iii) a copy of the operating budget for the village for the current financial year; and

- (iv) if the village has a reserve fund — a copy of the reserve fund budget for the current financial year;
- (c) if the residence contract relates to a retirement village that is not yet operating —
 - (i) a copy of the proposed operating budget for the first year of operation of the village; and
 - (ii) if the village is to have a reserve fund — a copy of the proposed reserve fund budget for the first year of operation of the village;
- (d) if the residence contract relates to premises that are comprised in a strata plan or survey-strata plan registered under the *Strata Titles Act 1985* —
 - (i) a copy of the by-laws of the relevant strata company; and
 - (ii) an authority to apply to the strata company under the *Strata Titles Act 1985* section 43.

7A. Form of residence contract

A residence contract must —

- (a) be written in plain English; and
 - (b) be printed in not less than 12 point type; and
 - (c) be set out clearly and logically and include —
 - (i) appropriate headings and subheadings; and
 - (ii) numbered provisions; and
 - (iii) a table of contents;
- and

- (d) if words and phrases used in the contract are used in the Act, these regulations and the Code, use those words and phrases consistently with the meanings in the Act, regulations or Code, as relevant.

7B. General matters to be included in residence contract

A residence contract must include the general provisions or matters listed in the Table.

Table

Item	General provision or matter
1.	A boxed statement in 16 point type face about the terms of access to aged care services under the <i>Aged Care Act 1997</i> (Commonwealth) as set out in Schedule 2 clause 1.
2.	A separate definitions provision containing the definitions of words and phrases used in the contract, including words and phrases that are defined in the Act, these regulations and the Code.
3.	A separate Notes section as set out in Schedule 2 clause 2.
4.	In a prominent place in the contract, a boxed statement in 16 point type face about seeking independent advice as set out in Schedule 2 clause 3.

Item	General provision or matter
5.	<p>A statement that refers the resident to the Act, these regulations and the Code and the rights of the resident under that legislation including a reference to —</p> <ul style="list-style-type: none"><li data-bbox="619 568 1219 748">(a) the right set out in the Code to be consulted on, and have access to information about, the administrative and financial arrangements of the retirement village; and<li data-bbox="619 770 1219 913">(b) the rights set out in the Code in relation to processes available to the resident for the resolution of disputes in relation to the retirement village; and<li data-bbox="619 936 959 965">(c) a reference to Note 1.
6.	<p>A provision detailing the registration number of the memorial in respect of the retirement village lodged with the Registrar of Titles under section 15(3) of the Act.</p>
7.	<p>A provision setting out the legal basis of occupancy of the residential premises.</p> <p>Examples:</p> <ul style="list-style-type: none"><li data-bbox="619 1323 1206 1391">(a) under a residential tenancy agreement or another lease or licence arrangement;

Item	General provision or matter
	<p>(b) as the owner of the premises in a strata scheme or survey-strata scheme;</p> <p>(c) as a tenant in common in a purple title scheme that applies to the village.</p>
8.	<p>A provision setting out the type of residential premises the resident will be occupying in the village.</p> <p>Examples:</p> <p>(a) a self-care unit;</p> <p>(b) a serviced unit.</p>
9.	<p>Plans that show the location, floor plan and significant dimensions of the residential premises.</p>
10.	<p>A provision setting out the period of residency in the retirement village provided for under the contract.</p>
11.	<p>If the contract provides for a period of residency of a fixed term, a provision stating that the resident's financial rights and obligations under the contract will not be affected if the residence contract is renewed or extended.</p>
12.	<p>A description of all the internal and external fixtures and chattels that are, or are to be, provided or made available in the residential premises to be occupied by the resident.</p>

Item	General provision or matter
13.	If a fixture or chattel is to be provided or made available after the resident has entered into occupation of the residential premises — (a) a statement of the latest date by which the fixture or chattel is to be provided or made available; or (b) if the provision or availability of a fixture or chattel is dependent on the happening of an event, a description of the event.
14.	If the residence contract relates to residential premises in an existing retirement village, a warranty that the residential premises will be in a reasonable condition when the resident takes possession.
15.	A provision setting out the circumstances in which a resident may be relocated to another residential premises in the retirement village and the financial arrangements relating to any relocation including — (a) who is responsible for any recurrent charges, costs or charges relating to the premises from which the resident relocates; and (b) the period for which that responsibility will continue; and (c) a reference to Note 2.

