

South Australia

# Retirement Villages Act 1987

An Act to regulate retirement villages and the rights of residents of such villages; and for other purposes.

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### Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Retirement Villages Act 1987*.

### **2—Object of Act**

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

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

### **3—Interpretation**

- (1) In this Act, unless the contrary intention appears—

***administering authority*** in relation to a retirement village means the person by whom or on whose behalf the retirement village scheme is administered and includes a person (other than a resident) who owns land within the village;

***authorised officer*** means a person appointed to be an authorised officer under Part 2;

***business day*** means any day except a Saturday, Sunday or public holiday;

***community retirement village*** means a retirement village divided into separate residences and common property by a community plan under the *Community Titles Act 1996* or a strata plan under the *Strata Titles Act 1988*;

***domestic partner*** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

***premises condition report***—see section 17;

***premium*** means a payment (including a gift) made to the administering authority of a retirement village in consideration for, or in contemplation of, admission of the person by or on whose behalf the payment was made as a resident under a retirement village scheme (including any such payment made for the purchase of a residence in a retirement village or for the purchase, issue or assignment of shares conferring a right to occupy any such residence) but does not include—

- (a) any such payment excluded by regulation from the ambit of this definition; or
- (b) recurrent charges;

***recurrent charge*** means any fee, charge or other amount (as specified in the residence contract) payable by a resident to the administering authority of a retirement village on a recurrent basis;

***register***—see section 11;

**remarketing policy**—see section 17;

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

**residence contract** means a contract under which a person enters into occupation of a residence in a retirement village;

**residence rules** means the rules with which residents of a retirement village are expected by the administering authority to comply;

**resident** of a retirement village means a person who has been admitted to occupation of a residence in accordance with the scheme and (subject to the terms of a residence contract) includes a spouse or domestic partner of such a person who—

- (a) is residing with that person; or
- (b) was residing with that person at the time of his or her death;

**retired person** means a person who has attained the age of 55 years and retired from full-time employment;

**retirement village** means a complex of residences or a number of separate complexes of residences (including appurtenant land) occupied or intended for occupation under a retirement village scheme but does not include any such complex excluded from the ambit of this definition by the regulations;

**retirement village scheme** or **scheme** means a scheme established for retired persons and their spouses or domestic partners, or predominantly for retired persons and their spouses or domestic partners, under which—

- (a) residences are occupied in pursuance of lease or licence; or
- (b) a right to occupation of residences is conferred by ownership of shares; or
- (c) residences are purchased from the administering authority subject to a right or option of repurchase; or
- (d) residences are purchased by prospective residents on conditions restricting their subsequent disposal,

but does not include any such scheme under which no resident or prospective resident of a residence pays a premium in consideration for, or in contemplation of, admission as a resident under the scheme;

**special resolution** means a resolution passed at a meeting of residents of a retirement village in the following circumstances:

- (a) at least 21 days' written notice of the meeting, containing a statement of the proposed special resolution, must have been given to all residents; and
- (b) the resolution must have been passed by a majority of not less than three-quarters of the number of residents who were present, and entitled to vote, at the meeting;

**spouse**—a person is the spouse of another if they are legally married;

**the Tribunal** means the Residential Tenancies Tribunal.

- (2) For the purposes of this Act—
- (a) the *date of the contract* means the date on which the second of the 2 parties to a residence contract signs the contract;
  - (b) a resident's *settling-in period* is—
    - (i) the period ending 90 days after the date of the contract or the date on which the resident is admitted to occupation of his or her residence in accordance with the scheme (whichever is later); or
    - (ii) such longer period as may be specified in the resident's residence contract;
  - (c) a person will be taken to *cease to reside in a retirement village*—
    - (i) when the person (or someone else on behalf of the person) delivers up vacant possession of the person's residence to the administering authority following the person's vacation of the residence; or
    - (ii) when the executor or administrator of the person's estate delivers up vacant possession of the person's residence to the administering authority following the person's death; or
    - (iii) when the person vacates the person's residence and indicates to the administering authority (either expressly or by his or her actions) that the person does not intend to continue to reside in the village; or
    - (iv) if—
      - (A) the administering authority decides to terminate the person's right of occupation under Part 3; and
      - (B) the Tribunal confirms the administering authority's decision to terminate the right of occupation,at the end of the period fixed by the Tribunal within which the person must vacate the person's residence.

#### 4—Application of Act

- (1) Subject to this section—
- (a) this Act applies to retirement villages established either before or after the commencement of this Act; and
  - (b) this Act binds the Crown in right of this State and (so far as the legislative power of the State permits) the Crown in any other capacity, but not so as to impose criminal liability on the Crown.
- (2) The Minister may, by notice published in the Gazette, confer exemptions from this Act or specified provisions of this Act—
- (a) on specified religious or charitable organisations or religious or charitable organisations of a specified class; or
  - (b) in relation to specified retirement villages or retirement villages of a specified class.
- (3) An exemption under subsection (2) may be conditional or unconditional.

- (4) A person who contravenes or fails to comply with a condition of an exemption is guilty of an offence.

Maximum penalty: \$10 000.

## **Part 2—Administration**

### **Division 1—Registrar**

#### **5—Appointment of Registrar**

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

#### **6—Registrar's functions**

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

#### **7—Registrar's power to require information**

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

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person cannot be compelled to give information under this section if the information might tend to incriminate the person of an offence.

#### **8—Registrar's obligation to preserve confidentiality**

- (1) The Registrar must preserve the confidentiality of information gained in the course of the performance of the Registrar's functions under this Act that—
- could affect the competitive position of the administering authority of a retirement village or some other person; or

- (b) is commercially sensitive for some other reason.
- (2) Subsection (1) does not apply to the disclosure of information between—
  - (a) persons engaged in the administration of this Act; or
  - (b) the Registrar and the Tribunal for the purposes of resolving a dispute under this Act.
- (3) Information classified by the Registrar as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

## 9—Delegation

- (1) The Registrar may delegate a power or function vested in or conferred on the Registrar by or under this Act—
  - (a) to a particular person or body; or
  - (b) to the person for the time being holding or acting in a particular office or position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the power of the delegator to act in a matter; and
  - (c) is revocable at will by the delegator.

## 10—Annual report

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

## Division 2—Registration of retirement village schemes

### 11—Register

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

- (2) The register is to be available for inspection, without fee, during ordinary office hours at a public office, or public offices, determined by the Minister.
- (3) The Minister must ensure that copies of material on the register can be purchased for a reasonable fee at the public office, or public offices, at which the register is kept available for inspection.

## **12—Notification of information required for register**

- (1) The administering authority of a retirement village established after the commencement of this section must, within 28 days after the first person is admitted to occupation of his or her residence in accordance with the scheme, give the Registrar—
  - (a) the name and business address of the administering authority; and
  - (b) in respect of the retirement village—
    - (i) the name and address of the village; and
    - (ii) the references for the certificates of title of the land used for the village; and
    - (iii) the name, address and contact details of the person managing the village for or on behalf of the administering authority; and
  - (c) any other information that the Registrar considers appropriate.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) The administering authority of a retirement village must, within 28 days of any change in the information given under subsection (1) (including a change by virtue of the sale of an interest in the land within the village, or the name of the administering authority or business address), give the Registrar notice of details of the change.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) Any information required under this section must be given in a manner and form determined by the Registrar.

## **Division 3—Authorised officers**

### **13—Appointment of authorised officers**

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

### **14—Identification of authorised officers**

- (1) An authorised officer must be issued with an identity card by the Minister.

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

### **15—General powers of authorised officers**

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

### **16—Offence to hinder etc authorised officers**

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

is guilty of an offence.

Maximum penalty: \$5 000.

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

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

## **Part 3—Rights of residents**

### **Division 1—Creation and exercise of residents' rights**

#### **17—Residence contracts**

- (1) A residence contract must be in writing and comply with this section and the requirements (if any) prescribed by the regulations.
- (2) The residence contract must include the following information:
- (a) details about the residence in respect of which the person is entering the contract;
  - (b) details about the resident's rights and obligations created by or under the contract, including—
    - (i) the right to cool-off (that is, to rescind the contract and not proceed with becoming a resident in the retirement village);
    - (ii) the right to occupation of the residence;
    - (iii) recurrent charges for which the resident is liable;
    - (iv) additional services and facilities available to residents of the retirement village and the costs of those services and facilities;
    - (v) the right to terminate the right to occupation of the residence and receive a refund of the premium paid;
    - (vi) dispute resolution processes;
    - (vii) any other details prescribed by the regulations.
- (3) The administering authority must, before a person enters into a residence contract, give the person a copy of each of the following documents:
- (a) the contract;
  - (b) if the contract relates to a retirement village already established—the financial statements presented at the last annual general meeting of residents of the village in accordance with section 22(6)(a), including a written statement of any subsequent change in the affairs of the village and the administering authority that may significantly affect the resident's decision to enter the village;
  - (c) the detailed report providing information about—
    - (i) the condition, as at the date of the contract, of the fixtures, fittings and furnishings (an *item*) provided in the residence; and
    - (ii) who will be responsible for repairing or replacing an item; and

- (iii) when an item is due to be repaired or replaced; and
    - (iv) how the cost of repairing or replacing an item is to be funded,(the ***premises condition report***);
  - (d) the residence rules;
  - (e) the policy of the administering authority to be applied for the remarketing of residences (the ***remarketing policy***);
  - (f) any code of conduct to be observed by the administering authority;
  - (g) any other document prescribed by the regulations.
- (4) A residence contract will be taken to include a warranty on the part of the administering authority of the correctness of the information contained in the documents provided under subsection (3) (subject to any written alteration made by the administering authority with the consent of the resident on or before the signing of the contract by the administering authority), and that warranty prevails over any inconsistent contractual term unless the resident elects to rely on the contractual term rather than the statement (and then the contractual term will prevail to the extent of any inconsistency).
- (5) An administering authority must not, without the approval of the Minister—
- (a) make a representation to a prospective resident that is inconsistent with information given to the prospective resident under subsection (2) or (3); or
  - (b) give information to a prospective resident under subsection (2) or (3) that is inconsistent with a representation made by the administering authority to the prospective resident.
- (6) For the purposes of subsection (5), a representation made by an employee or agent of an administering authority will be taken to be a representation of the administering authority unless the administering authority proves that the person was not acting in the course of his or her employment or agency.
- (7) A resident or prospective resident is entitled to rescind the residence contract—
- (a) at any time within 15 business days after the date of the contract; or
  - (b) if subsection (3) is not complied with—at any time before the expiration of 15 business days after the date on which the last of the documents required to be given to the resident or prospective resident under that subsection is so given.
- (8) A contract is rescinded under this section by notice in writing, given personally or by post, to the administering authority.
- (9) If a provision of this section is not observed, the administering authority is guilty of an offence.  
Maximum penalty: \$35 000.
- (10) A residence contract may be enforced against the administering authority for the time being of the retirement village.

