

**Authorised Version No. 005**  
**Retirement Villages (Contractual  
Arrangements) Regulations 2006**

**S.R. No. 99/2006**

Authorised Version incorporating amendments as at  
1 July 2014

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**1 Objectives**

The objectives of these Regulations are to—

(a) prescribe conditions for the purposes of section 26(2)(c) of the **Retirement Villages Act 1986**; and

(b) provide for full or part payment of refundable in-going contributions to be brought forward to cover certain costs to former residents associated with aged care accommodation; and

(c) prescribe clauses to be included in residence contracts that set out how refundable in-going contributions are calculated in certain cases; and

Reg. 1(c)  
amended by  
S.R. No.  
52/2009  
reg. 5(1).

(d) prescribe a formula for the determination and indexing of maintenance charges for the purposes of section 38(1) of the Act; and

Reg. 1(d)  
inserted by  
S.R. No.  
52/2009  
reg. 5(2),  
amended by  
S.R. No.  
171/2013  
reg. 5(1).

(e) prescribe matters that must be, may be and must not be included in residence contracts and management contracts; and

Reg. 1(e)  
inserted by  
S.R. No.  
171/2013  
reg. 5(2).

Reg. 1(f)  
inserted by  
S.R. No.  
171/2013  
reg. 5(2).

(f) prescribe terms for residence contracts and management contracts; and

Reg. 1(g)  
inserted by  
S.R. No.  
171/2013  
reg. 5(2).

(g) prescribe the layout of residence contracts and management contracts.

## 2 Authorising provision

These Regulations are made under section 43 of the **Retirement Villages Act 1986**.

## 3 Commencement

These Regulations come into operation on 1 August 2006.

## 4 Definitions

In these Regulations—

Reg. 4 def. of  
*consumer price index number*  
inserted by  
S.R. No.  
52/2009 reg. 6.

*consumer price index number* means the all groups consumer price index number for Melbourne fixed by the Australian Statistician;

Reg. 4 def. of  
*existing retirement village*  
inserted by  
S.R. No.  
52/2009 reg. 6.

*existing retirement village* means a retirement village established before the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009;

Reg. 4 def. of  
*new retirement village*  
inserted by  
S.R. No.  
52/2009 reg. 6.

*new retirement village* means a retirement village established on or after the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009;

**owner** includes a person who alone or with others is the owner of an estate other than an estate in fee simple;

Reg. 4 def. of *owner* inserted by S.R. No. 171/2013 reg. 6.

**quarter** means a period of three months in any year that ends on 31 March, 30 June, 30 September or 31 December;

Reg. 4 def. of *quarter* inserted by S.R. No. 52/2009 reg. 6.

**relevant financial year** means in respect of a retirement village, a period that consists of 12 consecutive months, that commences on the date fixed by the manager of the retirement village and ends on the date fixed by the manager of the retirement village;

Reg. 4 def. of *relevant financial year* inserted by S.R. No. 52/2009 reg. 6.

**the Act** means the **Retirement Villages Act 1986**; and

**the Aged Care Act** means the Aged Care Act 1997 of the Commonwealth.

## **5 Condition for refund of in-going contribution to a non-owner resident**

- (1) Where the clauses in Schedule 1 have been inserted into a residence contract with a non-owner resident, it is a condition for the purposes of section 26(2)(c) of the Act that the non-owner resident or the non-owner resident's legal representative is entitled to recover the amount refundable under section 26(1) of the Act—
  - (a) if payment is made by another person under a residence contract in respect of the premises of the non-owner resident, that is at least the equivalent of the amount owed to the non-owner resident after the non-owner resident has delivered up vacant possession of the premises, on a day not more than

- 14 days after the day on which the payment is made; or
- (b) on a day not more than 14 days after the day on which another person takes up residence in the premises of the non-owner resident after the non-owner resident has delivered up vacant possession of the premises; or
  - (c) following a court or tribunal finding that the owner has breached any of the clauses in Schedule 1—

whichever is earliest.

