

New disclosure statements for prospective retirement village residents

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New Form 1 and Form 1A disclosure statements

This bulletin provides information on two new pre-contract disclosure statements (Forms 1 and 1A) that will simplify and replace the existing Form 1 in the *Retirement Villages Regulations 1992* (RV Regulations).

An owner of a retirement village, or a person authorised to act on behalf of the owner, is required by the *Retirement Villages Act 1992* (RV Act) to provide prospective residents with a statement containing information prescribed by the regulations. The statement has to be provided to a person at least 10 working days before the signing of a residence contract (under section 13(2) (a) of the RV Act).

Both Forms 1 and 1A respectively are titled '*Information statement for prospective resident*'. The statements set out for prospective residents the key information, features and costs associated with entering, living in, and exiting a retirement village.

In addition, section 13(2) requires that prospective residents be provided with a copy of the residence rules, any applicable codes and any prescribed documents.

The new Form 1 will apply to residence contracts where a 'premium' is payable. A 'premium' is a payment made to secure the right to live in a particular unit in a retirement village. It includes the purchase price for a unit in a strata or purple title village as well as the entry payment for a lease village.

Form 1A will apply to 'short-term' residence contracts that:

- have a fixed term of 12 months or less; **and**
- requires an entry payment that totals \$1500 or less (for example an amount payable in the form of a security bond).

Why are the new disclosure statements important?

Many independent legislative reviews, academic research papers and economic examinations have identified complex residence contracts as a problem for potential residents because:

- the operator of a retirement village is significantly more knowledgeable about the contractual arrangements than a prospective consumer, and
- there is limited publicly available information on key features of a retirement village.

By having a standardised 'tick-box' approach to information disclosure, the new Forms 1 and

1A will require operators to state 'yes' or 'no' to specific questions and provide practical examples using realistic figures about some of the fees payable in the particular retirement village.

This will help prospective residents (and their families) to:

- compare the product offerings of different retirement villages prior to choosing a particular village; and
- better understand some of the key contractual obligations in the residence contract that they will be asked to sign prior to moving into a village.

Residence contracts are subject to a statutory warranty under section 13(4) of the RV Act as to the correctness of the information contained in Forms 1 and 1A. This warranty prevails over any inconsistent contractual term. This means that an operator cannot include terms in the residence contract that are inconsistent with the information in the Forms 1 and 1A, particularly if it makes the information in the forms inaccurate.

A prospective resident can consent to a written alteration to the statement on or before signing the residence contract. This exception does not, however, allow for alterations in the form of a broad statement that the disclosure statement is subject to change over time. Such a statement would likely be contrary to section 6(3) of the RV Act, as it would effectively defeat the purpose of requiring an information statement be given to prospective residents if they cannot rely on the accuracy of the information in the statement.

What has changed?

The old Form 1 was formulated in 2003 and has not been substantively reviewed until now. Some important changes in the new form include:

- a signed declaration by the owner, or a person authorised to act on behalf of the owner, that the information in the statement is correct;
- a tick the box question and short answer format for most questions;
- greater transparency in the disclosure of amounts payable by residents across the term of the contract, including entry charges, ongoing amounts payable while you live in the village and exit costs and fees;
- information detailing how much recurrent charges have increased or decreased over the past three financial years, both for the village as a whole but also for the type of residential premises the potential resident is interested in; and
- a clearer example of the estimated refund entitlements that may be payable when residents leave after one, two, five and 10 years living in the village.

Form 1A is completely new and is intended to be given to prospective residents wishing to enter into a particular kind of 'short term residence contract'. Form 1A contains much the same information as Form 1 but has been modified to make it relevant to the 'short-term residence contracts' to which it applies. For example, it does not contain information relating to the payment of 'premiums' but does contain information about entry payments.

When will the new forms come into effect?

The substantive amendments will commence on 1 April 2016. Provision has been made for a three month transition period (1 April 2016 to 30 June 2016). During this time operators will be able to use either the new forms (Form 1 or Form 1A whichever applies) or the old version of the Form 1. From 1 July 2016 only the new forms can be used for

residence contracts entered into after that date.

How to use the new disclosure statements

It is a good idea to visit a number of different villages before deciding on the village that's right for you. Ask the village manager or operator to supply you with a completed disclosure form for the type of residential unit within the village you are interested in. Using this information will make it much easier for you to be able to compare villages.

More information

Visit our website for more information about:

- [Retirement villages](#)
- [Legislation review](#) - includes previous bulletins
- [Your guide to choosing and living in a retirement village](#)