Item	General provision or matter
16.	<p>A provision setting out the circumstances in which a resident may terminate a residence contract after the cooling-off period and the arrangements that relate to such a termination including —</p> <ul style="list-style-type: none"> (a) liability for any recurrent charges after the termination; and (b) the period for which that liability will continue; and (c) any other costs or charges relating to the premises for which the resident may be liable; and (d) a reference to Note 2.
17.	<p>A schedule in a form approved by the Commissioner setting out a summary of the provisions of the Act relating to termination of a residence contract and the resident’s right of occupation under a residence contract.</p>
18.	<p>A provision that the administering body may only terminate a residence contract in accordance with the Act.</p>

7C. Matters relating to personal amenities to be included in residence contract

A residence contract must include the provisions or matters listed in the Table relating to personal amenities that are to be provided or made available under the contract.

Table

Item	Provision or matter relating to personal amenity
1.	<p>A description of each personal amenity that is, is to be, or may be, provided or made available by or on behalf of the administering body for the exclusive use of the resident.</p> <p>Examples:</p> <ul style="list-style-type: none">(a) garage or carport;(b) storage areas;(c) gardening areas.
2.	<p>A provision setting out any additional charges or conditions that will apply to the resident's access to, or use of the personal amenity including —</p> <ul style="list-style-type: none">(a) the basis for the determination of current and future additional charges for providing the personal amenity or making the personal amenity available; and(b) any additional charges that may be payable by the resident for a variation in the provision or the availability of the personal amenity.
3.	<p>A provision setting out the period of notice, which must not exceed a period of 30 days, that the resident must give to the administering body to vary the provision or the availability of the personal amenity.</p>

Item	Provision or matter relating to personal amenity
4.	A provision that the administering body will not, without the consent of the resident, vary the provision or availability of a personal amenity to the resident except in circumstances specified in the contract.
5.	<p>A provision setting out —</p> <p>(a) the circumstances in which the provision or availability of a specified personal amenity may be withdrawn by the administering body, which must be reasonable having regard to the nature of the amenity and the circumstances in which the amenity is provided or made available; and</p> <p>(b) the period of notice to be provided to the resident of the intention to withdraw the amenity, which must not be less than 30 days.</p>
6.	Plans that show the location, size and features of each personal amenity to be provided or made available under the contract.
7.	<p>If a personal amenity is to be provided or made available after the resident has entered into occupation of the residential premises —</p> <p>(a) a statement of the latest date by which the personal amenity is to be provided or made available; or</p>

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Item	Provision or matter relating to personal amenity
	(b) if the provision or availability of a personal amenity is dependent on the happening of an event, a description of the event.
8.	A reference to Note 1.

7D. Matters relating to communal amenities to be included in residence contract

A residence contract must include the provisions or matters listed in the Table relating to communal amenities to be provided or made available under the contract.

Table

Item	Provision or matter relating to communal amenity
1.	A description of each communal amenity that is, is to be, or may be, provided or made available by or on behalf of the administering body for the use of the resident.
2.	If a specified communal amenity is only to be provided or made available for a limited time — (a) a statement of the date on which the provision or availability of the amenity will cease; or

Item	Provision or matter relating to communal amenity
	<p>(b) if the withdrawal of the amenity will depend on the happening of an event —</p> <ul style="list-style-type: none"> (i) a description of the event; and (ii) the period of notice to be provided to the resident of the intention to withdraw the amenity, which must not be less than 60 days.
3.	<p>If a communal amenity is to be provided or made available after the resident has entered into occupation of the residential premises —</p> <ul style="list-style-type: none"> (a) a statement of the latest date by which the communal amenity is to be provided or made available; or (b) if the provision or availability of a communal amenity is dependent on an event, a description of the event.
4.	<p>A provision setting out the charges or conditions that will apply to the resident's access to, or use of each communal amenity including the basis for the determination of the current and future costs of providing or making the communal amenity available.</p>
5.	<p>Plans that identify all the buildings and grounds that form, or will form, the communal amenities available for the use of the resident.</p>

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Item	Provision or matter relating to communal amenity
6.	A provision that the administering body will not vary the provision or availability of any communal amenity (other than an amenity that is only to be provided or made available for a limited period of time as set out in accordance with item 2 and is to be withdrawn at or after the end of that period) unless the residents of the village, by a special resolution, consent to the variation.
7.	A reference to Note 1.

