



Queensland

# **Retirement Villages Amendment Act 2006**

**Act No. 6 of 2006**





## Queensland

# Retirement Villages Amendment Act 2006

## Contents

---

		Page
1	Short title .....	6
2	Commencement .....	6
3	Act amended .....	6
4	Replacement of s 3 (Main objects) .....	6
	3        Objects .....	6
5	Amendment of s 10 (What is a residence contract) .....	7
6	Amendment of s 12 (What is a service agreement) .....	8
7	Replacement of s 13 (What is a public information document) ..	8
	13        What is a public information document. ....	8
8	Amendment of s 15 (What is an exit fee) .....	8
9	Amendment of s 16 (What is an exit entitlement) .....	9
10	Amendment of s 20 (What is a maintenance reserve fund contribution) .....	9
11	Amendment of s 21 (What is a retirement village dispute) .....	10
12	Amendment of s 28 (Registration of retirement village scheme) .	10
13	Insertion of new s 28A .....	10
	28A        Deregistration of retirement village scheme .....	10
14	Amendment of s 29 (Appeal to District Court) .....	11
15	Amendment of s 30 (Time for making appeals) .....	11
16	Replacement of s 36 (Scheme operator to give notice about inaccuracy in public information document) .....	12
	36        Scheme operator to give notice about inaccuracy in public information document .....	12
17	Amendment of s 37 (Public information document forms part of residence contract) .....	13
18	Replacement of s 44 (Person signing residence contract to be given copy) .....	13
	44        Person signing residence contract to be given copy .	13
19	Amendment of s 45 (Content of residence contract) .....	14

20	Insertion of new s 45A . . . . .	14
	45A Scheme operator to give notice of end of cooling-off period in particular circumstances . . . . .	14
21	Amendment of s 46 (Dealing with ingoing contribution) . . . . .	14
22	Amendment of s 54 (Resident may ask for estimate statement of resident's exit entitlement) . . . . .	15
23	Replacement of ss 56–58. . . . .	15
	56 Interpretation for div 5 . . . . .	15
	57 Application of div 5 . . . . .	16
	58 Necessary reinstatement work. . . . .	16
24	Amendment of s 59 (Scheme operator to ensure reinstatement work to be completed) . . . . .	17
25	Amendment of s 61 (Who pays for work in freehold interest scheme) . . . . .	18
26	Replacement of s 62 (Who pays for work in leasehold or licence scheme) . . . . .	18
	62 Who pays for work in leasehold or licence scheme . . . . .	18
27	Amendment of s 63 (When former resident's exit entitlement payable) . . . . .	19
28	Amendment of s 65 (Operator to tell resident of all offers for accommodation unit) . . . . .	20
29	Amendment of s 68 (Costs of selling) . . . . .	20
30	Insertion of new s 70A and pt 3, div 5A . . . . .	20
	70A Valuer's independence . . . . .	20
	Division 5A Relative's right to reside	
	70B Relative's right to reside after death or vacation. . . . .	20
31	Amendment of s 74 (Form and content of public information document) . . . . .	22
32	Amendment of s 75 (Accommodation information) . . . . .	22
33	Amendment of s 79 (Facilities information) . . . . .	22
34	Amendment of s 83 (Dispute resolution information) . . . . .	23
35	Amendment of s 84 (Public information document to be given to prospective resident) . . . . .	23
36	Replacement of s 90 (Responsibility for capital improvement) . . . . .	23
	90 Responsibility for capital improvement of retirement village . . . . .	23
	90A Responsibility for capital improvement of resident's accommodation unit . . . . .	23
	90B Residents jointly responsible for capital improvements requested at residents meeting. . . . .	24

---

	90C	Responsibility of former resident for capital improvement . . . . .	24
	90D	Quotes for capital improvements . . . . .	24
	90E	Money received for capital improvement . . . . .	25
37		Amendment of s 92 (Amount of capital replacement fund) . . . . .	26
38		Amendment of s 93 (Capital replacement fund budget) . . . . .	27
39		Amendment of s 98 (Amount of maintenance reserve fund) . . . . .	27
40		Amendment of s 99 (Maintenance reserve fund budget) . . . . .	28
41		Amendment of s 102 (Charges for personal services for former residents) . . . . .	29
42		Insertion of new s 102A . . . . .	29
	102A	General services charges budget. . . . .	30
43		Amendment of s 103 (Working out and paying charges for general services for residents) . . . . .	30
44		Replacement of s 104 (Working out and paying general services charges for former residents) . . . . .	31
	104	Working out and paying charges for general services for former residents . . . . .	31
45		Amendment of s 105 (General services charges for unsold right to reside in accommodation units) . . . . .	32
46		Replacement of s 106 (Increasing general services charges) . . . . .	33
	106	Increasing charges for general services. . . . .	33
47		Amendment of s 107 (Resident's responsibility for paying increased general services charge) . . . . .	33
48		Insertion of new s 107A . . . . .	34
	107A	Considering more cost-effective alternate services . . . . .	34
49		Amendment of s 108 (New services to be approved by majority of residents) . . . . .	34
50		Amendment of s 110 (Scheme operator must insure village). . . . .	35
51		Replacement of s 112 (Quarterly financial statements) . . . . .	35
	112	Quarterly financial statements . . . . .	35
52		Amendment of s 113 (Annual financial statements). . . . .	36
53		Insertion of new s 113A . . . . .	37
	113A	Classification of expenditure. . . . .	37
54		Amendment of s 127 (Residents committee) . . . . .	38
55		Insertion of new ss 129A and 129B . . . . .	38
	129A	Minutes of meetings . . . . .	38
	129B	Residents committee may require scheme operator to attend meeting about budgets . . . . .	39

---

56	Amendment of s 130 (Residents may make, change or revoke by-laws) . . . . .	39
57	Amendment of s 132 (Other meetings) . . . . .	39
58	Replacement of pt 7, div 4, hdg (Proxy voting and postal voting). . . . .	40
59	Amendment of s 133 (Voting). . . . .	40
60	Replacement of pt 10, div 4 (Requests to chief executive to make application) . . . . .	42
	Division 4          Group applications	
	173          Application to tribunal by group of residents. . . . .	42
	Division 5          Representation	
	174          Who may represent a resident before the tribunal . . . . .	42
61	Amendment of s 191 (Tribunal orders generally) . . . . .	42
62	Insertion of new pt 15, div 1, hdg . . . . .	43
63	Insertion of new pt 15, div 2 . . . . .	43
	Division 2          Transitional provisions for Retirement Villages Amendment Act 2006	
	237A          Exit fees . . . . .	43
	237B          Notice about inaccuracy in public information document . . . . .	43
	237C          Notice of end of cooling-off period . . . . .	44
	237D          Reinstatement work . . . . .	44
	237E          Budgets . . . . .	45
	237F          General services charges for former residents . . . . .	45
	237G          Insurance . . . . .	46
64	Amendment of schedule (Dictionary) . . . . .	46



Queensland

## **Retirement Villages Amendment Act 2006**

**Act No. 6 of 2006**

---

**An Act to amend the *Retirement Villages Act 1999***

**[Assented to 15 March 2006]**

**The Parliament of Queensland enacts—****1 Short title**

This Act may be cited as the *Retirement Villages Amendment Act 2006*.