## **Division 2—Matters relating to premiums**

### **18—Premiums**

- (1) Subject to subsection (2), a premium paid to the administering authority must be held in trust (in an ADI account or in a form of investment in which trustees are authorised by statute to invest trust money) until—
  - (a) the person by or on whose behalf the premium was paid enters into occupation of a residence; or
  - (b) it becomes apparent that that person will not enter into occupation of a residence.
- (2) The Minister may, on the application of an administering authority, grant an exemption from subsection (1) if satisfied of the authority's capacity and willingness to provide residences in accordance with any contract entered into between the administering authority and a prospective resident.
- (3) An exemption may be conditional or unconditional, and if an administering authority contravenes or fails to comply with a condition of an exemption the authority will be guilty of an offence.

Maximum penalty: \$10 000.

- (4) If a prospective resident decides not to enter into occupation of a residence, the premium must be refunded to the prospective resident within 10 business days of the prospective resident giving the administering authority written notice of that decision, with interest and accretions arising from investment of the premium to be disposed of as follows:
  - (a) if the failure to enter into occupation is attributable to a failure on the part of the administering authority to carry out contractual obligations—any such interest and accretions must be paid to the prospective resident;
  - (b) in any other case—the administering authority is entitled to retain any such interest and accretions.
- (5) If a provision of this section is not observed, the administering authority is guilty of an offence.

Maximum penalty: \$35 000.

### **19—Contractual rights relating to repayment of premiums**

- (1) Where a premium is paid under a residence contract providing that it will be repaid in whole or in part on the happening of a contingency and the contingency occurs, the resident or a person claiming under the resident may recover the amount that is repayable as a debt from the administering authority, for the time being, of the retirement village.
- (2) Proceedings will not lie against the owner of land in a retirement village for the enforcement of rights under subsection (1) unless—
  - (a) the owner is a party to the contract under which the premium is repayable; or
  - (b) the owner is the sole administering authority of the retirement village; or

- (c) an administering authority other than the owner has failed to satisfy a judgment given for the enforcement of those rights.
- (3) The rights of a resident to repayment of a premium, or part of a premium, are a charge on land in the retirement village other than—
  - (a) a residence owned by a resident; or
  - (b) common property in a community retirement village.
- (4) Despite the *Real Property Act 1886*, the charge referred to above ranks in priority to any other mortgage, charge or encumbrance over the land to which the charge relates.
- (5) The charge referred to above can only be enforced—
  - (a) with the approval of the Supreme Court; and
  - (b) subject to any conditions to which the Supreme Court's approval is subject.
- (6) If the Supreme Court approves the enforcement of the charge it may, subject to the conditions stipulated by the Court, be enforced in the same way as a mortgage registered under the *Real Property Act 1886*.

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

#### **20—Arrangements if resident is absent or leaves**

- (1) Where a resident is absent from a retirement village for a continuous period of at least 28 days, the resident is not liable to pay, in respect of a period of absence after those 28 days, any amount in respect of any personal service that the retirement village (or the administering authority) ceases to provide to the resident because of his or her absence from the retirement village.
- (2) Where a resident ceases to reside in a retirement village—
  - (a) the resident ceases to be liable to pay any amount (other than an amount that has already accrued) in respect of any personal service that the retirement village (or the administering authority) ceases to provide to the resident after he or she leaves the retirement village; and
  - (b) the administering authority must assume responsibility for the payment of any maintenance or other recurrent charges in respect of the residence occupied by the resident before he or she left the retirement village, or otherwise payable by the resident in connection with the retirement village (other than with respect to any amount attributable to a charge accrued before the resident left the retirement village).
- (3) If—
  - (a) an administering authority must assume responsibility for maintenance or other recurrent charges on account of a resident ceasing to reside in a retirement village; and
  - (b) the resident is entitled to the repayment (in whole or in part) of a premium,

then the administering authority is entitled, subject to subsection (4), to recover from the resident an amount equal to the amount paid by the administering authority for maintenance or other recurrent charges that would otherwise have been payable by the resident over the prescribed period.

- (4) An amount recoverable under subsection (3)—
- (a) cannot exceed the amount of premium repayable to the resident (and if it would exceed that amount, the amount recoverable under subsection (3) must be reduced so as to equal the amount of premium repayable to the resident); and
  - (b) cannot be recovered until the premium is due to be repaid to the resident (and may then be recovered as a deduction from the premium repayable to the resident).
- (5) For the purposes of subsection (3), the *prescribed period*, in relation to a resident who has ceased to reside in a retirement village, is—
- (a) unless paragraph (b) applies—the period of 6 months from the date on which the resident ceased to reside in the retirement village; or
  - (b) if the Tribunal has, on the application of the administering authority, determined that the prescribed period for the purposes of that subsection should in the circumstances of the particular case be longer than 6 months—the period determined by the Tribunal,

subject to the qualification that the prescribed period will in any event come to an end when the residence occupied by the resident before he or she left the retirement village is resold or relicensed, or otherwise taken over or occupied by another resident.

- (6) The Tribunal should not make a determination extending the prescribed period under subsection (5) unless the Tribunal is satisfied that in the circumstances of the particular case it would be harsh and unreasonable to limit the prescribed period to 6 months.
- (7) If—
- (a) a resident is liable to pay any amount in respect of any other charges that may accrue after he or she has ceased to reside in a retirement village; and
  - (b) the resident is entitled to the repayment (in whole or in part) of a premium,
- then the administering authority is not entitled to recover any such amount until the premium is due to be repaid to the resident (and the amount may then be recovered as a deduction from the premium repayable to the resident).
- (8) If an administering authority does not make 1 or more payments for which the administering authority must assume responsibility under subsection (2)(b) at the same time as the resident would have been required to make the payments if he or she had remained in the retirement village, the administering authority—
- (a) must keep a record of the outstanding payments, and identify them in any relevant financial statements prepared for the purposes of this Act (while those payments remain outstanding); and
  - (b) must not attempt to recover the outstanding payments by increasing the maintenance or other recurrent charges payable by other residents.

- (9) In this section—

*personal service* means a service provided to a resident individually (rather than to residents generally).

## 21—Arrangements if resident leaves to enter residential aged care facility

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

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

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

## Division 4—General matters

### 22—Meetings of residents

- (1) The administering authority of a retirement village—
- (a) may convene a meeting of the residents at any time; and
  - (b) must convene such a meeting on an annual basis.
- (2) The annual meeting must be held not more than 4 months after the end of the financial year that applies in relation to the retirement village.
- (3) A meeting convened under subsection (1)(b) must be chaired by a representative of the administering authority who is authorised to speak on behalf of the administering authority and to give responses to questions put at the meeting in accordance with the requirements of this section.
- (4) A meeting of residents may also be convened by a residents' committee.
- (5) A meeting will be convened by sending to each resident, at least 14 days before the date of the meeting, a written notice setting out—
- (a) the time and place of the meeting; and
  - (b) the business to be transacted at the meeting.

- (6) A notice for an annual meeting under subsection (5) must be accompanied by—
- (a) in relation to the retirement village—
    - (i) an audited statement of income received from residents, and expenditure of that income, for the previous financial year; and
    - (ii) a statement of estimates of income from residents, and expenditure of that income, for the current financial year; and
    - (iii) a statement of estimates of income (from any source), and expenditure, for the current financial year in respect of any contingency, sinking or other reserve fund or account established for the purposes of capital replacement or improvements, irregular long-term maintenance, or other similar items; and
    - (iv) such other information as the regulations may require; and
  - (b) an invitation to residents to submit—
    - (i) written questions to the administering authority at least 7 days before the date of the meeting; and
    - (ii) other questions at the meeting.
- (7) The administering authority must ensure—
- (a) that information provided under subsection (6)(a) complies with any standard or principle prescribed by the regulations; and
  - (b) that any resident is afforded, on request, a reasonable opportunity to inspect, depending on how the administering authority prepares its accounts—
    - (i) an audited balance sheet (with appropriate notes) for the retirement village; or
    - (ii) an audited balance sheet (with appropriate notes) for the administering authority,
- as at the end of the previous financial year.
- (8) The administering authority must ensure—
- (a) that residents have a reasonable opportunity to put questions to the administering authority or its representative at a meeting of residents convened by the administering authority; and
  - (b) that questions submitted in writing under subsection (6)(b), or asked at a meeting, are answered—
    - (i) if possible—in reasonable detail at the relevant meeting; or
    - (ii) to the extent that compliance with subparagraph (i) is not possible—within 14 days after the meeting by the presentation of detailed written answers.
- (9) If a question asked by a resident is answered at a meeting and the resident requests the answer to be provided in writing, the administering authority must ensure that a detailed written answer is provided to the resident within 14 days after the meeting.
- (10) Nothing in this section requires an administering authority, or the representative of an administering authority, to answer an unreasonable question.