7E. Matters relating to personal and communal services to be included in residence contract

(1) In this regulation —

communal service means a service provided or made available to all the residents of the retirement village by or on behalf of the administering body of a retirement village that —

- (a) is not the subject of a service contract that is separate from the residence contract; and
- (b) is not an administrative or management service; and
- (c) is not a maintenance or repair service; and
- (d) is not a communal amenity;

personal service means a service provided or made available to a resident by or on behalf of the administering body of a retirement village that —

- (a) is not the subject of a service contract that is separate from the residence contract; and
- (b) is not a personal or communal amenity.

- (2) A residence contract under which personal or communal services are to be provided or made available to the resident must include the provisions or matters listed in the Table in relation to the personal or communal services.

Table

Item	Provision or matter relating to personal and communal services
1.	A description of each personal or communal service that is or is to be provided or made available to the resident by or on behalf of the administering body.
2.	<p>If a specified communal service is only to be provided or made available for a limited time —</p> <p>(a) a statement of the date on which the provision or availability of the service will cease; or</p> <p>(b) a description of an event, the happening of which the withdrawal of the service will depend on, including a requirement for a period of notice of not less than 60 days to be provided to the resident of the intention to withdraw the service.</p>
	<p>A provision setting out —</p> <p>(a) the circumstances in which a specified personal service may be varied by the administering body, which must be reasonable having regard to the nature of the service and the circumstances in which it is provided or made available; and</p>

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Item	Provision or matter relating to personal and communal services
	(b) the period of notice to be provided to the resident of the intention to withdraw the service, which must not be less than 30 days.
4.	If a personal or communal service is to be provided or made available after the resident has entered into occupation of the residential premises — (a) a statement of the latest date by which the service is to be provided or made available; or (b) a description of an event, the happening of which the provision or availability of the service depends on.
5.	A provision setting out the charges or conditions that will apply to the resident's access to, or use of each personal or communal service including — (a) the basis for the determination of current and future charges for providing or making the personal or communal service available; and (b) any charges that may be payable by the resident for a variation of the provision or availability of the personal or communal service.

Item	Provision or matter relating to personal and communal services
6.	A provision setting out the period of notice, which must not exceed the period of 30 days, that the resident must give to the administering body to vary the provision of a personal service.
7.	A provision that the administering body will not vary the availability of any communal service (other than a service that is only to be provided or made available for a limited time as set out in accordance with item 2 and is to be withdrawn at or after the end of that time) unless the residents of the village, by a special resolution, consent to the variation.
8.	<p>A provision that the administering body will not vary the availability of any personal service unless —</p> <p>(a) the variation is in circumstances set out in accordance with item 3 and after the period of notice provided for in that item has ended; or</p> <p>(b) the resident has consented to the variation.</p>
9.	<p>A provision that the resident will not be liable to pay for a personal service that the resident does not receive, other than the reasonable costs incurred by the administering body in making the service available to the residents of the village, if —</p> <p>(a) the residence contract has been terminated; or</p>

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Item	Provision or matter relating to personal and communal services
	(b) the resident has permanently vacated the residential premises; or (c) the resident has temporarily ceased to reside in the residential premises.
10.	A reference to Note 1.

7F. Financial matters to be included in residence contract

- (1) In this regulation —
exit fee means a fee or charge, other than a recurrent charge, payable by or on behalf of a resident to the administering body of a retirement village on —
- (a) the resident permanently vacating residential premises in the retirement village; or
 - (b) the settlement of the sale of the resident’s right to reside in the residential premises.
- (2) A residence contract must include the financial provisions or matters listed in the Table.

Table

Item	Financial provision or matter
1.	A provision setting out any premium or rent payable by the resident in relation to a right to occupy residential premises in the retirement village.

Item	Financial provision or matter
2.	<p>A provision setting out the right of the resident to repayment of any premium on the termination of the residence contract including —</p> <ul style="list-style-type: none"> (a) the method of calculation used to determine the repayment; and (b) when the repayment is to be made; and (c) any fees or commissions charged by the administering body in respect of the repayment and if relevant the method of calculation used to determine those fees or commissions; and (d) any other deduction from the premium for which the resident may be liable before the premium is repaid and if relevant the method of calculation used to determine that deduction; and (e) a reference to Note 3.
3.	<p>A provision setting out —</p> <ul style="list-style-type: none"> (a) each recurrent charge and other village operating cost or expense in respect of which the resident is required to make a payment, including the costs associated with the provision of personal or communal amenities or services; and