**2 Commencement**

- (1) The following sections commence on 1 January 2007—
- sections 37 to 40
  - section 42
  - section 52
  - section 63, to the extent it inserts section 237E.
- (2) Sections 50 and 63, to the extent it inserts section 237G, commence on a day to be fixed by proclamation.

**3 Act amended**

This Act amends the *Retirement Villages Act 1999*.

**4 Replacement of s 3 (Main objects)**

Section 3—

*omit, insert—*

**‘3 Objects**

- ‘(1) The main objects of this Act are—
- (a) to promote consumer protection and fair trading practices in operating retirement villages and in supplying services to residents by—
- (i) declaring particular rights and obligations of residents and scheme operators; and
  - (ii) facilitating the disclosure of information to prospective residents of a retirement village to ensure the rights and obligations of the residents



and scheme operator may be easily understood;  
and

- (b) to encourage the continued growth and viability of the retirement village industry in the State.

‘(2) The following are also objects of this Act—

- (a) to encourage the adoption of best practice standards by the retirement village industry;
- (b) to provide a clear regulatory framework to ensure certainty for the retirement village industry in planning for future expansion;
- (c) to facilitate participation by residents, who want to be involved, in the affairs of retirement villages;
- (d) to provide for processes for resolving disputes between residents and scheme operators.’.

## 5 **Amendment of s 10 (What is a *residence contract*)**

- (1) Section 10(1), ‘a written contract’—

*omit, insert—*

‘1 or more written contracts’.

- (2) Section 10—

*insert—*

‘(2A) Without limiting the interests that a residence contract may be based on, a residence contract may be based on a freehold interest in an accommodation unit.’.

- (3) Section 10(3)(d)—

*omit, insert—*

‘(d) restrict the way in which, or the persons to whom—

- (i) the right to reside in the retirement village may be disposed of during the resident’s lifetime; or
- (ii) if the contract is based on a freehold interest in an accommodation unit—the resident’s interest may be disposed of during the resident’s lifetime.’.

- (4) Section 10(2A) and (3)—  
*renumber* as section 10(3) and (4).

**6 Amendment of s 12 (What is a *service agreement*)**

Section 12(3)—  
*omit*.

**7 Replacement of s 13 (What is a *public information document*)**

Section 13—  
*omit, insert—*

**‘13 What is a *public information document***

‘A *public information document*, for a stated retirement village scheme, is a document, in the approved form under section 74,<sup>1</sup> giving details about the retirement village scheme.’.

**8 Amendment of s 15 (What is an *exit fee*)**

- (1) Section 15(1), after ‘liable to pay to’—  
*insert—*

‘, or credit the account of,’.

- (2) Section 15(2)—  
*omit, insert—*

- ‘(2) The exit fee for a residence contract, including an existing residence contract, that a resident may be liable to pay to, or credit the account of, the scheme operator is to be calculated as at—

(a) the day the resident ceases to reside in the accommodation unit to which the residence contract relates; or

---

1 Section 74 (Form and content of public information document)

- (b) if a relative of the resident resides in the accommodation unit under section 70B(2)—the sooner of the following days—
- (i) the day the relative vacates the accommodation unit;
  - (ii) the day that is 3 months after the resident’s right to reside in the accommodation unit under the residence contract is terminated under this Act.
- ‘(3) Subsection (2) applies despite anything to the contrary in an existing residence contract.
- ‘(4) In this section, a reference to a resident includes a reference to a person, other than a scheme operator, who enters into a residence contract for the purpose of giving someone else a right to reside in the retirement village.

*Example for subsection (4)—*

Mr Smith enters into a residence contract with a scheme operator which gives Mr Smith’s mother the right to reside in the retirement village. For this section, a reference to a resident includes not only Mr Smith’s mother who has a right to reside in the retirement village but also Mr Smith.’.

## 9 **Amendment of s 16 (What is an *exit entitlement*)**

- (1) Section 16, after ‘liable to pay to’—
- insert—*
- ‘, or credit the account of,’.
- (2) Section 16—
- insert—*
- ‘(2) In this section, a reference to a former resident includes a reference to a person, other than a scheme operator, who enters into a residence contract for the purpose of giving someone else a right to reside in the retirement village.’.

## 10 **Amendment of s 20 (What is a *maintenance reserve fund contribution*)**

Section 20, ‘a proportion’—

*omit, insert—*

‘that part’.

## 11 Amendment of s 21 (What is a *retirement village dispute*)

Section 21—

*insert—*

‘(2) For subsection (1), a retirement village dispute includes a dispute about compliance by a scheme operator or a resident with this Act, whether or not a particular failure to comply is an offence against this Act.

‘(3) In this section—

***resident*** includes a former resident.

*Note—*

In some provisions of this Act there is no means of enforcement apparent on the face of the provision but enforcement by the dispute resolution process is available because of this section.’.

## 12 Amendment of s 28 (Registration of retirement village scheme)

Section 28(5), after ‘a signed notice’—

*insert—*

‘(a ***decision notice***)’.

## 13 Insertion of new s 28A

After section 28—

*insert—*

### ‘28A Deregistration of retirement village scheme

‘(1) This section applies if the chief executive reasonably believes that a retirement village scheme is no longer operating.

‘(2) The chief executive may, by written notice (a ***deregistration notice***) given to the scheme operator, deregister the scheme, effective from 30 days after the deregistration notice is given to the scheme operator.

- ‘(3) The deregistration notice must state—
- (a) the grounds for the chief executive’s belief; and
  - (b) that the scheme operator may appeal against the deregistration under section 29.’.

#### **14 Amendment of s 29 (Appeal to District Court)**

Section 29—

*insert—*

- ‘(2) The scheme operator may appeal to the District Court against the chief executive’s decision to deregister a retirement village scheme.’.

#### **15 Amendment of s 30 (Time for making appeals)**

- (1) Section 30, heading—

*omit, insert—*

#### **‘30 Time for appealing’.**

- (2) Section 30(1), ‘the decision’—

*omit, insert—*

‘the decision to refuse to register the retirement village scheme’.

- (3) Section 30(1)(a) and (b), ‘was’—

*omit, insert—*

‘is’.

- (4) Section 30(2)—

*renumber* as section 30(3).

- (5) Section 30—

*insert—*

- ‘(2) A person may appeal against a decision to deregister a retirement village scheme only within 28 days after the deregistration notice is given to the person.’.

**16 Replacement of s 36 (Scheme operator to give notice about inaccuracy in public information document)**

Section 36—

*omit, insert—*

**‘36 Scheme operator to give notice about inaccuracy in public information document**

‘(1) This section applies if the particulars in a public information document become inaccurate in a way that may materially affect the interests of a resident of the retirement village to which the public information document relates.

‘(2) Within 28 days after the scheme operator becomes aware of the particulars becoming inaccurate (the *inaccuracy*), the scheme operator must make a full written disclosure of the inaccuracy to the chief executive and to each resident of the retirement village who is, or is likely to be, materially affected by the inaccuracy.

Maximum penalty—540 penalty units.

‘(3) Also, the scheme operator must make a full written disclosure of the inaccuracy to a person who has signed a residence contract relating to the retirement village for which the cooling-off period has not ended—

(a) before the cooling-off period ends; or

(b) if the scheme operator has a reasonable excuse for failing to make the disclosure before the end of the cooling off period—as soon as practicable after becoming aware of the inaccuracy.

Maximum penalty—540 penalty units.

