

Retirement villages law reforms

What is changing for residents and prospective residents?

The *Retirement Villages (Miscellaneous) Amendment Act 2024* (Amendment Act) will commence on **2 February 2026**.

The Amendment Act updates the *Retirement Villages Act 2016* (RV Act) to implement recommendations of an independent statutory review and to strengthen consumer protections.

The updates:

- increase consumer protection
- improve village administration
- strengthen the standards applying to retirement village operators and village staff
- strengthen the powers and functions of the Retirement Villages Registrar.

Current residents of retirement villages will still be bound by their residence contract.

In all cases, if a resident has more favourable conditions in their existing contract, the more favourable conditions will continue to apply.

This information sheet provides an overview of the new laws and how they will affect residents of retirement villages. It contains general information only and does not constitute legal advice.

All amendments will affect prospective residents. Most will affect current residents, except for provisions relating to entering a village.

Before entering a village

Amendments applying to current residents

Termination during settling-in period

The Amendment Act provides that if a resident elects to terminate during their settling-in period, the resident is only liable to pay fair market rent, remarketing and in exceptional circumstances, a refurbishment fee. If the resident has made approved alterations to the residence during the settling-in period, which are subject to an agreement that they return the residence to its original condition upon exit, they will need to do so. If they have failed to do so, they will be responsible for the cost to reinstate the residence.

This provision will apply to all prospective residents and any current residents who have only recently signed a residence contract and elect to terminate during their settling-in period.

Section 44 of the RV Act is amended by section 35 of the Amendment Act.

Amendments applying to prospective residents

Residence contract

The Amendment Act requires additional mandatory information be included in residence contracts entered after the commencement of the new laws. Additional information includes whether alterations are permitted, remarketing fees, how exit fees are calculated, responsibilities for reinstatement and renovation and fixtures, fittings, and furnishings.

For residents who entered into a residence contract before the commencement of the new laws, their existing contract will continue to apply.

Section 20 of the RV Act is substituted by section 14 of the Amendment Act.

Disclosure statement amendment

The amendments provide that additional mandatory information must be included in disclosure statements entered after the commencement of the new laws. This includes all fees and charges the person will be responsible for, worked calculations of their exit entitlement at the two, five, and 10-year mark, embedded networks (such as power), and village composition.

For residents who entered into a residence contract before the commencement of the new laws, the disclosure statement they received when entering the contract will continue to apply.

A current resident may request a statement from the operator at any time of the estimated exit entitlement that would apply if they were to cease to reside at the retirement village (section 42).

Section 21 of the RV Act is substituted by section 14 of the Amendment Act.

Waiver of section 22 disclosure period

The amendments provide that a prospective resident may waive the 10-business day disclosure period if certain conditions are met.

This provision is not applicable to current residents as they are already residents of the village.

Section 22 of the RV Act is amended by section 15 of the Amendment Act.

Premises condition report

The operator must provide a premises condition report to a prospective resident prior to them entering occupation. The report must then be completed by the resident and returned to the operator within 10 business days after entering occupation. A resident who does not return the completed report within 10 business days will be taken to have agreed to the report.

This provision is not applicable to current residents as it regulates the process for ascertaining the condition of the premises at the time a resident initially enters occupation.

Section 23 of the RV Act is substituted by section 16 of the Amendment Act.

Timely repayment if contract rescinded

The amendments provide that if a prospective resident rescinds a residence contract under section 24 of the Act, the operator must take reasonable steps to repay the person within 10 business days.

This provision is not applicable to current residents as the cooling off period will already have passed.

Section 24 of the RV Act is amended by section 17 of the Amendment Act.

Residence contract holding deposit

The amendments regulate the rights and responsibilities relating to residence contract holding deposits, including to prohibit a fee or charge under the residence contract being increased during the holding period.

This provision is not applicable to current residents as they have already entered into a residence contract with the operator.

New section 25A is inserted into the RV Act by section 19 of the Amendment Act.



Living in a village

Amendments applying to current residents

Recurrent charges

The amendments provide that an operator may not increase recurrent charges by more than what is specified in the contract (or a fixed formula in the contract) or by CPI unless the majority of residents agree or by order of the South Australian Civil and Administrative Tribunal (SACAT).

New section 31A is inserted into the RV Act by section 25 of the Amendment Act.

Convening meetings of residents

The amendments provide that audited statements from the previous year prepared for the annual meeting must be clearly comparable with estimates for the current year and clarify that the statement must be accompanied by a description but not monetary value of each item relating to management expenditure.

Section 33 of the RV Act is amended by section 27 of the Amendment Act.