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- (11) Recurrent charges cannot be increased beyond a level shown to be reasonable in view of the accounts for the previous year, and the estimates for the current financial year, as explained at a meeting of residents under this section.
  - (12) A special levy may not be imposed on residents of a retirement village unless authorised by special resolution passed at a meeting of residents.
  - (13) In the case of a community retirement village, a meeting under this section may be held in conjunction with a meeting of the community corporation or the strata corporation.
  - (14) The administering authority of a retirement village must, for the purposes of this section, establish a financial year that is to apply (on a yearly basis) in relation to the retirement village.
  - (15) If a provision of this section is not complied with, the administering authority is guilty of an offence.  
Maximum penalty: \$20 000.
  - (16) Subject to subsection (17), each resident present at a meeting of residents has 1 vote on any question arising for decision at the meeting with the decision to be determined by a simple majority of the votes cast by the residents present and voting at the meeting.
  - (17) Where 2 or more residents are in occupation of the same residence in a retirement village only 1 of them may exercise a vote at a meeting of the residents and if more than 1 purport to vote, the person presiding at the meeting may determine which vote is to be recognised.
  - (18) An audit required under this section must be conducted by a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth.

### **23—Interim financial reports**

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

- (3) The *relevant accounting period* that applies with respect to a request under subsection (1) is the period from the beginning of the financial year in which the request is made to the end of the last completed quarter for that financial year (as determined at the time of the making of the request).
- (4) The administering authority must ensure that information provided under subsection (1) complies with any standard or principle prescribed by the regulations.
- (5) An interim financial report must be provided within 21 days after the request is made.
- (6) If a contravention of subsection (1), (2), (4) or (5) occurs, the administering authority is guilty of an offence.  
Maximum penalty: \$5 000.
- (7) If—
  - (a) a request is made under subsection (1) or (2); and
  - (b) the administering authority, on receiving the request, indicates that a fee of, or not exceeding, a specified amount will be payable to cover the cost of preparing and providing the relevant report; and
  - (c) the specified amount is reasonable in the circumstances,then the administering authority may, in connection with providing the report under subsection (1) or (2), require the payment of an amount not exceeding the amount so specified.
- (8) For the purposes of this section, a quarter of a financial year is any of the periods of 3 calendar months that together make up the financial year that applies in relation to the relevant retirement village.

## **24—Meeting with new administering authority**

- (1) It will be a term of every agreement that will result in a change in the administering authority of a retirement village (including a change by virtue of the sale of an interest in the land within the village) that, before the change is effected, the person who is to be the new administering authority will convene a meeting of residents under this section at which the person (or his or her representative) will—
  - (a) present a report on any changes that are proposed for the retirement village (including any proposal to change a charge, fee or levy payable by residents), and his or her plans for the future management and operation of the retirement village; and
  - (b) answer any reasonable question put by a resident.
- (2) A meeting will be convened by sending to each resident, at least 14 days before the date of the meeting, a written notice setting out—
  - (a) the time and place of the meeting; and
  - (b) the reason for the meeting.
- (3) If a change in an administering authority of a retirement village is effected by an agreement without compliance with the term referred to in subsection (1), the person who is the new administering authority is guilty of an offence.  
Maximum penalty: \$10 000.

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**25—Consultation about village redevelopment**

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

Maximum penalty: \$10 000.

**26—Certain taxes and fees must not be charged to residents**

- (1) Subject to subsection (2), land tax payable in respect of any of the land comprising a retirement village is not recoverable by the taxpayer directly or indirectly from the residents of the village.
- (2) Subsection (1) does not prevent a taxpayer from recovering directly from the resident of a residence land tax payable in respect of that residence and its appurtenant land where the residence is not being occupied by the resident as his or her principal place of residence.
- (3) Subject to this Act, a resident of a retirement village is not liable to pay costs incurred by the administering authority in obtaining legal advice or undertaking legal proceedings relating to the retirement village unless the residents, by special resolution, approve payment.

**27—Harsh or unconscionable residence rules**

If a residence rule, or a provision of a residence rule, is harsh or unconscionable the rule or provision is void.

**28—Documents to be supplied to residents**

- (1) The administering authority of a retirement village must, at the request of a resident, provide the resident, free of charge, with—
  - (a) a copy of the residence contract under which the resident was admitted to the retirement village;
  - (b) a copy of the residence rules that are applicable to the retirement village;

- (c) a statement of the amount to which the resident would be entitled, by way of repayment of premium, if the resident were to cease to reside at the retirement village.

Maximum penalty: \$2 500.

- (2) If an alteration is made to residence rules, the administering authority must issue an amended set of the rules to every resident.

Maximum penalty: \$2 500.

### **29—Information about manager to be supplied to residents**

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

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

Maximum penalty: \$2 500.

### **30—Residents' committees**

- (1) The residents of a retirement village may elect a residents' committee to represent the interests of the residents.
- (2) No person except a resident of the retirement village may be a member of such a committee.
- (3) Each member of a residents' committee will hold office for 1 year from election but is eligible for re-election.
- (4) A member may be removed from office by a special resolution at a meeting of the residents.
- (5) A residents' committee may determine its own procedure.
- (6) A residents' committee may appoint sub-committees and determine their procedures.
- (7) An administering authority must not—
  - (a) discourage or prevent the appointment of a committee under this section; or
  - (b) obstruct a committee in the performance of its functions.

Maximum penalty: \$2 500.

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

Maximum penalty: \$2 500.

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

- (10) If a contravention of subsection (9) occurs, each member of the residents' committee who is in default is guilty of an offence.

Maximum penalty: \$2 500.

## **Division 5—Termination of residents' rights**

### **31—Termination of residents' rights**

- (1) A resident of a residence in a retirement village has a right of occupation that cannot be terminated unless—
- (a) the resident dies; or
  - (b) the resident terminates the residence contract or ceases to reside in the retirement village in circumstances in which there is no reasonable prospect of the resident returning to reside in the retirement village; or
  - (c) the resident commits a breach of the residence contract or the residence rules and the administering authority terminates the resident's right of occupation on that ground; or
  - (d) the residence becomes an unsuitable place of residence for the resident because of the resident's mental or physical incapacity and the administering authority terminates the resident's right of occupation on that ground; or
  - (e) the holder of a mortgage or charge that was in existence at the commencement of this Act becomes entitled to vacant possession of the residence in pursuance of rights conferred by the mortgage or charge.
- (2) Subject to subsection (3), the rights of termination under subsection (1)(a), (b), (c) or (d) are subject to—
- (a) any limitations or qualifications arising from the residence contract;
  - (b) any rights of the resident deriving from the resident's ownership of an interest in the residence.
- (3) A contract cannot limit or qualify the right of a resident to terminate a residence contract during his or her settling-in period.
- (4) If a resident terminates a right of occupation during his or her settling-in period (even if he or she then continues to reside in the retirement village after the end of that period), the resident is liable to pay—
- (a) fair market rent in respect of his or her period of occupation of a residence, less any amount paid by the resident for services that would otherwise be included in the assessment of fair market rent; and
  - (b) other amounts (if any) payable under the residence contract.
- (5) An amount payable by a resident under subsection (4) may be deducted from any refund of premium due to the resident.
- (6) No provision in a contract between the administering authority and the resident can have the effect of making the resident liable to pay an amount by way of a penalty if he or she terminates a right of occupation during his or her settling-in period (and any such provision is void to the extent that it would have such an effect).

- (7) The administering authority's decision to terminate a resident's right of occupation on the ground of a breach of the residence contract or the residence rules is ineffective unless the Tribunal is satisfied, on the application of the administering authority, that the breach is sufficiently serious to justify termination of the right of occupation and confirms the administering authority's decision.
- (8) The administering authority's decision to terminate a resident's right of occupation on the ground of a mental or physical incapacity is ineffective unless the Tribunal is satisfied, on the application of the administering authority, that proper grounds for the termination exist and confirms the decision.
- (9) Where the Tribunal confirms the administering authority's decision to terminate a right of occupation, it must fix a period within which the resident must vacate the residence.
- (10) The Tribunal may make an order for the ejection of a resident who has not vacated a residence at the expiration of the period referred to above.
- (11) An order under subsection (10) may be enforced by a bailiff of the Tribunal in the same manner as an order for the possession of premises under the *Residential Tenancies Act 1995* (and, for that purpose a bailiff may, in particular, exercise the powers of a bailiff under section 99 of that Act).
- (12) If the administering authority decides to terminate a resident's right of occupation it must give the resident, personally or by post, a notice—
  - (a) setting out the grounds of the administering authority's decision; and
  - (b) informing the resident that the decision is subject to review by the Tribunal; and
  - (c) informing the resident of his or her rights with regard to such a review.

Maximum penalty: \$10 000.