‘(4) If a person has indicated to the scheme operator that the person intends signing a residence contract relating to the retirement village, the scheme operator must make a full written disclosure of the inaccuracy to the person before the person signs the contract.

Maximum penalty—540 penalty units.

‘(5) The scheme operator must, as soon as practicable after becoming aware of the inaccuracy, amend the public information document to remove the inaccuracy.

Maximum penalty—540 penalty units.’.

**17 Amendment of s 37 (Public information document forms part of residence contract)**

Section 37(3) and (4)—

*omit, insert—*

‘(3) If a provision of a public information document is inconsistent with a provision of any other part of the residence contract, the provision that is more beneficial to the resident prevails.

‘(4) If a provision of a public information document is inconsistent with a provision of this Act, the provision of this Act prevails.’.

**18 Replacement of s 44 (Person signing residence contract to be given copy)**

Section 44—

*omit, insert—*

**‘44 Person signing residence contract to be given copy**

‘When a person signs a residence contract with a scheme operator, the operator must immediately give the person a single bound document comprised of—

- (a) a signed copy of the contract; and
- (b) a public information document relating to the contract, unless the document has already been given to the person under section 84;<sup>2</sup> and
- (c) if it is intended to enter into another contract, the terms of which are known, that is ancillary to the residence contract—an unsigned copy of the other contract.

Maximum penalty—100 penalty units.’.

---

2 Section 84 (Public information document to be given to prospective resident)

**19 Amendment of s 45 (Content of residence contract)**

(1) Section 45(1)(b) to (n)—

*renumber* as section 45(1)(d) to (p).

(2) Section 45(1)—

*insert*—

‘(b) if the cooling-off period starts on the day the residence contract is signed—the date the cooling-off period ends;

(c) if the cooling-off period starts on the day a later event happens or another contract is entered into—the later event or other contract.’.

**20 Insertion of new s 45A**

After section 45—

*insert*—

**‘45A Scheme operator to give notice of end of cooling-off period in particular circumstances**

‘(1) This section applies if the cooling-off period for a residence contract starts on the day a later event happens or another contract is entered into.

‘(2) The scheme operator must, as soon as practicable after the later event happens or the other contract is entered into, give the resident written notice of—

(a) the date the later event happens or the other contract is entered into; and

(b) the date the cooling-off period ends.

Maximum penalty—100 penalty units.’.

**21 Amendment of s 46 (Dealing with ingoing contribution)**

(1) Section 46(3), ‘later’—

*omit, insert*—

‘latest’.

(2) Section 46—



*insert—*

‘(4B) Despite subsection (1), if a person receives an amount as an ingoing contribution under a residence contract after the end of the latest day mentioned in subsection (3), the person may—

(a) if the person is lawfully entitled to the amount—keep the amount; or

(b) otherwise—pay the amount directly to the person lawfully entitled to it.’

(3) Section 46(6), ‘subsection (5)’—

*omit, insert—*

‘subsection (7)’.

(4) Section 46(7), ‘subsection (6)’—

*omit, insert—*

‘subsection (8)’.

(5) Section 46(4A) to (9)—

*renumber* as section 46(5) to (11).

**22 Amendment of s 54 (Resident may ask for estimate statement of resident’s exit entitlement)**

Section 54(2), from ‘, unless’ to ‘excuse’—

*omit.*

**23 Replacement of ss 56–58**

Sections 56 to 58—

*omit, insert—*

**‘56 Interpretation for div 5**

‘(1) In this division—

***termination date*** means—

(a) the date a resident’s right to reside under a residence contract, including an existing residence contract, in an

accommodation unit in a retirement village is terminated under this Act; or

- (b) if a relative of the resident has a right to reside in the accommodation unit under section 70B(2)—the date the relative advises the scheme operator, under section 70B(5)(d), that the relative wants to enter into a residence contract for the accommodation unit.
- ‘(2) In this division, if a person holds a freehold interest in an accommodation unit, a reference to the former resident includes a reference to the holder of the freehold interest, unless, in relation to a particular matter, the residence contract in relation to that particular matter provides otherwise.

#### **‘57 Application of div 5**

- ‘(1) This division applies if a resident’s right to reside under a residence contract, including an existing residence contract, in an accommodation unit in a retirement village is terminated under this Act.
- ‘(2) This division applies despite anything to the contrary in an existing residence contract.

#### **‘58 Necessary reinstatement work**

- ‘(1) Within 30 days after the termination date, the former resident and scheme operator under a residence contract are to negotiate in good faith and, if possible, agree in writing on any reinstatement work to be done for the resident’s accommodation unit.
- ‘(2) If the former resident and scheme operator can not, within the 30 days, agree on the reinstatement work to be done—
- (a) the scheme operator must give the former resident an itemised quote for doing what the scheme operator considers to be the reinstatement work; and
  - (b) the former resident may give the scheme operator an itemised quote for doing what the former resident considers to be the reinstatement work.
- ‘(3) A quote under subsection (2) must be—

- (a) from a qualified tradesperson appropriate for the work; and
  - (b) given within 44 days after the termination date.
- ‘(4) If a relative of the former resident has a right under section 70B(5) to enter into a residence contract for the accommodation unit with the scheme operator and advises the scheme operator, under section 70B(5)(d), that the relative wants to enter into the residence contract, this section applies to the relative as if the relative were the former resident.
- ‘(5) The scheme operator must ensure that the reinstatement work is done with as little inconvenience to the relative as is reasonably possible.’.

## 24 **Amendment of s 59 (Scheme operator to ensure reinstatement work to be completed)**

- (1) Section 59(1)(b)—  
*renumber* as section 59(1)(c).
- (2) Section 59(1)—  
*insert*—  
‘(b) a relative of the former resident, mentioned in section 58(4), and the scheme operator agree on reinstatement work under section 58; or’.
- (3) Section 59(2)(a)(ii)—  
*omit, insert*—  
‘(ii) if the scheme operator and the former resident or the relative agree on another time, the time agreed; or’.
- (4) Section 59(3)—  
*omit, insert*—  
‘(3) In this section—  
***vacation date***, of an accommodation unit in a retirement village, means—  
(a) for a former resident whose relative has a right to reside in the accommodation unit under section 70B(2)—the

date the relative's right to reside in the accommodation unit under that subsection ends; or

- (b) otherwise—the date the former resident vacates the accommodation unit.’.

## **25 Amendment of s 61 (Who pays for work in freehold interest scheme)**

Section 61, ‘the cost of reinstatement work’—

*omit, insert—*

‘the cost of the labour and materials for the reinstatement work for the former resident’s accommodation unit’.

## **26 Replacement of s 62 (Who pays for work in leasehold or licence scheme)**

Section 62—

*omit, insert—*

### **‘62 Who pays for work in leasehold or licence scheme**

- ‘(1) This section applies if the former resident’s interest in the accommodation unit is a leasehold interest or licence.
- ‘(2) If the former resident obtained the interest before the commencement of the 2006 Amendment Act, section 26, the cost of the labour and materials for the reinstatement work for the accommodation unit must be paid by—
  - (a) to the extent the reinstatement work is required because the former resident caused accelerated wear to the accommodation unit’s interior or deliberate damage to the accommodation unit—the former resident; or
  - (b) to the extent the reinstatement work is otherwise required and if the residence contract states who is to make the payment—the person stated; or
  - (c) otherwise—
    - (i) for a residence contract other than an existing residence contract—the scheme operator; or
    - (ii) for an existing residence contract—the former resident and the scheme operator in the same

proportion as they are to share the gross ingoing contribution on the sale of the right to reside, as provided for in the residence contract.