Item	Financial provision or matter
	<p>(b) each recurrent charge or other village operating cost or expense that the resident will be liable for if the resident permanently vacates the residential premises and another person has not been admitted to occupation of the premises under the retirement village scheme; and</p> <p>(c) the basis for the determination of the current and future amount of each charge, cost or expense referred to in paragraph (a) or (b); and</p> <p>(d) a reference to Note 2.</p>
4.	<p>A provision setting out the details of any reserve fund operating in respect of the retirement village, including the following —</p> <p>(a) the purpose of the fund;</p> <p>(b) any payment the resident is required to make to the fund in the form of —</p> <p>(i) recurrent charges; or</p> <p>(ii) an amount to be deducted from the premium repayable to the resident after the resident permanently vacates the premises;</p> <p>(c) any payment the administering body is required to make to the reserve fund under the <i>Retirement Villages Act 1992</i> section 23(5);</p>

Item	Financial provision or matter
	(d) the amount and source of any other income used to meet expenditure from the reserve fund; (e) the method of calculation used to determine the payments or amounts referred to in paragraphs (b) to (d); (f) a reference to Note 2.
5.	A provision setting out who is responsible for the cost of any independent audit of the annual financial statements of the retirement village carried out in accordance with the Code and, if relevant, how such costs are to be apportioned between the administering body and the residents.

- (3) A residence contract that provides for an exit fee calculated by reference to a period of time must provide that the calculation of the exit fee is to be made on a pro-rata daily basis in respect of the applicable period of time.

7G. Matters relating to condition of premises be included in residence contract

- (1) In this regulation —
arrange, in relation to carrying out work, includes supervision of the carrying out of the work;
essential service means each of the following —
- (a) electricity;
 - (b) gas;
 - (c) refrigeration;

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(d) sewerage, septic tank or other waste water management treatment;

(e) water, including the supply of hot water;

urgent repair means a repair that is necessary —

(a) for the supply or restoration of an essential service; or

(b) to avoid —

(i) risk of injury to a resident; or

(ii) damage to the residential premises; or

(ii) the residential premises being or becoming unsafe or insecure; or

(iv) undue hardship to the resident.

(2) A residence contract must include the provisions or matters listed in the Table relating to the condition of the residential premises and village infrastructure covered by the contract.

Table

Item	Provision or matter relating to condition of premises
1.	A provision setting out — (a) who is responsible for arranging to carry out maintenance, repair or replacement work to ensure that the residential premises and any fixtures, chattels and capital items included in, or attached or connected to, the residential premises are maintained in a reasonable condition during the occupation of the premises; and

Item	Provision or matter relating to condition of premises
	<p>(b) the contributions to be made by the resident and by the administering body to the costs of carrying out the work referred to in paragraph (a); and</p> <p>(c) how any contribution to the costs by the resident is to be paid; and</p> <p>(d) a reference to Note 3.</p>
2.	<p>A provision setting out —</p> <p>(a) who is responsible for arranging to refurbish the residential premises in accordance with the Code if the resident permanently vacates the premises; and</p> <p>(b) the contributions to be made by the resident and by the administering body to the costs of carrying out the work referred to in paragraph (a); and</p> <p>(c) how any contribution to the costs by or on behalf of the resident is to be paid; and</p> <p>(d) a reference to Note 3.</p>
3.	<p>A provision setting out —</p> <p>(a) who is responsible for arranging to carry out maintenance, repair, renovation or replacement work in respect of buildings, structures, fixtures, chattels and other capital items in the village, other than those referred to in item 1; and</p>

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Item	Provision or matter relating to condition of premises
	<p>(b) the contributions to be made by the resident and by the administering body to the costs of carrying out the work referred to in paragraph (a); and</p> <p>(c) how any contribution to the costs by the resident is to be paid; and</p> <p>(d) a reference to Note 3.</p>
4.	<p>A provision that the resident may apply to the administering body for approval to add a fixture or chattel to, or remove a fixture or chattel from, the residential premises (the alteration) and that the administering body must —</p> <p>(a) not unreasonably withhold approval for the alteration; and</p> <p>(b) if the alteration is not approved — notify the resident in writing of the decision and the reasons for it no later than 10 days after a decision is made; and</p> <p>(c) if the alteration is approved — notify the resident in writing.</p>