## **Division 6—Resolution of disputes**

### **32—Resolution of disputes**

- (1) A party to a dispute between an administering authority and a resident of a retirement village may apply to the Tribunal for resolution of the matters in dispute.
- (2) On an application under subsection (1)—
  - (a) if the Tribunal finds that a party to the dispute has breached, or failed to comply with, a residence contract, the Tribunal may—
    - (i) by such order as it considers appropriate in the circumstances, restrain the breach of the contract or require action in performance of the contract;
    - (ii) order the payment of an amount payable under the contract;
    - (iii) order the payment of compensation for loss or injury, other than personal injury, caused by a breach of the contract or a failure to comply with the contract;
  - (b) if the Tribunal finds that a party to the dispute has breached, or failed to comply with, a provision of this Act, the Tribunal may—

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- (i) by such order as it considers appropriate in the circumstances, restrain a breach of this Act or require action to comply with this Act or, in relation to an administering authority, require the administering authority to vary or reverse a decision or the effect of an act of the administering authority;
    - (ii) order a party to the dispute to refrain from future action of a kind specified in the order;
    - (iii) order the payment of compensation for loss or injury, other than personal injury, caused by a breach of this Act or a failure to comply with this Act;
  - (c) if the Tribunal finds that the administering authority has acted in a harsh or unconscionable manner, the Tribunal may, by such order as it considers appropriate in the circumstances—
    - (i) require the administering authority to vary or reverse a decision or the effect of an act of the administering authority;
    - (ii) avoid *ab initio*, or modify, terms or conditions of an agreement between the administering authority and the resident;
    - (iii) require the administering authority to repay to the resident any amount paid by the resident in pursuance of a term or condition of an agreement (that has been avoided or modified by the Tribunal);
  - (d) if the dispute relates to the repayment of a premium, or a part of a premium—the Tribunal may determine the amount that is repayable, and make orders as to payment.
- (3) If—
- (a) the Tribunal is unwilling to make an order under subsection (2), or before or during the course of proceedings it appears to the Tribunal that it would be preferable to endeavour to resolve the matters in dispute by arbitration; or
  - (b) the parties to a dispute indicate to the Tribunal that they wish to resolve the matters in dispute by arbitration,
- the Tribunal may, with the express consent of the parties (which may not be subsequently withdrawn), proceed to deal with the dispute by arbitration.
- (4) Where the Tribunal is dealing with a dispute by arbitration, the Tribunal may determine any question that arises for determination in the course of the proceedings by reference to considerations of general justice and fairness.
  - (5) The Tribunal may, at the end of an arbitration, give such directions as the Tribunal thinks fit to resolve the dispute, or make any order to determine the dispute.
  - (6) The Tribunal may decline to entertain an application under this section if—
    - (a) it appears to the Tribunal that the matter could be adequately dealt with under rules for the resolution of disputes established by the administering authority of the retirement village; or
    - (b) the Tribunal considers that it would be more appropriate for proceedings to be taken in a court, or in another tribunal constituted by law; or

- (c) the Tribunal considers that it is appropriate for some other reason to decline to proceed with the application.
- (7) The Tribunal should, in deciding whether it should decline to entertain an application under this section, take into account—
- (a) the issues raised by the application;
  - (b) the seriousness of the matter;
  - (c) the relief sought;
  - (d) if the application relates to the repayment of a premium or a portion of a premium—the amount in dispute;
  - (e) whether difficult or complicated questions of law may arise in the proceedings;
  - (f) the extent to which a court, or another tribunal, could resolve all matters in dispute between the parties more efficiently or effectively,
- and may take into account such other matters (whether similar or dissimilar to those referred to above) as the Tribunal thinks fit.
- (8) The Tribunal may make an order under this section notwithstanding that it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such remedy would not otherwise be available.
- (9) The Tribunal may make ancillary or incidental orders for the purposes of proceedings under this section.
- (10) If a person fails, without reasonable excuse, to comply with an order or direction of the Tribunal, other than an order for the payment of an amount, the person is guilty of an offence.
- Maximum penalty: \$10 000.
- (11) If an order is made by the Tribunal requiring a person to pay an amount to another person, the order is enforceable in the same manner as a similar order under the *Residential Tenancies Act 1995*.
- (12) A dispute as to the repayment of a premium or a portion of a premium may also be brought before a court competent to hear and determine a claim founded on contract for the amount in dispute.
- (13) This section does not derogate from—
- (a) the other provisions of this Act that relate to applications to the Tribunal;
  - (b) the other provisions of this Act that relate to the ability to resolve matters in dispute by conciliation;
  - (c) the jurisdiction of a court, or of another tribunal constituted by law.
- (14) In this section—
- resident** of a retirement village includes a former resident of a retirement village.

## **Part 4—Miscellaneous**

### **33—Endorsement of certificates of title**

- (1) Where land is, or is to be, used as a retirement village, a note of that fact must be endorsed on the relevant certificates of title.
- (2) The owner of any such land must apply to the Registrar-General for endorsement of the relevant certificates of title—
  - (a) if the retirement village was established before the commencement of this Act—within 3 months after the commencement of this Act;
  - (b) in any other case—before any person is admitted to occupation of a residence in accordance with the scheme.

Maximum penalty: \$35 000.

- (3) Before an application is made under subsection (2), the owner must notify each person who holds a mortgage, charge or encumbrance over the land and, if the application relates to a retirement village that had not been established before the commencement of this Act, the application can only be made with the consent of each such person.
- (4) The Registrar-General may cancel an endorsement made under this section if satisfied that no part of the land is still occupied under the scheme.

### **34—Lease of land in retirement village**

- (1) The administering authority of a retirement village may lease, or grant a licence to occupy, land within the village that is not immediately required for the purposes of the scheme.
- (2) Unless the Minister authorises a lease or licence for a longer term, the term of any such lease or licence must not exceed 5 years.
- (3) A person to whom a lease or licence is granted under this section does not become a resident of the retirement village.
- (4) If a lease or licence is granted contrary to this section the administering authority is guilty of an offence.

Maximum penalty: \$10 000.

### **35—Termination of retirement village scheme on application to Supreme Court**

- (1) Subject to this Act, a retirement village scheme cannot be terminated without the approval of the Supreme Court while a person who has been admitted to occupation of a residence under the scheme remains in occupation of that residence.
- (2) The Minister will be a party to any proceedings in which the Supreme Court's approval of the termination of a retirement village scheme is sought.
- (3) If the Supreme Court approves the termination of a retirement village scheme it may make such orders as it thinks necessary to protect the interests of existing residents.

### **36—Voluntary termination of retirement village scheme**

- (1) The Minister may, by notice in the Gazette, terminate a retirement village scheme.

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

### **37—Certain persons not to be involved in the administration of a retirement village**

- (1) A person to whom this section applies may not be concerned in the administration or management of a retirement village.  
Maximum penalty: \$35 000.
- (2) This section applies to—
  - (a) a person who is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or
  - (b) a person who—
    - (i) has during the preceding 5 years been convicted of an offence to the person or an offence involving fraud or dishonesty; or
    - (ii) has served a sentence of imprisonment for an offence to the person or an offence involving fraud or dishonesty, being a sentence that ended during the preceding 5 years.

### **38—Non-compliance may be excused by the Tribunal**

- (1) The Tribunal may, on the application of any person, excuse that person from the consequences of inadvertent non-compliance with a provision of this Act.
- (2) Where the Tribunal acts under subsection (1), it may—
  - (a) make consequential orders protecting the interests of any person affected by the contravention; and
  - (b) make any other order that the justice of the case may require.
- (3) An application may not be made under this section after proceedings for an offence relating to the non-compliance have been commenced.

### **39—Appeal**

- (1) An appeal lies to the District Court against any decision of the Tribunal under this Act.

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- (2) The appeal must be instituted within 28 days after the appellant receives notice of the Tribunal's decision unless the District Court, in its discretion, allows a longer period for instituting the appeal.
  - (3) On an appeal under this section, the District Court may—
    - (a) confirm, vary or quash the Tribunal's decision;
    - (b) make any decision that should have been made in the first instance;
    - (c) make any incidental or ancillary orders.

#### **40—Contract to avoid Act**

An agreement or arrangement that is inconsistent with a provision of this Act or purports to exclude, modify or restrict the operation of this Act, or a right conferred by or under this Act is (except where such inconsistency, exclusion, modification or restriction is expressly permitted by this Act) to that extent void and of no effect.

#### **41—Codes of conduct**

- (1) The regulations may prescribe codes of conduct to be observed by administering authorities.
- (2) It will be a term of a residence contract that the administering authority will observe any code of conduct (subject to any agreement between the administering authority and the resident that, pursuant to a power contained in the code of conduct, provides for the exclusion or modification of a provision of the code of conduct in the circumstances of the particular case).
- (3) If an administering authority breaches a code of conduct, the administering authority is, in addition to any civil remedy that may be available against the administering authority, liable to a fine not exceeding \$2 500 as if the administering authority had breached the regulations.

#### **42—Offences**

- (1) A prosecution for an offence against this Act can only be commenced by the Minister or a person authorised by the Minister.
- (2) In proceedings for an offence against this Act, a document apparently signed by the Minister that appears to be an authorisation for the purposes of subsection (1) will be accepted, in the absence of proof to the contrary, as proof of such an authorisation.