- ‘(3) If the former resident obtained the interest on or after the commencement of the 2006 Amendment Act, section 26, the cost of the labour and materials for the reinstatement work for the accommodation unit must be paid by—
- (a) to the extent the reinstatement work is required because the former resident caused accelerated wear to the accommodation unit’s interior or deliberate damage to the accommodation unit—the former resident; or
  - (b) to the extent the reinstatement work is otherwise required and if the residence agreement provides that the former resident and the scheme operator are to share any capital gain on the sale of the former resident’s interest in the accommodation unit—the former resident and the scheme operator in the same proportion that the capital gain is to be shared; or
  - (c) otherwise—the scheme operator.
- ‘(4) If the scheme operator must pay the cost of reinstatement work, it must be paid out of the scheme operator’s capital replacement fund.’.

## **27 Amendment of s 63 (When former resident’s exit entitlement payable)**

- (1) Section 63(1)(b)—  
*omit, insert—*  
‘(b) 14 days after the settlement day.’.
- (2) Section 63(2), ‘right to reside is sold’—  
*omit, insert—*  
‘settlement day’.
- (3) Section 63(3), penalty, ‘for subsection (3)’—  
*omit.*
- (4) Section 63—  
*insert—*

‘(4) In this section—

*settlement day* means the day on which the sale of the right to reside, to a new resident or the scheme operator, is settled.’.

**28 Amendment of s 65 (Operator to tell resident of all offers for accommodation unit)**

Section 65, heading, ‘Operator’—

*omit, insert—*

‘Scheme operator’.

**29 Amendment of s 68 (Costs of selling)**

Section 68(1), from ‘sale proceeds’ to ‘unit on its sale’—

*omit, insert—*

‘gross ingoing contribution on the sale of the right to reside, as provided for in the residence contract’.

**30 Insertion of new s 70A and pt 3, div 5A**

Part 3, division 5—

*insert—*

**‘70A Valuer’s independence**

‘In a valuation given under this division, a valuer must state any connection to, or agreement with, the scheme operator that may call into question the independence of the valuation.

**‘Division 5A Relative’s right to reside**

**‘70B Relative’s right to reside after death or vacation**

‘(1) This section applies if—

- (a) a resident’s right to reside in an accommodation unit under a residence contract, including an existing residence contract, is terminated under this Act because the resident dies or vacates the accommodation unit; and

- (b) a relative of the resident, although not a party to the residence contract, was living in the accommodation unit when the residence contract was terminated; and
  - (c) the relative has lived in the accommodation unit for at least the 6 months immediately before the residence contract was terminated.
- ‘(2) The relative has a right to reside in the accommodation unit for 3 months after the day the residence contract is terminated if the relative agrees to be bound by the terms of the resident’s residence contract while the relative continues to live in the accommodation unit.
- ‘(3) The relative’s agreement must be in writing and given to the scheme operator within 14 days after the day the residence contract is terminated.
- ‘(4) During the 3 months, the relative has all the rights and liabilities of a resident under this Act.
- ‘(5) If—
- (a) the resident’s interest in the accommodation unit was a leasehold interest or licence; and
  - (b) no other person has a right under the resident’s residence contract to reside in the accommodation unit; and
  - (c) the relative meets the eligibility criteria for a resident of the retirement village; and
  - (d) the relative, at least 14 days before the end of the 3 months, advises the scheme operator, in writing, that the relative wants to enter into a residence contract for the accommodation unit;
- then—
- (e) the relative has a right to enter into a residence contract for the accommodation unit; and
  - (f) the scheme operator must enter into a residence contract for the accommodation unit with the relative before the end of the 3 months.
- ‘(6) A residence contract entered into under subsection (5) must be on the same terms as would be offered to any other potential

resident of the accommodation unit, as adjusted to include any agreement between the relative and the scheme operator about reinstatement work for the accommodation unit.’.

**31 Amendment of s 74 (Form and content of public information document)**

Section 74(1)—

*omit, insert—*

‘(1) A public information document must—

- (a) be in the approved form; and
- (b) relate to only 1 retirement village scheme.’.

**32 Amendment of s 75 (Accommodation information)**

Section 75(d), after ‘village’—

*insert—*

‘, including the amount of any excess to which any insurance policy is subject’.

**33 Amendment of s 79 (Facilities information)**

(1) Section 79(a), ‘facilities’—

*omit, insert—*

‘the facilities’.

(2) Section 79—

*insert—*

‘(d) information about when the scheme operator proposes to start levying a charge for the particular facilities mentioned in paragraph (b).

*Example for paragraph (d)—*

The scheme operator proposes to start levying a charge for the particular facility when the facility is in place.’.



**34 Amendment of s 83 (Dispute resolution information)**

Section 83(b), ‘a village-based dispute resolution panel,’—  
*omit.*

**35 Amendment of s 84 (Public information document to be given to prospective resident)**

Section 84—

*insert—*

- ‘(2) For subsection (1), if the residence contract consists of more than 1 written contract, the scheme operator must give the copy of the public information document before the prospective resident enters into any of the contracts.’.

**36 Replacement of s 90 (Responsibility for capital improvement)**

Section 90—

*omit, insert—*

**‘90 Responsibility for capital improvement of retirement village**

- ‘(1) A scheme operator is solely responsible for the cost of the retirement village’s capital improvement, including the capital improvement of the retirement village’s communal facilities owned by the scheme operator.

- ‘(2) This section applies subject to sections 90A and 90B.

**‘90A Responsibility for capital improvement of resident’s accommodation unit**

- ‘(1) This section applies if—

- (a) a resident gives the scheme operator a written request for a particular capital improvement to the resident’s accommodation unit; and
- (b) the scheme operator makes or agrees to make the capital improvement.

- ‘(2) The resident is solely responsible for the cost of the capital improvement.

**‘90B Residents jointly responsible for capital improvements requested at residents meeting**

- ‘(1) This section applies if—
- (a) residents of a retirement village, by special resolution at a residents meeting, vote to give the scheme operator a written request for a capital improvement to the retirement village; and
  - (b) the scheme operator makes or agrees to make the capital improvement.
- ‘(2) All the residents of the retirement village when the vote was taken are jointly responsible for the cost of the capital improvement.

**‘90C Responsibility of former resident for capital improvement**

‘If a former resident stops being responsible, under section 104(3),<sup>3</sup> to pay a proportion of the general services charges—

- (a) the former resident stops being responsible, under section 90A or 90B, for the cost of a capital improvement; and
- (b) the scheme operator becomes liable for the resident’s share of the cost of the capital improvement.

**‘90D Quotes for capital improvements**

- ‘(1) A resident may give the scheme operator a written request to get quotes for a particular capital improvement to the resident’s accommodation unit.