Item	Provision or matter relating to condition of premises
5.	<p>A provision that the administering body must include, in its notification to a resident of the approval of an application for an alteration a statement of the terms and conditions that apply to the approval, which must include the following matters —</p> <ul style="list-style-type: none"> <li data-bbox="624 678 1209 745">(a) who is responsible for arranging for the alteration; <li data-bbox="624 768 1241 981">(b) if the work to be arranged by the administering body and paid for by the resident, a provision that the work must not commence unless the resident and the administering body have agreed on the cost of the work on the basis of — <ul style="list-style-type: none"> <li data-bbox="703 1003 1222 1115">(i) a written quotation for the work provided by the administering body to the resident; or <li data-bbox="703 1126 1222 1238">(ii) if the resident does not agree to that quotation — another quotation obtained by the resident; <li data-bbox="624 1261 1201 1373">(c) who is responsible for the cost of maintaining or repairing any fixture or chattel the subject of the approval; <li data-bbox="624 1384 1222 1597">(d) the circumstances in which the return of the residential premises to the condition they were in before the alteration took place (having regard to the age and character of the premises) may be allowed or required;

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Item	Provision or matter relating to condition of premises
	(e) who is responsible for the costs of any work required to return the residential premises to the condition they were in before the alteration took place; (f) the circumstances in which the resident may be liable to pay for any damage to the residential premises caused by the carrying out of the alteration or the work to return the premises to the condition they were in before the alteration took place.

- (3) A residence contract must include the following provisions in relation to urgent repairs to the residential premises —
- (a) a provision that the resident is entitled to arrange for urgent repairs that are the responsibility of the administering body to be carried out on any fixtures, chattels and capital items included in, or attached or connected to, the residential premises on behalf of the administering body if —
 - (i) the resident has made all reasonable attempts to notify the administering body of the need for the urgent repairs; and
 - (ii) the administering body has failed to carry out the urgent repairs in a timely manner having regard to the nature of the repairs and any process established by the administering body for the carrying out of urgent repairs; and

- (iii) the resident arranges for the urgent repair work to be carried out in accordance with any process established by the administering body for the carrying out of urgent repairs; and
 - (iv) the resident arranges for the urgent repair work to be carried out by a repairer who is on a list of repairers approved by the administering body and displayed at a prominent place in the village, or if no such list is displayed, by a repairer qualified to undertake repairs of that nature;
- (b) a provision that if a resident arranges for urgent repairs to be carried out under paragraph (a), the administering body will be responsible for —
- (i) payment for the repairs including reimbursement to the resident of any amount paid by the resident in respect of the repairs; and
 - (ii) payment of compensation to the resident for any reasonable expenses incurred by the resident in arranging for the repairs to be carried out.
- (4) Subregulation (3) does not apply if the residence contract provides for the resident, as the occupier of residential premises in a retirement village, to have an interest in the retirement village as an owner of the lot on which the retirement village is located under the *Strata Titles Act 1985*.

7H. Matters not be included in residence contract

(1) In this regulation —

administering body, in relation to a retirement village, includes an agent or employee of the administering body or any person concerned with the administration of the retirement village;

close associate, in relation to an administering body, means any of the following —

(a) if the administering body is a natural person —

- (i) the spouse, de facto partner, parent, child or sibling of the administering body;
- (ii) the parent, child or sibling of the spouse or de facto partner of the administering body;
- (iii) a body corporate, if a person referred to in subparagraph (i) or (ii) is a director or secretary of the body corporate or a person involved in the management of the body corporate;

(b) if the administering body is a body corporate —

- (i) a director or secretary of the body corporate or of a related body corporate;
- (ii) a person involved in the management of the body corporate or of a related body corporate;
- (iii) the spouse, de facto partner, parent, child or sibling of a person referred to in subparagraph (i) or (ii);
- (iv) the parent, child or sibling of the spouse or de facto partner of a person referred to in subparagraph (i) or (ii);
- (v) a related body corporate;

related body corporate has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9.