#### **43—Delegation**

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

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

#### **44—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) prescribe fees (including differential fees) for the purposes of this Act and provide for the payment of fees at intervals and in such manner as may be prescribed;
  - (b) prescribe amounts payable for late payment of fees so prescribed;
  - (c) prescribe forms and the information to be contained in forms;
  - (d) provide that a residence contract or other document required under this Act must be printed or typewritten (apart from insertions or amendments) in type of a prescribed kind and size;
  - (e) make provision in relation to the form or content of residence contracts;
  - (f) require the preparation, and the provision to residents (or prospective residents), of policies relating to matters prescribed by the regulations;
  - (g) require the provision to residents (or prospective residents) of such other information or documents as may be prescribed by the regulations;
  - (h) prescribe penalties (not exceeding \$2 500) for breach of a regulation.
- (3) The regulations—
  - (a) may be of general or limited application; and
  - (b) may leave any matter to be determined according to the opinion or discretion of the Registrar-General or the Minister; and
  - (c) may incorporate, adopt or apply, with or without modifications, any document formulated or published by any body or authority (as in force at a particular time or from time to time).

### **Schedule 1—Proceedings before the Tribunal**

#### **1—Application of Schedule**

Subject to any variation or exclusion prescribed by the regulations, this Schedule applies to proceedings before the Tribunal under this Act.

#### **2—Constitution of Tribunal**

- (1) The Tribunal will, for the purpose of hearing proceedings under this Act, be constituted of a single member of the Tribunal.
- (2) The Tribunal must hear and determine proceedings under this Act wherever practicable within 14 days after they are instituted and, where that is not practicable, as expeditiously as possible.

### **3—Application to vary or set aside order**

- (1) A person who is or was a party to proceedings before the Tribunal may apply to the Tribunal for an order varying or setting aside an order, decision or direction made or given in those proceedings.
- (2) An application under subclause (1) must be made within 3 months of the making or giving of the order, decision or direction.

### **4—Application to Tribunal**

- (1) An application under this Act to the Tribunal must—
  - (a) be made in writing and, if a form is prescribed by the regulations, comply with that form; and
  - (b) contain the prescribed particulars (or such particulars as may be required by a prescribed form); and
  - (c) be accompanied by the prescribed fee (if any).
- (2) Before the Tribunal proceeds to hear an application it must first—
  - (a) give the applicant notice in writing setting out the time and place at which it will hear the application; and
  - (b) give to any other party—
    - (i) notice in writing setting out the time and place at which it will hear the application; and
    - (ii) such notice of the nature of the application as it thinks fit.

### **5—Proceedings of Tribunals**

- (1) For the purpose of any proceedings, the Tribunal may—
  - (a) by summons signed by a member, registrar or deputy registrar of the Tribunal, require the attendance before the Tribunal of any person;
  - (b) by summons signed by a member, registrar or deputy registrar of the Tribunal, require the production of books, papers or documents;
  - (c) inspect books, papers or documents produced before it, retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents;
  - (d) require a person appearing before the Tribunal to make an oath or affirmation that he or she will truly answer any relevant questions put to him or her by the Tribunal or a person appearing before the Tribunal;
  - (e) require a person appearing before the Tribunal (whether he or she has been summoned to appear or not) to answer any relevant questions put to him or her by the Tribunal or a person appearing before the Tribunal.
- (2) If a person—
  - (a) fails without reasonable excuse to comply with the requirements of a summons served on him or her under subclause (1); or
  - (b) refuses or fails to comply with a requirement of the Tribunal under subclause (1); or

- (c) misbehaves before the Tribunal, wilfully insults the Tribunal or interrupts the proceedings of the Tribunal,
- the person is guilty of an offence.
- Maximum penalty: \$2 500.
- (3) In any proceedings the Tribunal may—
- (a) hear the application in such manner as the Tribunal considers best suited to that purpose; and
  - (b) decline to entertain the application if it considers that the application is frivolous or involves a trivial matter or amount; and
  - (c) decline to entertain the application, or adjourn the hearing, until the fulfilment of conditions fixed by the Tribunal with a view to promoting the settlement or resolution of matters in dispute between the parties; and
  - (d) proceed to hear and determine the application in the absence of a party; and
  - (e) extend any period prescribed by or under this Act within which an application or other step in respect of proceedings must be made or taken (even if that period has expired); and
  - (f) vary or set aside an order or decision where the Tribunal considers there are proper grounds for doing so; and
  - (g) adjourn the hearing to a specified time or place or to a time and place to be fixed; and
  - (h) allow the amendment of the application; and
  - (i) hear the application jointly with another application; and
  - (j) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusion of fact that it considers proper; and
  - (k) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court that may be relevant to the proceedings; and
  - (l) generally give all such directions and do all such things as it thinks necessary or expedient in the proceedings.
- (4) In any proceedings the Tribunal is not bound by the rules of evidence but may inform itself on any matter relating to the proceedings in such manner as it thinks fit.

## **6—Presentation of cases before Tribunal**

- (1) Except as provided in this clause, a party to proceedings before the Tribunal under this Act must present his or her own case and not be represented or assisted in the presentation of the case by another person.
- (2) A party to proceedings before the Tribunal may be represented by an agent or assisted by an agent in the presentation of his or her case if the Tribunal is satisfied that—
- (a) the party is unable to appear personally or conduct the proceedings properly himself or herself; and
  - (b) no other party will be unfairly disadvantaged by the fact that the agent is allowed so to act.

- (3) All or any of the parties to any proceedings before the Tribunal may be represented by legal practitioners—
- (a) if all the parties agree and the Tribunal is satisfied that any party who is not so represented will not be unfairly disadvantaged; or
  - (b) if 1 of the parties is a legally qualified person; or
  - (c) if the proceedings involve an amount which exceeds \$50 000 or such other amount as is prescribed instead by regulation; or
  - (d) if the Tribunal gives leave for such representation.
- (4) If a party applies for leave permitting representation by a legal practitioner under subclause (3)(d), it must be granted if the Tribunal is satisfied—
- (a) that the granting of leave is likely to reduce costs or shorten the proceedings; or
  - (b) that the applicant would, if leave were not granted, be unfairly disadvantaged.
- (5) This clause does not prevent—
- (a) a body corporate from being represented by an officer or employee of the body corporate (not being a legally qualified person) authorised to conduct the proceedings on its behalf (whether or not he or she is remunerated by the body corporate for representing it in the proceedings); or
  - (b) a person from acting as an interpreter for a party provided that his or her fee does not exceed an amount fixed by the Tribunal at the hearing.
- (6) A person must not demand or receive any fee or reward for representing or assisting a party to proceedings before the Tribunal unless—
- (a) the person is a legal practitioner; or
  - (b) where the party is a body corporate, the person is an officer or employee of the body corporate representing it under subclause (5).

Maximum penalty: \$750.

- (7) In this clause—

**agent** means a person who is not a legally qualified person;

**legally qualified person** means a legal practitioner, an articled law clerk, or a person who holds or has held legal qualifications under the laws of this State or any other place.

## 7—Settlement of proceedings

- (1) If before or during the hearing of any proceedings it appears to the Tribunal either from the nature of the case or from the attitude of the parties that there is a reasonable possibility of matters in dispute between the parties being settled by conciliation, the person constituting the Tribunal may—
- (a) interview the parties in private (either with or without any person who may be representing any of them or assisting any of them in the presentation of his or her case); and
  - (b) endeavour to bring about a settlement of the proceedings on terms that are fair to all parties.

- (2) Nothing said or done in the course of an attempt to settle proceedings under this clause may subsequently be given in evidence in proceedings before the Tribunal except by consent of all parties to the proceedings.
- (3) The member of the Tribunal who attempts to settle proceedings under this clause is not disqualified from hearing or continuing to hear any proceedings in the matter.
- (4) Where proceedings are settled under this clause, the Tribunal may embody the terms of the settlement in an order or direction of the Tribunal.

## **8—Costs**

In proceedings under this Act the Tribunal must not award costs unless—

- (a) all parties to the proceedings were represented by legal practitioners; or
- (b) the Tribunal is of the opinion that there are special circumstances justifying the award of costs.

## **9—Reservation of question of law**

- (1) The Tribunal may reserve a question of law for the decision of the Supreme Court, whose decision will be certified to and binding on the Tribunal.
- (2) Any costs arising from the reservation of a question under this clause, including costs incurred by the parties to the proceedings, must be paid out of the General Revenue of the State and this Act, without any further appropriation, is sufficient authority for such payment.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1987	46	<i>Retirement Villages Act 1987</i>	30.4.1987	30.6.1987 ( <i>Gazette</i> 25.6.1987 p1610)
1987	72	<i>Land Tax Act Amendment Act 1987</i>	5.11.1987	midnight on 30.6.1987: s 2
1988	13	<i>Strata Titles Act 1988</i>	7.4.1988	1.9.1988 ( <i>Gazette</i> 21.7.1988 p420)
1990	12	<i>Retirement Villages Act Amendment Act 1990</i>	12.4.1990	27.9.1990 ( <i>Gazette</i> 27.9.1990 p938) except s 7—30.6.1987: s 2
1994	12	<i>Retirement Villages (Miscellaneous) Amendment Act 1994</i>	5.5.1994	1.7.1994 ( <i>Gazette</i> 9.6.1994 p1669)
1995	63	<i>Residential Tenancies Act 1995</i>	10.8.1995	Sch (cl 6)—30.11.1995 ( <i>Gazette</i> 23.11.1995 p1412)
1996	38	<i>Statutes Amendment (Community Titles) Act 1996</i>	9.5.1996	ss 33—35—4.11.1996 ( <i>Gazette</i> 31.10.1996 p1460)
1998	21	<i>Statutes Amendment (Consumer Affairs) Act 1998</i> as amended by 22/1998	2.4.1998	Pt 10 (s 27) & Sch—28.5.1998 ( <i>Gazette</i> 28.5.1998 p2292)
1998	22	<i>Statutes Amendment (Consumer Affairs) Amendment Act 1998</i>	2.4.1998	2.4.1998
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 47)—1.7.1999: being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2001	59	<i>Retirement Villages (Miscellaneous) Amendment Act 2001</i>	22.11.2001	ss 1—18 & 20—1.7.2002 ( <i>Gazette</i> 15.1.2002 p186)
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 ( <i>Gazette</i> 13.11.2003 p4048)
2005	67	<i>Retirement Villages (Miscellaneous) Amendment Act 2005</i>	8.12.2005	1.11.2006 ( <i>Gazette</i> 18.5.2006 p1356)
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 75 (s 188)—1.6.2007 ( <i>Gazette</i> 26.4.2007 p1352)