---

3 Section 104 (Working out and paying charges for general services for former residents)

- ‘(2) The residents committee may give the scheme operator a written request to get quotes for a particular capital improvement to the retirement village.
- ‘(3) If the scheme operator receives a request under subsection (1) or (2), the scheme operator must get at least 2 quotes for carrying out the capital improvement from qualified tradespersons appropriate for the work.
- ‘(4) However, the requirement to get at least 2 quotes does not apply if, for exceptional reasons, it is not practicable to get more than 1 quote.
- ‘(5) The scheme operator must give copies of the quotes or, if the quotes are voluminous, summaries of the quotes and advice about where the complete quotes may be inspected, promptly to the resident or the residents committee.
- ‘(6) Any reasonable cost associated with getting a quote must be paid by—
  - (a) for a quote requested under subsection (1)—the resident; or
  - (b) for a quote requested under subsection (2)—all residents jointly.

### **‘90E Money received for capital improvement**

- ‘(1) As a condition of agreeing to make a capital improvement, the operator may require the resident or residents to pay the cost of the improvement before it is made.
- ‘(2) The scheme operator must keep the money received for the cost of a capital improvement in a trust account on trust for the benefit of the resident or residents.  
Maximum penalty—540 penalty units.
- ‘(3) The scheme operator must not use an amount received for the cost of a capital improvement and standing to the credit of the trust account for a purpose other than the cost of the capital improvement.

Maximum penalty—540 penalty units.

- ‘(4) The scheme operator must refund any amount received for the cost of a capital improvement that exceeds the cost of the capital improvement to the resident or residents.

Maximum penalty—540 penalty units.’.

### **37 Amendment of s 92 (Amount of capital replacement fund)**

- (1) Section 92(5), ‘subsection (3)’—

*omit, insert—*

‘subsection (5)’.

- (2) Section 92(2) and (3) to (5)—

*renumber* as section 92(3) and (5) to (7).

- (3) Section 92—

*insert—*

- ‘(2) For subsection (1), the report must be—

- (a) a full report—

(i) in the 2009 financial year and in every 3rd financial year after that; and

(ii) in any other financial year in which substantial changes have been made to the retirement village; and

- (b) an updated report in every financial year in which a full report need not be obtained.’.

- (4) Section 92—

*insert—*

- ‘(4) In having regard to the quantity surveyor’s report, the scheme operator must use the scheme operator’s best endeavours to implement the surveyor’s recommendations in the context of—

- (a) the objects of this Act; and

(b) any circumstances relevant to the retirement village that apparently were not considered by the quantity surveyor.’.

**38 Amendment of s 93 (Capital replacement fund budget)**

(1) Section 93(1), after ‘budget’—

*insert—*

‘(a *capital replacement fund budget*)’.

(2) Section 93(2), ‘The’—

*omit, insert—*

‘For subsection (1), the’.

(3) Section 93—

*insert—*

‘(3) The residents committee may, by written notice given to the scheme operator, ask the scheme operator to give the residents committee a copy of the draft capital replacement fund budget for the financial year at least 14 days before the beginning of the financial year to which the draft capital replacement fund budget relates.

‘(4) The notice must be given at least 28 days before the beginning of the financial year to which the draft capital replacement fund budget relates.

‘(5) The scheme operator must comply with the notice.’.

**39 Amendment of s 98 (Amount of maintenance reserve fund)**

(1) Section 98(5), ‘subsection (4)’—

*omit, insert—*

‘subsection (6)’.

(2) Section 98(6), ‘subsection (3)’—

*omit, insert—*

‘subsection (5)’.

(3) Section 98(2) and (3) to (6)—

*renumber* as section 98(3) and (5) to (8).

(4) Section 98—

*insert—*

- ‘(2) For subsection (1), the report must be—
- (a) a full report—
    - (i) in the 2009 financial year and in every 3rd financial year after that; and
    - (ii) in any other financial year in which substantial changes have been made to the retirement village; and
  - (b) an updated report in every financial year in which a full report need not be obtained.’.
- (5) Section 98—  
*insert—*
- ‘(4) In having regard to the quantity surveyor’s report, the scheme operator must use the scheme operator’s best endeavours to implement the surveyor’s recommendations in the context of—
- (a) the objects of this Act; and
  - (b) any circumstances relevant to the retirement village that apparently were not considered by the quantity surveyor.’.

#### 40 Amendment of s 99 (Maintenance reserve fund budget)

- (1) Section 99(1)—  
*omit, insert—*
- ‘(1) The scheme operator must adopt a budget (a ***maintenance reserve fund budget***) for each financial year for the maintenance reserve fund.’.
- (2) Section 99(2), ‘The’—  
*omit, insert—*  
‘For subsection (1), the’.
- (3) Section 99—  
*insert—*
- ‘(3) The residents committee may, by written notice given to the scheme operator, ask the scheme operator to give the residents

committee a copy of the draft maintenance reserve fund budget for the financial year at least 14 days before the beginning of the financial year to which the draft maintenance reserve fund budget relates.

- ‘(4) The notice must be given at least 28 days before the beginning of the financial year to which the draft maintenance reserve fund budget relates.
- ‘(5) The scheme operator must comply with the notice.
- ‘(6) If, at the end of a financial year for which a budget for the maintenance reserve fund is adopted, there is a surplus or deficit, the surplus or deficit in the maintenance reserve fund must be carried forward and taken into account in adopting the budget for the general services charges for the next financial year.
- ‘(7) Subsection (6) applies despite section 106(1).’.

#### **41 Amendment of s 102 (Charges for personal services for former residents)**

Section 102, from ‘resident for more than 28 days’ to ‘the village.’—

*omit, insert—*

‘resident—

- (a) after the period of notice given under section 52 or 53 ends; or
- (b) if the period of notice given under section 52 is extended—for more than 14 days after the end of the extended period of notice; or
- (c) if the resident’s residence contract is terminated because the resident dies—for more than 28 days after the residence contract is terminated.’.

#### **42 Insertion of new s 102A**

Part 5, division 7—

*insert—*

**‘102A General services charges budget**

- ‘(1) The scheme operator must adopt a budget (the *general services charges budget*) for each financial year for charges for general services.
- ‘(2) For subsection (1), the general services charges budget must—
  - (a) allow for raising a reasonable amount to provide the general services for the financial year; and
  - (b) fix the amount to be raised by way of contribution to cover the amount.
- ‘(3) The residents committee may, by written notice given to the scheme operator, ask the scheme operator to give the residents committee a copy of the draft general services charges budget for the financial year at least 14 days before the beginning of the financial year.
- ‘(4) The notice must be given at least 28 days before the beginning of the financial year.
- ‘(5) The scheme operator must comply with the notice.
- ‘(6) If, at the end of a financial year for which a general services charges budget is adopted, there is a surplus or deficit for the charges, the surplus or deficit must be carried forward and taken into account in adopting the general services charges budget for the next financial year.
- ‘(7) Subsection (6) applies despite section 106(1).’.

**43 Amendment of s 103 (Working out and paying charges for general services for residents)**

- (1) Section 103(7)—  
*renumber* as section 103(8).
- (2) Section 103—  
*insert*—
- ‘(7) The scheme operator must not include, or provide for, in the charge for general services an amount or component, however



described, that is payable for or towards costs awarded by the tribunal against the scheme operator.

Maximum penalty—200 penalty units.’.

