

SA retirement village information for residents and prospective residents

Introduction

Moving into a retirement village is a major decision that has far-reaching effects. As a lifestyle decision, it is important that prospective residents carefully consider all the issues involved with making such a move.

Retirement villages are regulated under the *Retirement Villages Act 2016* (the Act) and the *Retirement Villages Regulations 2017* (the Regulations). The Department for Health and Ageing, through the Office for the Ageing (OFTA), is responsible for administering the Act and Regulations.

In relation to the administration of the Act and Regulations, OFTA fosters a policy of mediation and conciliation, as well as consumer protection. It also emphasises the disclosure of information to prospective residents and/or their families and friends to assist people in making an informed choice about housing options.

It is important that prospective residents, existing residents, residents' committees and operators understand their rights and responsibilities under the Act and Regulations.

The information provided in OFTA's information sheets is designed to help you understand these rights and obligations. It contains general information which is useful to consider before entering a village, and on a range of aspects relating to living in a retirement village.

The information is a guide only and is not intended to replace the Act and Regulations. It is recommended that you seek advice (family/friends/legal/financial) prior to making a decision about moving into a retirement village.

What are retirement villages?

Retirement villages are complexes of residences or a number of separate complexes of residences occupied or intended for occupation under a retirement village scheme.

The Act defines a retirement village scheme as one that is established (predominantly), for retired persons and their spouses under which:

- residences are occupied under a lease or licence, or
- the right of occupation is conferred by ownership of shares, or
- residences are purchased from the operator, subject to a right or option of repurchase, or
- residences are purchased by prospective residents on conditions restricting their subsequent disposal.



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It does not include a scheme where residents do not pay an ongoing contribution for admission as a resident.

What is the *Retirement Villages Act 2016*?

The *Retirement Villages Act 2016* (the Act) is a South Australian statute that regulates the operation of retirement villages and the rights of residents.

The objects of the Act are:

- to provide a regulatory framework for the operation of retirement villages in South Australia under which a balance is achieved between the rights and responsibilities of –
 - residents of retirement villages, and
 - operators of retirement villages
- to encourage best practice management standards among the operators of retirement villages
- to ensure that there is proper disclosure of information to prospective residents of retirement villages
- regulate the making, content, operation and termination of residence contracts, and
- to ensure that residents are properly consulted about matters affecting their residence in the retirement village
- to provide for dispute resolution processes.

Your rights under the Act

If you choose to live in a retirement village, you can expect that under the Act you will have various rights, and be entitled to a number of conditions which include:

- provision of a disclosure statement, residence contract and related documents which clearly disclose conditions associated with your right of occupancy and costs for which you will be responsible
- an operator who must consult with you on matters which may impact on your finances, lifestyle and the village, and provide you with information which responds to any reasonable questions you may have about the management of village finances
- the quiet enjoyment of your residence and chosen lifestyle
- possible access to a residents' committee which could keep you informed of village activities and provide the operator with information about the views of residents
- a clear village dispute resolution process and access to informal and formal, independent redress mechanisms which can assist in ensuring that your rights are protected.



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Commonly used terms

Capital fund: a contingency, sinking or other reserve fund or account established for capital replacement or improvements, long-term maintenance or other similar items in the retirement village (*the name of any fund & its purpose must be described in the residence contract*)

Capital items replacement fund: a fund usually set up for the replacement of capital items (*the name of any fund & its purpose must be described in the residence contract*)

Disclosure statement: a disclosure statement must be provided to a resident ten business days prior to a resident entering into (signing) a residence contract and provides information about financial arrangements relating to residents of the retirement village

Ingoing contribution: the payment made to secure the right to occupy a residence in a retirement village (this payment may or may not be part refundable and does not include a recurrent charge)

Long term maintenance fund (sinking fund): a fund usually set up to meet non-budgeted, unplanned expenses or long term maintenance e.g. external painting (*the name of any fund & its purpose must be described in the residence contract*)

Maintenance fee: often referred to instead of the term 'recurrent charge'

Operator: of a retirement village means the person by whom or on whose behalf the retirement village scheme is administered

Personal / additional Services: those services which can be made available to residents on a personal basis, often for a fee, and not necessarily provided to all residents

Recurrent charge: any amount payable to the operator on an ongoing basis (*must be described in the Residence Contract*)

Re-license: retirement village residences in South Australia are usually licensed to individuals. This grants occupancy rights. Once a contract is terminated and the residence vacated, the operator has the right to re-license that residence to another person

Residence contract (loan licence agreement, resident's agreement): a contract under which a person enters into occupation of a residence in a retirement village



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Residence rules: rules with which residents of a retirement village are expected to comply. Rules can only be amended in consultation with residents

Resident: a person who has been admitted to occupation in accordance with the terms of their residence contract

Retired person (eligible person): a person who is 55 years or older and has retired from full-time employment

Residential Aged Care Facility (formerly hostels and nursing homes): accommodation providing care for people who have been assessed by an Aged Care Assessment Team

Senior manager: means the person to whom the village manager reports or who is responsible for directing the activities of the village manager

Village manager: responsible for the day-to-day management of the retirement village

Disclaimer: In developing this information sheet, every effort has been made to ensure that the information reflects the intent of the legislation and/or represents examples of best known practice. The information contained in these resources does not constitute legal advice. The Office for the Ageing recommends that you seek your own legal advice should you require interpretation of the legislation.

For more information

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