2011 36 *Statutes Amendment (Directors' Liability) Act 2011* 22.9.2011 Pt 18 (s 23)—1.1.2012 (*Gazette* 15.12.2011 p4988)

## Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
s 2	omitted under <i>Legislation Revision and Publication Act 2002</i>	24.11.2003
	inserted by 67/2005 s 4	1.11.2006
s 3		
s 3(1)	s 3 redesignated as s 3(1) by 59/2001 s 3(b)	1.7.2002
administering authority	amended by 12/1994 s 3	1.7.1994
authorised officer	inserted by 67/2005 s 5(1)	1.11.2006
<i>the Commission</i>	<i>deleted by 59/2001 s 3(a)</i>	<i>1.7.2002</i>
<i>the Commissioner</i>	<i>inserted by 12/1990 s 3</i>	<i>27.9.1990</i>
	<i>deleted by 59/2001 s 3(a)</i>	<i>1.7.2002</i>
community retirement village	inserted by 38/1996 s 33(a)	4.11.1996
	amended by 67/2005 s 5(2)	1.11.2006
domestic partner	inserted by 43/2006 s 188(1)	1.6.2007
premises condition report	inserted by 67/2005 s 5(3)	1.11.2006
premium	amended by 67/2005 s 5(4)	1.11.2006
recurrent charge	amended by 67/2005 s 5(5)	1.11.2006
register	inserted by 67/2005 s 5(6)	1.11.2006
remarketing policy	inserted by 67/2005 s 5(6)	1.11.2006
residence	inserted by 67/2005 s 5(6)	1.11.2006
residence contract	amended by 67/2005 s 5(7)	1.11.2006
resident	amended by 67/2005 s 5(8), (9)	1.11.2006
	amended by 43/2006 s 188(2)	1.6.2007
<i>residential unit or unit</i>	<i>deleted by 67/2005 s 5(10)</i>	<i>1.11.2006</i>
retirement village	amended by 67/2005 s 5(11), (12)	1.11.2006
retirement village scheme	amended by 67/2005 s 5(13), (14)	1.11.2006
	amended by 43/2006 s 188(3)	1.6.2007
<i>service contract</i>	<i>deleted by 67/2005 s 5(15)</i>	<i>1.11.2006</i>
spouse	inserted by 43/2006 s 188(4)	1.6.2007
<i>strata retirement village</i>	<i>deleted by 38/1996 s 33(b)</i>	<i>4.11.1996</i>
s 3(2)	inserted by 59/2001 s 3(b)	1.7.2002

	substituted by 67/2005 s 5(16)	1.11.2006
s 4		
s 4(1)	amended by 12/1994 s 4	1.7.1994
	amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 4(4)	amended by 12/1990 s 12 (Sch)	27.9.1990
	amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 5	<i>substituted by 12/1990 s 4</i>	27.9.1990
	<i>deleted by 59/2001 s 4</i>	1.7.2002
Pt 2	Pt 1A inserted by 67/2005 s 6	1.11.2006
	Pt 1A redesignated as Pt 2 by 67/2005 s 33	1.11.2006
Pt 2 Div 1		
s 6	s 5A redesignated as s 6 by 67/2005 s 33	1.11.2006
s 7	s 5B redesignated as s 7 by 67/2005 s 33	1.11.2006
s 8	s 5C redesignated as s 8 by 67/2005 s 33	1.11.2006
s 9	s 5D redesignated as s 9 by 67/2005 s 33	1.11.2006
s 10	s 5E redesignated as s 10 by 67/2005 s 33	1.11.2006
Pt 2 Div 2		
s 11	s 5F redesignated as s 11 by 67/2005 s 33	1.11.2006
s 12	s 5G redesignated as s 12 by 67/2005 s 33	1.11.2006
Pt 2 Div 3		
s 13	s 5H redesignated as s 13 by 67/2005 s 33	1.11.2006
s 14	s 5I redesignated as s 14 by 67/2005 s 33	1.11.2006
s 15	s 5J redesignated as s 15 by 67/2005 s 33	1.11.2006
s 16	s 5K redesignated as s 16 by 67/2005 s 33	1.11.2006
Pt 3	Pt 2 redesignated as Pt 3 by 67/2005 s 33	1.11.2006
Pt 3 Div 1		
heading	inserted by 67/2005 s 7	1.11.2006
<i>s 6 before substitution by 67/2005</i>		
s 6(1)	<i>amended by 12/1994 s 5(a)</i>	1.7.1994
s 6(2)	<i>substituted by 12/1990 s 5(a)</i>	27.9.1990
s 6(3)	<i>substituted by 12/1990 s 5(a)</i>	27.9.1990
	<i>amended by 59/2001 s 5(a)</i>	1.7.2002
s 6(3a)	<i>inserted by 12/1990 s 5(a)</i>	27.9.1990
	<i>amended by 59/2001 s 5(b)</i>	1.7.2002
s 6(3b)	<i>inserted by 12/1990 s 5(a)</i>	27.9.1990
s 6(4)	<i>substituted by 12/1990 s 5(a)</i>	27.9.1990
s 6(6)	<i>inserted by 12/1990 s 5(b)</i>	27.9.1990
	<i>amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3</i>	28.5.1998
s 6(7)	<i>inserted by 12/1994 s 5(b)</i>	1.7.1994

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s 17	s 6 substituted by 67/2005 s 7	1.11.2006
	s 6 redesignated as s 17 by 67/2005 s 33	1.11.2006
Pt 3 Div 2		
heading	inserted by 67/2005 s 9	1.11.2006
s 18	s 8 redesignated as s 18 by 67/2005 s 33	1.11.2006
s 18(1)	s 8(1) amended by 33/1999 Sch (item 47)	1.7.1999
	s 8(1) amended by 67/2005 s 10(1)	1.11.2006
s 18(2)	s 8(2) amended by 12/1990 s 6	27.9.1990
	s 8(2) amended by 59/2001 s 6	1.7.2002
	s 8(2) amended by 67/2005 s 10(2)	1.11.2006
s 18(3)	s 8(3) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 8(3) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 18(4)	s 8(4) substituted by 67/2005 s 10(3)	1.11.2006
s 18(5)	s 8(5) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 8(5) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 19	s 9 redesignated as s 19 by 67/2005 s 33	1.11.2006
s 9(1)	<i>deleted by 67/2005 s 11(1)</i>	<i>1.11.2006</i>
s 19(1)	s 9(2) amended by 67/2005 s 11(2)	1.11.2006
	s 9(2) redesignated as s 19(1) by 67/2005 s 33	1.11.2006
s 19(2)	s 9(3) amended by 67/2005 s 11(3)	1.11.2006
	s 9(3) redesignated as s 19(2) by 67/2005 s 33	1.11.2006
s 19(3)	s 9(4) amended by 38/1996 s 34	4.11.1996
	s 9(4) amended by 67/2005 s 11(4)	1.11.2006
	s 9(4) redesignated as s 19(3) by 67/2005 s 33	1.11.2006
s 19(4)	s 9(4a) inserted by 12/1990 s 7	30.6.1987
	s 9(4a) amended by 21/1998 s 27	28.5.1998
	s 9(4a) redesignated as s 19(4) by 67/2005 s 33	1.11.2006
Pt 3 Div 3		
heading	inserted by 67/2005 s 12	1.11.2006
s 20	s 9A inserted by 12/1994 s 7	1.7.1994
	s 9A redesignated as s 20 by 67/2005 s 33	1.11.2006
s 20(2)	s 9A(2) amended by 59/2001 s 7(a), (b)	1.7.2002
	s 9A(2) amended by 67/2005 s 13(1)	1.11.2006
s 20(3)	s 9A(2a) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2a) redesignated as s 20(3) by 67/2005 s 33	1.11.2006
s 20(4)	s 9A(2b) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2b) redesignated as s 20(4) by 67/2005 s 33	1.11.2006
s 20(5)	s 9A(2c) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2c) amended by 67/2005 s 13(2)	1.11.2006