#### **44 Replacement of s 104 (Working out and paying general services charges for former residents)**

Section 104—

*omit, insert—*

#### **‘104 Working out and paying charges for general services for former residents**

- ‘(1) A former resident of a retirement village is liable for the resident’s proportion of charges for general services after the resident vacates the resident’s accommodation unit until the first of the following happens—
- (a) the right to reside in the accommodation unit is sold;
  - (b) a period of 90 days elapses (the **90 day period**);
  - (c) the tribunal orders the scheme operator to pay the former resident’s exit entitlement under section 171.
- ‘(2) If the former resident’s right to reside in the accommodation unit has not been sold within the 90 day period—
- (a) the resident and the scheme operator are each liable, after the 90 day period ends, to pay the charges for general services in the same proportion as they are to share the gross ingoing contribution on the sale of the right to reside, as provided for in the residence contract; and
  - (b) the former resident ceases to be liable to continue to pay a proportion of the charges for general services when the first of the following happens—
    - (i) the right to reside in the accommodation unit is sold;
    - (ii) a period of 9 months after the resident vacates the accommodation unit ends.

- ‘(3) If a former resident’s right to reside in an accommodation unit has not been sold within the 90 day period, the scheme operator may—
- (a) accrue, as a book debt, the resident’s proportion of the charges for general services; and
  - (b) set off the accrued amount against the resident’s exit entitlement.
- ‘(4) A scheme operator must not charge interest on the accrued amount.
- Maximum penalty—100 penalty units.
- ‘(5) Subsections (1)(b) and (2)(a) do not apply to a former resident under an existing residence contract.’.

**45 Amendment of s 105 (General services charges for unsold right to reside in accommodation units)**

- (1) Section 105(a), ‘resident’—  
*omit, insert—*  
‘residence’.
  - (2) Section 105(b)—  
*renumber* as section 105(c).
  - (3) Section 105—  
*insert—*
    - ‘(b) if the liability of the former resident, who had the right to reside in the accommodation unit, to pay a proportion of the general services charges has ended—
      - (i) under section 104(3); or
      - (ii) under the terms of the residence contract; or’.
  - (4) Section 105—  
*insert—*
- ‘(2) The scheme operator must pay an amount payable under subsection (1) into the maintenance reserve fund.’.

**46 Replacement of s 106 (Increasing general services charges)**

Section 106—

*omit, insert—*

**‘106 Increasing charges for general services**

‘(1) A scheme operator must not increase the total of general services charges for a retirement village for a financial year by more than the CPI percentage increase for the financial year.

Maximum penalty—200 penalty units.

‘(2) In this section—

***CPI*** means the all groups consumer price index for Brisbane published by the Australian statistician.

***CPI percentage increase***, for a financial year, means the percentage increase between—

- (a) the CPI published for the quarter ending immediately before the start of the financial year; and
- (b) the CPI published for the quarter ending immediately before the end of the financial year.

***total of general services charges***, for a financial year, means the sum of all charges for general services for the financial year, other than the following charges—

- (a) a charge for a general service that has been increased by more than the CPI percentage increase for the financial year and that the retirement village residents, by special resolution at a residents meeting, have approved;
- (b) a charge for a general service that has been increased by more than the CPI percentage increase for the financial year and that is allowed under section 107.’.

**47 Amendment of s 107 (Resident’s responsibility for paying increased general services charge)**

Section 107(c), after ‘premiums’—

*insert—*

‘, or insurance excesses paid,’.

**48 Insertion of new s 107A**

After section 107—

*insert—*

**‘107A Considering more cost-effective alternate services**

‘Before increasing the charge for a particular general service, the scheme operator must consider whether there is a more cost-effective alternative to the general service.’.

**49 Amendment of s 108 (New services to be approved by majority of residents)**

Section 108(2)—

*omit, insert—*

- ‘(2) Subsection (1) does not apply to—
- (a) a personal service; or
  - (b) a service that is the same as a service already supplied under the scheme and introduced as a cost-effective alternative after consideration under section 107A; or
  - (c) another service, if the public information document given to each of the residents stated that the service was proposed to be supplied.
- ‘(3) The scheme operator must get at least 2 quotes for supplying the service from qualified tradespersons appropriate for the service.
- ‘(4) However, the requirement to get at least 2 quotes does not apply if, for exceptional reasons, it is not practicable to get more than 1 quote.
- ‘(5) The scheme operator must give copies of the quotes or, if the quotes are voluminous, summaries of the quotes and advice about where the complete quotes may be inspected, promptly to the residents.
- ‘(6) Any cost associated with getting a quote must be paid by the scheme operator.
- ‘(7) If any capital improvements are required for the scheme operator to supply the service, the scheme operator may supply the service only if the capital improvements are

requested by the retirement village residents under section 90B.

- ‘(8) The operator may not charge the residents for the new service before the service is supplied to the residents.’.

## 50 Amendment of s 110 (Scheme operator must insure village)

- (1) Section 110(2), penalty, ‘for subsection (2)’—

*omit.*

- (2) Section 110—

*insert—*

- ‘(3) The insurance may be taken out subject to an excess.
- ‘(4) However, for insurance other than public liability insurance, the excess must not be more than the maximum excess prescribed under a regulation, unless the residents, by special resolution at a residents meeting, agree otherwise.
- ‘(5) For subsection (4), the residents may not agree to the excess being more than 1% of the insured value of the retirement village.’.

## 51 Replacement of s 112 (Quarterly financial statements)

Section 112—

*omit, insert—*

### ‘112 Quarterly financial statements

- ‘(1) At the request of a resident, the scheme operator must, within 28 days after receiving the request, give the resident a quarterly financial statement.

Maximum penalty—100 penalty units.

- ‘(2) For subsection (1), the statement must list, for the quarter—
- (a) the income of, and expenditure from—
- (i) the capital replacement fund; and
- (ii) the maintenance reserve fund; and

- (b) the expenditure involved in providing each general service.
- ‘(3) For subsection (1), the statement need not be audited, but must be in a form that is capable of being audited.
- ‘(4) At the request of the residents committee, the scheme operator must give the residents committee a document that explains—
  - (a) the expenditure involved in providing each general service; and
  - (b) any increase in the expenditure involved in providing a general service that varies from the expected expenditure for the general service in the budget for charges for general services.

Maximum penalty—100 penalty units.’.

## **52 Amendment of s 113 (Annual financial statements)**

- (1) Section 113(1)—  
*omit, insert—*
- ‘(1) A scheme operator must ensure a financial statement showing the following particulars about the retirement village’s operation is given, on request, to a resident within 5 months after the end of each financial year—
  - (a) income and expenditure of the capital replacement fund for the financial year;
  - (b) income and expenditure of the maintenance reserve fund for the financial year;
  - (c) expenditure involved in providing each general service for the financial year;
  - (d) amounts received for insurance claims relating to the retirement village during the financial year;
  - (e) assets and liabilities relating to the retirement village as at the end of the financial year;
  - (f) interests, mortgages and other charges affecting the retirement village’s property as at the end of the financial year.

Maximum penalty—200 penalty units.’.

- (2) Section 113(2), ‘The statement must be’—

*omit, insert—*

‘The scheme operator must ensure the statement is’.