(2) Where—

- (a) it is a condition of a residence contract with a non-owner resident that—
  - (i) the amount of the in-going contribution is determined with reference to factors other than or in addition to the market value of the residence right; and
  - (ii) the amount of the in-going contribution is accordingly less than the market value of the residence right; and
- (b) the clauses in Schedule 2 have been inserted into the residence contract—

it is a condition for the purposes of section 26(2)(c) of the Act that the non-owner resident or the non-owner resident's legal representative is entitled to recover the refundable in-going contribution—

- (c) if payment is made by another person under a residence contract in respect of the premises of the non-owner resident, that is at least the equivalent of the amount owed to the non-owner resident after the non-owner resident has delivered up vacant possession of the premises, on a day not more than

- 14 days after the day on which the payment is made; or
- (d) on a day not more than 14 days after the day on which another person takes up residence in the premises of the non-owner resident after the non-owner resident has delivered up vacant possession of the premises; or
  - (e) following a court or tribunal finding that the owner has breached any of the clauses in Schedule 2—

whichever is earliest.

- (3) If the whole or any part of a refundable in-going contribution has been paid to the non-owner resident under regulation 6, subregulations (1) and (2) do not apply to the extent of that payment.

## **6 Payment of certain aged care costs**

- (1) In this regulation, *entitled person* means a former non-owner resident of a retirement village—
  - (a) all or part of whose in-going contribution is a refundable in-going contribution; and
  - (b) who is not yet entitled to the refundable in-going contribution under the terms of his or her residence contract; and
  - (c) who has been accepted into a residential care facility as an approved care recipient within the meaning of the Aged Care Act; and
  - (d) who has agreed to pay a lump sum to the approved provider of the residential care facility as an accommodation bond or part of an accommodation bond within the meaning of the Aged Care Act.

(2) On request by an entitled person, the owner of the retirement village must pay to the entitled person that part of the unpaid refundable in-going contribution that is equivalent to the amount that the entitled person demonstrates that he or she is required, at the time of the request, to pay in interest accrued on the accommodation bond to the approved provider of the residential care facility under the Aged Care Act.

(3) If—

(a) on or after the determined date, the entitled person will be subject to a requirement to pay a lump sum to an approved provider of the residential care facility as an accommodation bond or part of an accommodation bond within the meaning of the Aged Care Act; and

(b) the entitled person notifies the owner of the retirement village in writing that the entitled person will be so subject—

the owner of the retirement village must (in accordance with subregulation (4)) pay to the entitled person—

(c) in the case where the amount of the unpaid refundable in-going contribution is equal to or less than the lump sum, the amount of the unpaid refundable in-going contribution; or

(d) in the case where the amount of the unpaid refundable in-going contribution is more than the lump sum, the amount of the lump sum.

(4) Payment must be made under subregulation (3) by the owner of the retirement village—

(a) on or before the determined date, where notice has been given at least 14 days before the determined date; or



- (b) no later than 14 days after the giving of the notice, where notice has not been given at least 14 days before the determined date.
- (5) In this regulation the *determined date*, in relation to an entitled person, means the date that is the latest of—
- (a) 6 months after the entitled person delivers up vacant possession of his or her premises in the retirement village; or
  - (b) 6 months after the entitled person enters into a residential care facility; or
  - (c) the date on which the entitled person is required to pay the lump sum to the approved provider of the residential care facility as an accommodation bond or part of an accommodation bond.

**7 Calculation of amount of refundable in-going contribution where original in-going contribution was based on market value**

Where—

- (a) under a residence contract with a non-owner resident, the resident's refundable in-going contribution is to be calculated with reference to the amount that will be paid as an in-going contribution by the next resident of the subject premises; and
- (b) the residence contract is not a contract to which regulation 8 applies—

the clauses set out in Schedule 3 are incorporated into that residence contract.