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	s 9A(2c) redesignated as s 20(5) by 67/2005 s 33	1.11.2006
s 20(6)	s 9A(2d) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2d) redesignated as s 20(6) by 67/2005 s 33	1.11.2006
s 20(7)	s 9A(2e) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2e) redesignated as s 20(7) by 67/2005 s 33	1.11.2006
s 20(8)	s 9A(2f) inserted by 59/2001 s 7(c)	1.7.2002
	s 9A(2f) redesignated as s 20(8) by 67/2005 s 33	1.11.2006
s 20(9)	s 9A(3) redesignated as s 20(9) by 67/2005 s 33	1.11.2006
s 21	s 9B inserted by 67/2005 s 14	1.11.2006
	s 9B redesignated as s 21 by 67/2005 s 33	1.11.2006
Pt 3 Div 4		
heading	inserted by 67/2005 s 15	1.11.2006
s 22	s 10 redesignated as s 22 by 67/2005 s 33	1.11.2006
s 22(1)	s 10(1) amended by 67/2005 Sch 2	1.11.2006
s 22(2)	s 10(2) amended by 12/1994 s 8(a)	1.7.1994
s 22(3)	s 10(2a) inserted by 12/1994 s 8(b)	1.7.1994
	s 10(2a) redesignated as s 22(3) by 67/2005 s 33	1.11.2006
s 22(4)	s 10(3) redesignated as s 22(4) by 67/2005 s 33	1.11.2006
s 22(5)	s 10(4) redesignated as s 22(5) by 67/2005 s 33	1.11.2006
s 22(6)	s 10(5) substituted by 12/1994 s 8(c)	1.7.1994
	s 10(5) amended by 59/2001 s 8(a)	1.7.2002
	s 10(5) redesignated as s 22(6) by 67/2005 s 33	1.11.2006
s 22(7)	s 10(6) substituted by 12/1994 s 8(c)	1.7.1994
	s 10(6) amended by 59/2001 s 8(b), (c)	1.7.2002
	s 10(6) redesignated as s 22(7) by 67/2005 s 33	1.11.2006
s 22(8)	s 10(7) substituted by 12/1994 s 8(c)	1.7.1994
	s 10(7) amended by 67/2005 s 16(1)	1.11.2006
	s 10(7) redesignated as s 22(8) by 67/2005 s 33	1.11.2006
s 22(9)	s 10(7a) inserted by 67/2005 s 16(2)	1.11.2006
	s 10(7a) redesignated as s 22(9) by 67/2005 s 33	1.11.2006
s 22(10)	s 10(8) substituted by 12/1994 s 8(c)	1.7.1994
	s 10(8) redesignated as s 22(10) by 67/2005 s 33	1.11.2006
s 22(11)	s 10(8a) inserted by 12/1994 s 8(c)	1.7.1994
	s 10(8a) redesignated as s 22(11) by 67/2005 s 33	1.11.2006
s 22(12)	s 10(9) redesignated as s 22(12) by 67/2005 s 33	1.11.2006
s 22(13)	s 10(10) amended by 13/1988 Sch 1, cl 4	1.9.1988

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	s 10(10) substituted by 38/1996 s 35	4.11.1996
	s 10(10) redesignated as s 22(13) by 67/2005 s 33	1.11.2006
s 22(14)	s 10(10a) inserted by 12/1994 s 8(d)	1.7.1994
	s 10(10a) redesignated as s 22(14) by 67/2005 s 33	1.11.2006
s 22(15)	s 10(11) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 10(11) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 10(11) redesignated as s 22(15) by 67/2005 s 33	1.11.2006
s 22(16)	s 10(11a) inserted by 67/2005 s 16(3)	1.11.2006
	s 10(11a) redesignated as s 22(16) by 67/2005 s 33	1.11.2006
s 22(17)	s 10(12) amended by 67/2005 s 16(4)	1.11.2006
	s 10(12) redesignated as s 22(17) by 67/2005 s 33	1.11.2006
s 22(18)	s 10(13) inserted by 59/2001 s 8(d)	1.7.2002
	s 10(13) redesignated as s 22(18) by 67/2005 s 33	1.11.2006
s 23	s 10AAA inserted by 59/2001 s 9	1.7.2002
	s 10AAA redesignated as s 23 by 67/2005 s 33	1.11.2006
s 23(1)	s 10AAA(1) substituted by 67/2005 s 17(1)	1.11.2006
s 23(2)	s 10AAA(1a) inserted by 67/2005 s 17(1)	1.11.2006
	s 10AAA(1a) redesignated as s 23(2) by 67/2005 s 33	1.11.2006
s 23(3)	s 10AAA(2) redesignated as s 23(3) by 67/2005 s 33	1.11.2006
s 23(4)	s 10AAA(3) redesignated as s 23(4) by 67/2005 s 33	1.11.2006
s 23(5)	s 10AAA(4) redesignated as s 23(5) by 67/2005 s 33	1.11.2006
s 23(6)	s 10AAA(5) amended by 67/2005 s 17(2)	1.11.2006
	s 10AAA(5) redesignated as s 23(6) by 67/2005 s 33	1.11.2006
s 23(7)	s 10AAA(6) amended by 67/2005 s 17(3)	1.11.2006
	s 10AAA(6) redesignated as s 23(7) by 67/2005 s 33	1.11.2006
s 23(8)	s 10AAA(7) redesignated as s 23(8) by 67/2005 s 33	1.11.2006
s 24	s 10AA inserted by 12/1994 s 9	1.7.1994
	s 10AA redesignated as s 24 by 67/2005 s 33	1.11.2006
s 24(2)	s 10AA(2) amended by 67/2005 s 18	1.11.2006
s 24(3)	s 10AA(3) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 25	s 10AAB inserted by 67/2005 s 19	1.11.2006
	s 10AAB redesignated as s 25 by 67/2005 s 33	1.11.2006

s 26	s 10A inserted by 72/1987 s 6	30.6.1987
	s 10A redesignated as s 26 by 67/2005 s 33	1.11.2006
s 26(2)	s 10A(2) amended by 67/2005 s 20(1)	1.11.2006
s 26(3)	s 10A(3) inserted by 67/2005 s 20(2)	1.11.2006
s 27	s 11 redesignated as s 27 by 67/2005 s 33	1.11.2006
s 28	s 12 redesignated as s 28 by 67/2005 s 33	1.11.2006
s 28(1)	s 12(1) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 12(1) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 12(1) amended by 67/2005 s 21	1.11.2006
s 28(2)	s 12(2) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 12(2) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 12(2) amended by 67/2005 Sch 2	1.11.2006
s 29	s 12A inserted by 67/2005 s 22	1.11.2006
	s 12A redesignated as s 29 by 67/2005 s 33	1.11.2006
s 30	s 13 redesignated as s 30 by 67/2005 s 33	1.11.2006
s 30(7)	s 13(7) inserted by 12/1994 s 10	1.7.1994
	s 13(7) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 30(8)	s 13(8) inserted by 12/1994 s 10	1.7.1994
	s 13(8) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 13(8) substituted by 67/2005 s 23	1.11.2006
s 30(9)	s 13(9) inserted by 12/1994 s 10	1.7.1994
	s 13(9) substituted by 67/2005 s 23	1.11.2006
s 30(10)	s 13(10) inserted by 12/1994 s 10	1.7.1994
	s 13(10) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
Pt 3 Div 5	Div 4 heading inserted by 67/2005 s 24	1.11.2006
	Div 4 heading redesignated as Div 5 heading by 67/2005 s 33	1.11.2006
s 31	s 7 redesignated as s 13A by 67/2005 s 8(9)	1.11.2006
	s 13A redesignated as s 31 by 67/2005 s 33	1.11.2006
s 31		
s 31(1)	s 7(1) amended by 67/2005 s 8(1)	1.11.2006
	s 7(1) redesignated as s 13A(1) by 67/2005 s 8(9)	1.11.2006
	s 13A(1) redesignated as s 31(1) by 67/2005 s 33	1.11.2006
s 31(2)	s 7(2) amended by 12/1994 s 6(a)	1.7.1994
	s 7(2) amended by 67/2005 s 8(2), (3)	1.11.2006
	s 7(2) redesignated as s 13A(2) by 67/2005 s 8(9)	1.11.2006

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	s 13A(2) redesignated as s 31(2) by 67/2005 s 33	1.11.2006
s 31(3)	s 7(2a) inserted by 12/1994 s 6(b)	1.7.1994
	s 7(2a) redesignated as s 13A(2a) by 67/2005 s 8(9)	1.11.2006
	s 13A(2a) redesignated as s 31(3) by 67/2005 s 33	1.11.2006
s 31(4)	s 7(2b) inserted by 12/1994 s 6(b)	1.7.1994
	s 7(2b) amended by 67/2005 s 8(4), (5)	1.11.2006
	s 7(2b) redesignated as s 13A(2b) by 67/2005 s 8(9)	1.11.2006
	s 13A(2b) redesignated as s 31(4) by 67/2005 s 33	1.11.2006
s 31(5)	s 7(2c) inserted by 12/1994 s 6(b)	1.7.1994
	s 7(2c) redesignated as s 13A(2c) by 67/2005 s 8(9)	1.11.2006
	s 13A(2c) redesignated as s 31(5) by 67/2005 s 33	1.11.2006
s 31(6)	s 7(2d) inserted by 12/1994 s 6(b)	1.7.1994
	s 7(2d) redesignated as s 13A(2d) by 67/2005 s 8(9)	1.11.2006
	s 13A(2d) redesignated as s 31(6) by 67/2005 s 33	1.11.2006
s 31(7)	s 7(3) redesignated as s 13A(3) by 67/2005 s 8(9)	1.11.2006
	s 13A(3) redesignated as s 31(7) by 67/2005 s 33	1.11.2006
s 31(8)	s 7(4) redesignated as s 13A(4) by 67/2005 s 8(9)	1.11.2006
	s 13A(4) redesignated as s 31(8) by 67/2005 s 33	1.11.2006
s 7(5)	<i>s 7(5) deleted by 12/1994 s 6(c)</i>	<i>1.7.1994</i>
s 31(9)	s 7(6) amended by 67/2005 s 8(6)	1.11.2006
	s 7(6) redesignated as s 13A(6) by 67/2005 s 8(9)	1.11.2006
	s 13A(6) redesignated as s 31(9) by 67/2005 s 33	1.11.2006
s 31(10)	s 7(7) amended by 67/2005 s 8(7)	1.11.2006
	s 7(7) redesignated as s 13A(7) by 67/2005 s 8(9)	1.11.2006
	s 13A(7) redesignated as s 31(10) by 67/2005 s 33	1.11.2006
s 31(11)	s 7(7a) inserted by 12/1994 s 6(d)	1.7.1994
	amended under <i>Legislation Revision and Publication Act 2002</i>	1.11.2006
	s 7(7a) redesignated as s 13A(7a) by 67/2005 s 8(9)	1.11.2006