### 53 Insertion of new s 113A

Part 5, division 9—

*insert—*

#### ‘113A Classification of expenditure

- ‘(1) A regulation may prescribe model rules (*model classification rules*) about the classification of items of expenditure.
- ‘(2) Without limiting subsection (1), the model classification rules may—
- (a) classify how a particular item of expenditure must be dealt with; and
  - (b) provide that scheme operators must classify how other items of expenditure must be dealt with.
- ‘(3) A scheme operator must comply with the model classification rules in dealing with items of expenditure.
- ‘(4) If the model classification rules provide that scheme operators must classify how other items of expenditure must be dealt with, each scheme operator must give the residents of the retirement village written notice of the scheme operator’s classification of the items of expenditure by—
- (a) giving the notice to the residents committee; or
  - (b) if there is no residents committee—putting the notice in a place in the retirement village where it is likely to be seen by most of the residents of the village.
- ‘(5) For this section, an item of expenditure is dealt with if it is—
- (a) debited to the capital replacement fund; or
  - (b) debited to the maintenance reserve fund; or
  - (c) levied as a general service charge.

**54 Amendment of s 127 (Residents committee)**

Section 127(4)—

*omit, insert—*

- ‘(4) If invited by the residents committee, the scheme operator may attend a residents committee meeting and address the members at the meeting.
- ‘(5) If the scheme operator attends a residents committee meeting, the scheme operator must leave the meeting after the scheme operator has addressed the members, or been given a reasonable opportunity to address the members, unless the residents committee invites the scheme operator to remain.’.

**55 Insertion of new ss 129A and 129B**

Part 7, division 1—

*insert—*

**‘129A Minutes of meetings**

- ‘(1) The residents committee must ensure full and accurate minutes are taken of each meeting of the residents committee.
- ‘(2) For subsection (1), the minutes must include at least the following particulars—
  - (a) the date, time and place of the meeting;
  - (b) the names of persons present and details of the capacity in which they attended the meeting;
  - (c) issues discussed and how each issue was decided or dealt with;
  - (d) details of correspondence, reports, notices or other documents tabled.
- ‘(3) The minutes must be presented at the next residents committee meeting for confirmation, and if confirmed, a member of the residents committee must sign the minutes as accurate.
- ‘(4) At the request of a resident, the residents committee must give the resident access to, or a copy of, the minutes of a residents committee meeting.



- ‘(5) The minutes of a residents committee meeting are to be kept by the residents committee for the retirement village and, if there is no residents committee for the retirement village, the scheme operator.

**‘129B Residents committee may require scheme operator to attend meeting about budgets**

- ‘(1) The residents committee may, by written notice given to the scheme operator, ask the scheme operator to attend a meeting of the residents committee that is to be held before the start of a financial year to discuss the following for the financial year—
- (a) the draft budget for the capital replacement fund;
  - (b) the draft budget for the maintenance reserve fund;
  - (c) the draft budget for charges for general services.
- ‘(2) The notice must be given at least 28 days before the beginning of the financial year.
- ‘(3) The scheme operator must comply with the notice.’.

**56 Amendment of s 130 (Residents may make, change or revoke by-laws)**

- (1) Section 130(5)—  
*omit.*
- (2) Section 130(6)—  
*renumber* as section 130(5).

**57 Amendment of s 132 (Other meetings)**

- (1) Section 132(1) and (2), ‘or subcommittee’—  
*omit.*
- (2) Section 132(2), ‘extraordinary or’—  
*omit.*
- (3) Section 132—  
*insert—*

- ‘(3) The scheme operator may attend a residents meeting and address the residents at the meeting—
- (a) if the residents meeting is called by the scheme operator; or
  - (b) if the residents meeting is called by the residents committee to vote on a special resolution; or
  - (c) if invited by the residents committee.
- ‘(4) If the scheme operator attends a residents meeting called to vote on a special resolution, the scheme operator must leave the meeting after the scheme operator has addressed the meeting, or been given a reasonable opportunity to address the meeting, and the special resolution has been voted on, unless the residents committee invites the scheme operator to remain.
- ‘(5) If the scheme operator attends a residents meeting at the residents committee’s invitation, the scheme operator must leave the meeting after the scheme operator has addressed the meeting, or been given a reasonable opportunity to address the meeting, unless the residents committee invites the scheme operator to remain.
- ‘(6) In this section—
- urgent circumstances* means circumstances in which it is not prudent to wait for the usual 14 days written notice of a meeting to be given.’.

**58 Replacement of pt 7, div 4, hdg (Proxy voting and postal voting)**

Part 7, division 4, heading—

*omit, insert—*

**‘Division 4 Voting’.**

**59 Amendment of s 133 (Voting)**

- (1) Section 133(3) to (6)—  
*renumber* as section 133(5) to (8).
- (2) Section 133(1) and (2)—

*omit, insert—*

- ‘(1) The following persons are entitled to vote at a meeting of the residents of a retirement village—
- (a) either—
    - (i) 1 resident of each accommodation unit in the retirement village; or
    - (ii) if the residents have, by special resolution, agreed that each resident of the retirement village should be entitled to vote—each resident of the retirement village;
  - (b) while a former resident of an accommodation unit is required under section 104<sup>4</sup> to pay the whole or a proportion of the general services charges—1 former resident of the accommodation unit.
- ‘(2) The resident’s vote may be cast by—
- (a) the resident; or
  - (b) a person who the resident has appointed by power of attorney; or
  - (c) any other person, other than the scheme operator, who the resident has appointed by signed notice to vote by way of proxy vote at a particular meeting stated in the notice.
- ‘(3) A signed notice under subsection (2)(c) appointing another person to vote by way of proxy vote must not relate to more than 1 meeting.
- ‘(4) A person may not hold more than 2 proxy votes for the meeting.’.
- (3) Section 133(8), as renumbered, penalty, ‘for subsection (6)’—  
*omit.*

---

4 Section 104 (Working out and paying charges for general services for former residents)

**60 Replacement of pt 10, div 4 (Requests to chief executive to make application)**

Part 10, division 4—

*omit, insert—*

**‘Division 4 Group applications**

**‘173 Application to tribunal by group of residents**

‘If, under this Act, a resident of a retirement village may apply to the tribunal, a group of residents of the retirement village may apply jointly to the tribunal about a matter arising from the same or similar facts or circumstances.

**‘Division 5 Representation**

**‘174 Who may represent a resident before the tribunal**

‘A resident of a retirement village who is an individual may be represented before the tribunal—

- (a) by another resident of the retirement village who is not a lawyer; or
- (b) by a relative who is not a lawyer; or
- (c) with the leave of the tribunal, by a lawyer or another person.’.

**61 Amendment of s 191 (Tribunal orders generally)**

Section 191—

*insert—*

- ‘(4) Without limiting subsection (1), this section applies if a resident applies for a tribunal order under section 169, 170 or 171.<sup>5</sup>’.

5 Section 169 (Resident’s right to apply for an order if threatened with removal, deprivation or restriction), 170 (Resident may apply for order if given false or misleading documents) or 171 (Former resident may apply for order for payment of exit entitlement)

**62 Insertion of new pt 15, div 1, hdg**

Part 15, before section 229—

*insert—*

**‘Division 1 Transitional provisions for Act No. 71 of 1999’.****63 Insertion of new pt 15, div 2**

Part 15, after section 237—

*insert—*

**‘Division 2 Transitional provisions for Retirement Villages Amendment Act 2006****‘237A Exit fees**

- ‘(1) This section applies if, before the commencement of this section—
- (a) a resident had ceased residing in an accommodation unit; and
  - (b) the resident had not paid the exit fee under the residence contract to the scheme operator.
- ‘(2) For calculating the exit fee the resident may be liable to pay to, or credit the account of, the scheme operator, section 15 and any relevant definitions, as in force immediately before the commencement, continue to have effect.