- (2) A residence contract must not include a provision that requires a resident to give a power of attorney to another person —
 - (a) as a condition of the resident being admitted to occupation of the residential premises; or
 - (b) during the resident's occupation of the residential premises; or
 - (c) after the resident has permanently vacated the residential premises.
- (3) Subregulation (2) does not apply if the requirement to give a power of attorney is a requirement to give a power of attorney created under the *Guardianship and Administration Act 1990* by an instrument referred to in section 104(1)(b)(ii) of that Act to a person who is not —
 - (a) the administering body of the retirement village; or
 - (b) a close associate of the administering body; or
 - (c) a person nominated by the administering body.
- (4) A residence contract must not include a provision under which the administering body —
 - (a) can accept a power of attorney given by the resident unless —
 - (i) the power of attorney is a limited power of attorney given to the administering body for the purpose of granting an exclusive right of occupation of particular residential premises to a new resident who is a tenant in common in a purple title scheme that applies to the village; or

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- (ii) the administering body is a natural person who is a relative of the resident;
- or
- (b) can nominate a person to be the donee of a power of attorney given by the resident unless —
 - (i) the nomination is in respect of a power of attorney that is a limited power of attorney given to the administering body for the purpose of granting an exclusive right of occupation of particular residential premises to a new resident who is a tenant in common in a purple title scheme that applies to the village; or
 - (ii) the resident is a relative of the person nominated.
- (5) A residence contract must not include a provision that requires a resident to give a period of notice of more than 30 days of the residents intention —
 - (a) to terminate the contract; or
 - (b) to permanently vacate the residential premises occupied by the resident.
- (6) A residence contract must not include a provision that provides for residential premises to be permanently vacated other than in the circumstances set out in the definition of *permanently vacated* in section 23 of the Act.
- (7) A residence contract must not include a provision that requires a resident, while the resident occupies the residential premises, to contribute to the costs of all or part of any maintenance, repair, replacement or renovation of the residential premises that would

exceed or be inconsistent with the requirements in relation to refurbishment work set out in the Code.

- (8) A residence contract must not include a provision that requires a resident, either while the resident occupies the residential premises or on the resident's permanent vacation of the residential premises, to pay for —
- (a) any damages to the residential premises caused by the carrying out of an alteration arranged by the administering body; or
 - (b) the work to return the premises to the condition they were in before an alteration arranged by the administering body took place.

8. Part 3 heading inserted

Before regulation 7 insert:

Part 3 — Abandoned goods

9. Part 4 heading inserted

After regulation 8 insert:

Part 4 — Other matters

10. Various references to “shall” amended

In the provisions listed in the Table delete “shall” (each occurrence) and insert:

must

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Table

r. 4	r. 5(1) and (2)
r. 7(2), (3), (6) and (8)	r. 8

11. Schedule 2 inserted

At the end of the regulations insert:

Schedule 2 — Provisions and matters that must be included in residence contracts

[r. 7B]

1. Statement on terms of access to aged care services

The administering body of a retirement village **cannot** guarantee that —

- (a) any proposed residential aged care facility will be constructed, or that any existing residential aged care facility will continue to be available; or
- (b) you will be allocated a place in, or have an automatic right of transfer to, any Commonwealth funded residential aged care facility (which provides accommodation for people who can no longer live independently); or

- (c) you are eligible to receive Commonwealth and/or State funded community care services (which provide support to assist people to continue to live independently).

Your entry to residential aged care facilities and your eligibility to receive aged care support services are subject to availability and to your ability to meet the eligibility and assessment requirements administered by the Commonwealth and/or State Government.

Aged care facilities and services are not regulated by the *Retirement Villages Act 1992* (Western Australia).

2. Notes

NOTES

1. The *Retirement Villages Act 1992* Part 4 sets out circumstances in which an application may be made to the State Administrative Tribunal including in relation to the following matters —
 - (a) a residence contract's compliance with a requirement of the *Retirement Villages Regulations 1992* (s. 55);
 - (b) a dispute about a service contract or the variation or cancellation of the terms of a service contract (s. 56);
 - (c) an increase in recurrent charges or imposition of levy (s. 57A);

r. 11

- (d) the transfer of a resident to other accommodation in the retirement village (s. 57);
 - (e) the termination of a resident's occupation of a retirement village (s. 58 and 59);
 - (f) the termination of a residence contract (s. 62 and 63).
2. The *Retirement Villages Act 1992* section 23 and the regulations made under that section set out limits to the liability of certain former residents of a retirement village to pay recurrent charges after permanently vacating residential premises in the village.
 3. Regulations made under the *Retirement Villages Act 1992* section 25 set out matters in respect of which the administering body of a retirement village cannot demand or receive payment from a resident or former resident of the retirement village.

3. Statement about seeking independent legal and financial advice

Prior to signing this contract you are strongly advised to obtain independent legal and financial advice about your rights and duties under the contract.

Clerk of the Executive Council.