	s 13A(7a) redesignated as s 31(11) by 67/2005 s 33	1.11.2006
s 31(12)	s 7(8) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 7(8) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 7(8) redesignated as s 13A(8) by 67/2005 s 8(9)	1.11.2006
	s 13A(8) redesignated as s 31(12) by 67/2005 s 33	1.11.2006
s 7(9)	<i>inserted by 12/1994 s 6(e)</i>	<i>1.7.1994</i>
	<i>deleted by 67/2005 s 8(8)</i>	<i>1.11.2006</i>
Pt 3 Div 6		
Div 6 heading	Div 5 heading inserted by 67/2005 s 25	1.11.2006
	Div 5 heading redesignated as Div 6 heading by 67/2005 s 33	1.11.2006
s 32	s 14 amended by 12/1990 s 12 (Sch)	27.9.1990
	s 14 substituted by 12/1994 s 11	1.7.1994
	s 14 redesignated as s 32 by 67/2005 s 33	1.11.2006
s 32(2)	s 14(2) amended by 67/2005 s 26	1.11.2006
s 32(10)	s 14(10) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 14(10) amended by 59/2001 s 10	1.7.2002
s 32(11)	s 14(11) amended under <i>Legislation Revision and Publication Act 2002</i>	1.11.2006
Pt 4		
heading	Pt 3 heading redesignated as Pt 4 heading by 67/2005 s 33	1.11.2006
s 33	s 15 redesignated as s 33 by 67/2005 s 33	1.11.2006
s 33(2)	s 15(2) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 15(2) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 15(2) amended by 67/2005 s 27, Sch 2	1.11.2006
s 34	s 16 redesignated as s 34 by 67/2005 s 33	1.11.2006
s 34(2)	s 16(2) amended by 12/1990 s 8	27.9.1990
	s 16(2) amended by 59/2001 s 11	1.7.2002
	s 16(2) amended by 67/2005 s 28	1.11.2006
s 34(4)	s 16(4) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 16(4) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 35	s 17 redesignated as s 35 by 67/2005 s 33	1.11.2006
s 35(1)	s 17(1) amended by 67/2005 s 29(1), (2)	1.11.2006
s 35(2)	s 17(2) amended by 12/1990 s 9	27.9.1990
	s 17(2) amended by 59/2001 s 12	1.7.2002
s 36	s 17A inserted by 67/2005 s 30	1.11.2006
	s 17A redesignated as s 36 by 67/2005 s 33	1.11.2006

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s 37	s 18 redesignated as s 37 by 67/2005 s 33	1.11.2006
s 37(1)	s 18(1) amended by 12/1990 s 12 (Sch)	27.9.1990
	s 18(1) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 18(1) amended by 67/2005 Sch 2	1.11.2006
s 37(2)	s 18(2) amended by 59/2001 s 13	1.7.2002
s 38	s 19 redesignated as s 38 by 67/2005 s 33	1.11.2006
s 33(1)	s 19(1) amended by 12/1994 s 12(a)	1.7.1994
s 33(2)	s 19(2) amended by 12/1994 s 12(b)	1.7.1994
s 39	s 20 redesignated as s 39 by 67/2005 s 33	1.11.2006
s 39(1)—(3)	s 20(1)—(3) amended by 63/1995 Sch cl 6(a)	30.11.1995
s 40	s 21 substituted by 12/1994 s 13	1.7.1994
	s 21 redesignated as s 40 by 67/2005 s 33	1.11.2006
s 41	s 21A inserted by 12/1994 s 13	1.7.1994
	s 21A redesignated as s 41 by 67/2005 s 33	1.11.2006
s 41(3)	s 21A(3) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
s 42	s 22 redesignated as s 42 by 67/2005 s 33	1.11.2006
s 22(1)	<i>deleted by 21/1998 Sch cl 7 as substituted by 22/1998 s 3</i>	28.5.1998
s 42(1)	s 22(2) amended by 12/1990 s 10(a)	27.9.1990
	s 22(2) amended by 59/2001 s 14	1.7.2002
	s 22(2) redesignated as s 42(1) by 67/2005 s 33	1.11.2006
s 42(2)	s 22(2a) inserted by 12/1990 s 10(b)	27.9.1990
	s 22(2a) amended by 59/2001 s 14	1.7.2002
	s 22(2a) redesignated as s 42(2) by 67/2005 s 33	1.11.2006
<b>s 42(3)</b>	<b><i>deleted by 36/2011 s 23</i></b>	<b><i>1.1.2012</i></b>
s 43	s 22A inserted by 59/2001 s 15	1.7.2002
	s 22A redesignated as s 43 by 67/2005 s 33	1.11.2006
s 44	s 23 redesignated as s 44 by 67/2005 s 33	1.11.2006
s 44(2)	s 23(2) amended by 12/1990 ss 11(a), 12 (Sch)	27.9.1990
	s 23(2) amended by 12/1994 s 14	1.7.1994
	s 23(2) amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3	28.5.1998
	s 23(2) amended by 59/2001 s 16(a)	1.7.2002
	s 23(2) amended by 67/2005 s 31(1), (2)	1.11.2006
	(ab)—(c) redesignated as (b)—(h) by 67/2005 s 33	1.11.2006
s 44(3)	s 23(3) amended by 12/1990 s 11(b)	27.9.1990
	s 23(3) amended by 59/2001 s 16(b)	1.7.2002
<i>Sch 1 before deletion by 67/2005</i>		
scl (1)	<i>amended by 59/2001 s 17(a)</i>	<i>1.7.2002</i>
scl (2)	<i>amended by 59/2001 s 17(b)</i>	<i>1.7.2002</i>

<i>Sch 1</i>	<i>deleted by 67/2005 s 32</i>	<i>1.11.2006</i>
<i>Sch 2</i>	<i>amended by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
	<i>deleted by 67/2005 s 32</i>	<i>1.11.2006</i>
<i>Sch 3</i>	<i>Sch 3 inserted by 12/1994 s 15</i>	<i>1.7.1994</i>
	<i>Sch 3 redesignated as Sch 1 by 67/2005 s 33</i>	<i>1.11.2006</i>
<i>cl 2</i>		
<i>cl 2(1)</i>	<i>substituted by 63/1995 Sch cl 6(b)</i>	<i>30.11.1995</i>
<i>cl 5</i>		
<i>cl 5(2)</i>	<i>amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3</i>	<i>28.5.1998</i>
	<i>amended by 59/2001 s 18</i>	<i>1.7.2002</i>
<i>cl 6</i>		
<i>cl 6(6)</i>	<i>amended by 21/1998 Sch cl 7 as substituted by 22/1998 s 3</i>	<i>28.5.1998</i>

## **Transitional etc provisions associated with Act or amendments**

### ***Retirement Villages (Miscellaneous) Amendment Act 1994***

#### **16—Transitional provision**

- (1) The amendments made to the principal Act by sections 5(a) and 6 of this Act do not apply to a residence contract entered into before the commencement of this subsection.
- (2) The amendments made to the principal Act by section 9 of this Act do not apply to an agreement that will result in a change in the administering authority of a retirement village entered into before the commencement of this subsection.

### ***Retirement Villages (Miscellaneous) Amendment Act 2001***

#### **20—Transitional provisions**

- (1) Subject to subsections (2) and (3), the amendments effected to section 9A of the principal Act by section 7(b) and (c) of this Act do not apply with respect to a resident who entered into the relevant residence contract before the commencement of this section (and section 9A(2)(b) of the principal Act, as in existence immediately before that commencement, will continue to apply).
- (2) If, on 1 January 2004, a resident who entered into the relevant residence contract before the commencement of this section has ceased to reside in the retirement village and is paying (or is liable to pay) for maintenance or other recurrent charges in respect of the unit occupied by the resident before he or she left the retirement village, or otherwise in connection with the retirement village, then—
  - (a) the administering authority must immediately assume responsibility for the payment of those charges (but not so as to assume responsibility for any charge accrued before 1 January 2004); and

- (b) section 9A of the principal Act, as amended by this Act, will apply with respect to the resident but subject to the qualification that the prescribed period under subsection (2a) of that section will be taken to be a period commencing on 1 January 2004 and ending—
- (i) on 30 June 2004, or such later date as may be determined by the Tribunal in accordance with the provisions of section 9A of the principal Act; or
  - (ii) when the unit occupied by the resident before he or she left the retirement village is resold or relicensed,
- whichever is the earlier.
- (3) If, on or after 1 January 2004, a resident who entered into the relevant residence contract before the commencement of this section ceases to reside in the retirement village, then section 9A of the principal Act, as amended by this Act, will apply with respect to the resident.
- (4) The Governor may, by regulation, make any other provision of a saving or transitional nature consequent on the enactment of this Act.

### ***Retirement Villages (Miscellaneous) Amendment Act 2005, Sch 1***

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

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

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

Maximum penalty: \$2 500.

Expiation fee: \$210.

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

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

### **Historical versions**

Reprint No 1—15.11.1991

Reprint No 2—1.7.1994

Reprint No 3—30.11.1995

Reprint No 4—4.11.1996

Reprint No 5—28.5.1998

Reprint No 6—1.7.1999

Reprint No 7—1.7.2002

Reprint No 8—24.11.2003

1.11.2006

1.6.2007