**‘237B Notice about inaccuracy in public information document**

- ‘(1) This section applies if—
- (a) before the commencement of this section, a person had signed a residence contract; and
  - (b) before the commencement, the cooling-off period for the residence contract had not ended; and

- (c) before the cooling-off period ends, and whether before or after the commencement, the scheme operator becomes aware that the particulars in a public information document are inaccurate in a way that may materially affect the interests of a resident of the retirement village.
  - ‘(2) Despite section 36(3)(a), the scheme operator is not required to make a full written disclosure of the inaccuracy to the person before the cooling-off period ends.
  - ‘(3) However, the scheme operator must make the disclosure as soon as practicable after becoming aware of the inaccuracy.
- Maximum penalty—540 penalty units.

### **‘237C Notice of end of cooling-off period**

- ‘(1) This section applies if—
  - (a) the cooling-off period for a residence contract entered into before the commencement of this section starts on the day a later event happens or another contract is entered into; and
  - (b) on or after the commencement, the later event happens or the other contract is entered into.
- ‘(2) Despite section 45A(2), the scheme operator is not required to give the resident written notice of—
  - (a) the date the later event happens or the other contract is entered into; or
  - (b) the date the cooling-off period ends.

### **‘237D Reinstatement work**

- ‘(1) This section applies if, before the commencement of this section—
  - (a) a resident’s right to reside under a residence contract, including an existing residence contract, in an accommodation unit in a retirement village is terminated under this Act; and

- (b) the scheme operator and the former resident have not, under section 58, as in force immediately before the commencement, agreed on reinstatement work; and
  - (c) the tribunal has not made an order that work be done to reinstate the former resident's accommodation unit.
- ‘(2) Sections 56 to 59 and any relevant definitions, as in force immediately before the commencement, continue to have effect in relation to the reinstatement of the former resident's accommodation unit.

### **‘237E Budgets**

- ‘(1) If, before the commencement of this section, a scheme operator adopted a budget for the capital reserve fund for the 2006 financial year, sections 92 and 93 and any relevant definitions, as in force immediately before the commencement, continue to have effect for the budget.
- ‘(2) If, before the commencement of this section, a scheme operator adopted a budget for the maintenance reserve fund for the 2006 financial year, sections 98 and 99 and any relevant definitions, as in force immediately before the commencement, continue to have effect for the budget.

### **‘237F General services charges for former residents**

- ‘(1) This section applies if, before the commencement of this section—
- (a) a resident of a retirement village has vacated the resident's accommodation unit; and
  - (b) the right to reside in the accommodation unit has not been sold; and
  - (c) the tribunal has not ordered the scheme operator to pay the former resident's exit entitlement under section 171.
- ‘(2) Section 104 and any relevant definitions, as in force immediately before the commencement, continue to have effect for working out and paying the general services charges for the former resident.

**‘237G Insurance**

- ‘(1) This section applies if—
- (a) immediately before the commencement of this section, the insurance for a retirement village taken out by the scheme operator is subject to an excess; and
  - (b) the amount of the excess is more than the maximum excess prescribed under a regulation under section 110(4).
- ‘(2) During the transitional period, the scheme operator is taken not to have contravened section 110(4) even though—
- (a) the residents have not, by special resolution at a residents meeting, agreed to the excess; or
  - (b) the excess may be more than 1% of the insured value of the retirement village.
- ‘(3) In this section—
- transitional period*** means the period—
- (a) starting on the day this section commences; and
  - (b) ending on the day the insurance contract ends or is renewed or renegotiated.’.

**64 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions *capital improvement, cooling-off period, excluded contract, general services, maintenance, personal services, repairs and replacement—*  
*omit.*
- (2) Schedule—  
*insert—*
- ‘2006 Amendment Act** means the *Retirement Villages Amendment Act 2006*.
- accelerated wear*** means wear that happens more quickly than would have reasonably been expected.
- capital improvement—***
- (a) means the first time provision of a capital item; and



- (b) to the extent it is not inconsistent with paragraph (a), includes a thing that is a capital improvement under a ruling under the *Taxation Administration Act 1953* (Cwlth) dealing with capital improvement.

**cooling-off period**, for a residence contract, means a 14 day period starting on—

- (a) the day the contract is signed; or
- (b) if the residence contract is subject to a later event happening or another contract being entered into—the day the later event happens or the other contract is entered into.

**day to day maintenance**, of a capital item, means maintenance of the item that is carried out regularly and with little expense.

**decision notice** see section 28(5).

**deregistration notice** see section 28A(2).

**excluded contract** means a written contract between an approved provider and another person under which the approved provider agrees to provide residential care to the person that is at least equivalent to the standard of care that would be required for the approved provider to meet the approved provider's responsibilities under the *Aged Care Act 1997* (Cwlth), chapter 4.<sup>6</sup>

**general services** are services supplied, or made available, to all residents of a retirement village.

*Examples of general services—*

- management and administration
- gardening and general maintenance
- a shop or other facility for supplying goods to residents
- a service or facility for the recreation or entertainment of residents

**gross ingoing contribution** means the ingoing contribution before any deductions are made.

**maintenance**, of a capital item—

---

<sup>6</sup> *Aged Care Act 1997* (Cwlth), chapter 4 (Responsibilities of approved providers)

- (a) means the upkeep of the capital item in good condition and efficient working order; and
- (b) to the extent it is not inconsistent with paragraph (a), includes doing something that, under a ruling under the *Taxation Administration Act 1953* (Cwlth) dealing with maintenance of capital items, is maintenance of the capital item.

**personal services** are optional services supplied or made available for the benefit, care or enjoyment of a resident of a retirement village.

*Examples of personal services—*

- laundry
- meals
- cleaning the resident's accommodation unit

**reinstatement work**, for an accommodation unit, means the replacements or repairs that are reasonably necessary to be done to reinstate the accommodation unit to a marketable condition having regard to—

- (a) the condition of the accommodation unit at the start of the former resident's occupation; and
- (b) the general condition of other accommodation units in the retirement village that are comparable with the accommodation unit.

**relative**, of a resident, means the resident's spouse, mother, step-mother, father, step-father, sister, step-sister, half-sister, brother, step-brother, half-brother, child or step-child.

**repairs**, to a capital item—

- (a) means the restoration of the item by fixing or replacing parts of the item; and
- (b) to the extent it is not inconsistent with paragraph (a), includes doing something that, under a ruling under the *Taxation Administration Act 1953* (Cwlth) dealing with repairs to capital items, is repairs to the capital item.

**replacement**, of a capital item—

- (a) means the substitution of the same type of item or an equivalent item; and

- (b) to the extent it is not inconsistent with paragraph (a), includes doing something that, under a ruling under the *Taxation Administration Act 1953* (Cwlth) dealing with replacement of capital items, is replacement of the capital item.’.
- (3) Schedule, definition *capital items*, paragraph (a), ‘are a resident’s contracted responsibility’—  
*omit, insert—*  
‘, under the residence contract, are to be maintained, repaired and replaced by the resident’.
- (4) Schedule, definition *capital items*, paragraph (b), after ‘village’—  
*insert—*  
‘, other than items that are body corporate property’.
- (5) Schedule, definition *special resolution*, paragraph (b)—  
*omit, insert—*  
‘(b) by at least three-quarters of the persons entitled to vote who vote—  
(i) personally or by proxy at the meeting; or  
(ii) by postal ballot.’.