Consultation with new operator

The resident consultation process has been clarified when there is a change of village operator.

Section 36 of the RV Act is amended by section 29 of the Amendment Act.

Mandatory consultation with residents about annual budget

The amendments provide that recurrent charges and any potential increase must be discussed at the budget meetings held with the residents' committee before the annual meeting and that the operator can provide unaudited accounts for the purpose of the meeting.

Section 39 of the RV Act is amended by section 31 of the Amendment Act.

Residence rules

The amendments provide that if a residence rule, or a provision of a residence rule, is harsh, oppressive, unconscionable, or unjust, it is void. Upon application by a resident, SACAT may order that the rule is void or modify the rule.

Section 41 of the RV Act is substituted by section 32 of the Amendment Act.

Village safety

The amendments provide that the operator must ensure that the common areas of a village are reasonably safe.

New section 43A is inserted into the RV Act by section 34 of the Amendment Act.

Prescribed alterations

A resident may, by notice in writing to the operator, request approval to make an alteration of a prescribed kind (e.g. a functional aid prescribed by a health practitioner) to their residence and that for these types of alterations, an operator may only refuse the request if reasonable grounds exist for the refusal.

New section 43B is inserted into the RV Act by section 34 of the Amendment Act.

Dispute resolution

The amendments provide that an operator must follow their dispute resolution policy (unless otherwise agreed) and broadens the jurisdiction of SACAT to adjudicate a wider range of disputes.

Sections 45 and 46 of the RV Act are amended by sections 36 and 37 of the Amendment Act.

Duty to insure

Retirement village operators must ensure that adequate insurance is maintained for the village.

New section 57C is inserted into the RV Act by section 38 of the Amendment Act.

Termination of a retirement village scheme (or part of)

The amendments provide that the Retirement Village Registrar and residents must be notified early in the process and residents supported to obtain legal advice.

They make clear that regard must be had to the views of residents in any determination.

And they provide for an alternative administrative pathway for partial terminations where at least 90% of residents agree.

Sections 58 and 59 of the RV Act are amended by sections 39 and 40 of the Amendment Act.

New sections 57D and 59A are inserted into the RV Act by sections 38 and 41 of the Amendment Act.

Disqualified persons

The amendments expand the offences that disqualify a person from being an operator, village manager or senior manager.

Section 60 of the RV Act is substituted by section 42 of the Amendment Act.

Code of conduct and training

The amendments enable codes of conduct to be prescribed and apply to staff within a retirement village (in addition to operators and residents) and require operators and staff to undertake training on any codes of conduct applicable to them.

Section 63 of the RV Act is amended by section 43 of the Amendment Act.

New section 63A is inserted into the RV Act by section 44 of the Amendment Act.

Exiting a village

Amendments applying to current residents

Payment of exit entitlements

The statutory repayment period for the payment of exit entitlements will be reduced to 12 months (plus 30 business days for reinstatement).

The statutory repayment period will apply to all retirement village residents once the amendment commences.

Section 27 of the RV Act is amended by section 20 of the Amendment Act.

Cap on capital fund contributions

The payment of capital fund contributions payable on exit will be capped at a maximum of 12.5% of the current market value of the residence.

The 12.5% cap applies to all retirement village residence contracts.

A 1% per annum (or part thereof) cap up to 12.5% will also apply to contracts entered into after the commencement of the new laws.

This clause establishes a maximum cap on the payment of capital fund contributions payable on exit. **If an existing resident has more favourable terms in their contract which will result in a lesser charge, the lesser charge will apply.**

Section 28 of the RV Act is amended by section 21 of the Amendment Act.



Remarketing

The amendments require that all residence contracts must clearly state any fee or charge in relation to remarketing.

For existing contracts that do not specify this, the operator is prohibited from charging more than the reasonable costs incurred in remarketing the residence.

The changes to section 31 of the Act relating to remarketing apply to both current and prospective residents. Where an existing contract does not specify a fee or charge, the changes make clear that the operator may only recover the reasonable costs incurred in remarketing the residence.

Section 31 of the RV Act is amended by section 24 of the Amendment Act.

Powers and Functions of the Registrar and Minister

Retirement Villages Register

The amendments enable a broader range of information to be included on the Register at the Registrar's discretion. This includes Enforceable Voluntary Undertakings and findings of guilt.

The expanded Register will be made available online.

Section 12 of the RV Act is amended by section 9 of the Amendment Act.

Enforcement

Expanded capacity to prosecute non-compliance, including increased offence provisions, written undertakings, and additional powers to expiate (various provisions).

Various sections of the Retirement Villages Act 2016 and Amendment Act.

For more information

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