

Retirement Villages (Miscellaneous) Amendment Bill 2024

The Retirement Villages (Miscellaneous) Amendment Bill 2024 (the Amendment Bill) was introduced into Parliament on 21 February 2024.

The table below describes how the proposed changes will apply to residents and prospective residents of retirement villages.

Clause (from Bill)	Section of RV Act	Proposed amendment	Prospective resident	Current resident	Notes
Before entering a village					
14	20	Residence contracts Requires additional mandatory information must be included in residence contracts, including 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 resident contract before the commencement of the changes, their existing contract will continue to apply.
14	20(3)	Residence contracts – prescribed terms Provides that the regulations may prescribe terms to be included in residence contracts.	✓	✓	A transitional provision is included to enable prescribed terms to have retrospective application, where appropriate.
14	21	Disclosure statements Provides that additional mandatory information must be included in disclosure statements, including all fees and charges the person will be responsible for, worked calculations of their exit entitlement at the two, five and ten year mark, embedded networks, and village composition.	✓	✗	For residents who entered into a resident contract before the commencement of the changes, 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 exit entitlement that would apply if they were to cease to reside at the retirement village (section 42).

Clause (from Bill)	Section of RV Act	Proposed amendment	Prospective resident	Current resident	Notes
15	22	Waiver of section 22 disclosure period Provides 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.
16	23	Premises condition report Provides that 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	✓	✗	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.
17	24	Timely repayment if contract rescinded Provides that if prospective resident rescinds contract under section 24, the operator must take reasonable steps to repay within 10 business days.	✓	✗	This provision is not applicable to current residents as the cooling off period will already have passed.
19	25A	Residence contract holding deposit Regulates the rights and responsibilities relating to residence contract holding deposits.	✓	✗	This provision is not applicable to current residents as they have already entered into a residence contract with the operator.
34	44	Termination during settling -in 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.	✓	✓	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.
Living in a village					
25	31A	Recurrent charges Provides that an operator may not increase recurrent charges by more than what is specified in the contract (or a fixed formula in	✓	✓	This provision will apply to both current and prospective residents.

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		the contract) or by CPI unless the majority of residence agree or by order of SACAT.			
27	33	Convening meetings of residents Provides that audited statements from the previous year must be clearly comparable with estimates for the current year and clarifies that the statement must be accompanied by a description but not monetary value of each item relating to management expenditure.	✓	✓	This provision will apply to both current and prospective residents.
29	36	Consultation with new operator Clarifies the consultation process with residents if there is a change of operator.	✓	✓	This provision will apply to both current and prospective residents.
30	39	Mandatory consultation with residents re annual budget Provides that recurrent charges and any potential increase must be discussed at the budget meetings held before the annual meeting and that the operator can provide unaudited accounts for the purpose of the meeting.	✓	✓	This provision will apply to both current and prospective residents.
31	41	Residence rules Provides 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.	✓	✓	This provision will apply to both current and prospective residents.
33	43A	Village safety Provides that the operator must ensure that the common areas of a village are reasonable safe.	✓	✓	Both current and prospective residents will benefit from the protections introduced by this amendment.

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33	43B	<p>Prescribed alterations</p> <p>Provides that a resident may, by notice in writing to the operator, request approval to make an alteration of a prescribed kind (eg 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.</p>	✓	✓	This provision will apply to both current and prospective residents.
35 & 36	45 & 46	<p>Dispute resolution</p> <p>Provides that an operator must follow their dispute resolution policy (unless otherwise agreed) and broadens the jurisdiction of the Tribunal to adjudicate a wider range of disputes.</p>	✓	✓	These provisions will apply to both current and prospective residents.
37	57C	<p>Duty to insure</p> <p>Provides that retirement village operators must ensure that adequate insurance is maintained.</p>	✓	✓	Both current and prospective residents will benefit from the protections introduced by this amendment.
37, 38, 39 and 40	57D	<p>Termination of a retirement village scheme (or part of)</p> <p>Updates the provisions relating to terminating a retirement village to ensure that the regulator and residents are notified early in the process and residents supported to obtain legal advice early in the process.</p> <p>Provision is made for an alternative administrative pathway for partial terminations where at least 90% of residents agree.</p>	✓	✓	Both current and prospective residents will benefit from the protections introduced by these amendments.
41	60	<p>Disqualified persons</p> <p>Expands the offences that disqualify a person from being an operator, village manager or senior manager.</p>	✓	✓	Both current and prospective residents will benefit from the protections introduced by these amendments.

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42 & 43	63 & 64	Code of conduct and training Expands the application of codes of conduct to staff within a retirement village (in addition to operators and residents) and requires operators and staff to undertake training on any codes of conduct applicable to them.	✓	✓	Both current and prospective residents will benefit from the protections introduced by these amendments.
Exiting a village					
20	27	Payment of exit entitlements Reduces the statutory repayment period for the repayment of exit entitlements to 12 months (plus 30 business days for refurbishment).	✓	✓	The statutory repayment period will apply to all retirement village residents once the amendment commences.
21	28	Cap on capital fund contributions Establishes a cap on the amount that may be deducted from an exit entitlement as a contribution towards capital funds (1% of current market value per year up to 12.5%).	✓	✗	During consultation, it was identified that the proposed cap would have a disproportionate impact on some villages, particularly small villages and those in regional areas. The cap will only applied prospectively as this will enable operators to adjust their business models accordingly.
24	31	Remarketing Requires 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.
Powers and functions of the regulator and Minister					
	12	Retirement villages register Additional information may be included on the register.	✓	✓	The expanded register will be online and publicly available to all retirement village residents and prospective residents.

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Various		Enforcement Expanded capacity to prosecute non-compliance, including increased offence provisions, written undertakings and additional powers to expiate (various provisions)	✓	✓	Both current and prospective residents will benefit from the protections introduced by these amendments.