**8 Calculation of amount of refundable in-going contribution where original in-going contribution less than market value**

Where—

- (a) it is a condition of a residence contract entered into with a non-owner resident that—
  - (i) the amount of the in-going contribution is determined with reference to factors other than or in addition to the market value of the residence right; and
  - (ii) the amount of the in-going contribution is accordingly less than the market value of the residence right; and
- (b) the residence contract provides for a refundable in-going contribution to be calculated with reference to the amount that will be paid as an in-going contribution by the next resident of the subject premises—

the clauses set out in Schedule 4 are incorporated into the residence contract.

Reg. 8A  
inserted by  
S.R. No.  
52/2009 reg. 7.

**8A Formula for calculation of adjusted maintenance charge**

- (1) The adjusted maintenance charge for a relevant financial year for an existing retirement village or a new retirement village that has been in operation for at least one relevant financial year must be determined in accordance with subregulation (2).
- (2) For the purposes of subregulation (1), the adjusted maintenance charge must be determined for each relevant financial year for the retirement village in accordance with the formula—

$$A \times \frac{B}{C}$$

where—

*A* is—

- (i) subject to subparagraph (ii), the adjusted maintenance charge for the previous relevant financial year for the village; or
- (ii) in the case of a new retirement village that has been in operation for only one relevant financial year, the maintenance charge for that relevant financial year for the village;

*B* is the sum of the consumer price index numbers for 4 consecutive quarters, the last of which immediately precedes the commencement of the relevant financial year for the village;

*C* is the sum of the consumer price index numbers for 4 consecutive quarters, the last of which immediately precedes the commencement of the previous relevant financial year for the village.

- (3) The amount obtained by the application of the formula set out in subregulation (2) may be rounded to the nearest multiple of 10 cents.

**Example calculation**

For a retirement village with a relevant financial year of 1 July–30 June, the adjusted maintenance charge payable for the period 1 July 2009–30 June 2010 is calculated as follows—

"A" is the amount of adjusted maintenance charge payable from 1 July 2008–30 June 2009;

"B" is the sum of the consumer price index numbers for June 2008, September 2008, December 2008 and March 2009;

"C" is the sum of the consumer price index numbers for June 2007, September 2007, December 2007 and March 2008.

Reg. 8B  
inserted by  
S.R. No.  
171/2013  
reg. 7.

**8B Matters that must not be included in residence and management contracts**

The following matters must not be included in a residence contract or a management contract—

- (a) a requirement for a resident to have a will or to advise the owner or manager of its location;
- (b) a requirement for a resident to take out any insurance policy other than a liability policy for any motorised wheelchair operated by the resident;
- (c) a requirement for a resident to pay the owner's or manager's costs for corresponding with the resident or for preparing or providing information required to be given to the resident other than costs of any audit under section 34(4) of the Act;
- (d) a restriction on a resident's absence from the village other than a restriction that would result in the resident's premises no longer being the resident's principal place of residence—where the amount of the resident's refundable in-going contribution depends on the duration of the resident's residence in the village and on the assumption that the premises are the resident's principal place of residence;
- (e) a requirement for a resident to pay liquidated damages for breach of a contract, other than a requirement to forfeit a deposit, or of a by-law relating to the village;
- (f) an exclusion of or limitation on the owner's or manager's liability for default or breach of duty;

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- (g) a right to recover administration and operating costs from a resident other than those—
    - (i) incurred while the resident resided in the village; or
    - (ii) associated with the resale or re-leasing of the resident's premises; or
    - (iii) recoverable under sections 38A and 38B of the Act;
  - (h) a requirement, other than a requirement of a clause incorporated by regulation 7, for a resident to pay more than half the costs of any valuation of the resident's premises or residence right that is required or permitted, except where the resident has acted unreasonably;
  - (i) a requirement for a resident to pay costs of enforcing the contract;
  - (j) a right of an owner or manager to relocate a resident to other premises without the resident's consent, except for an emergency (including where the resident's premises are destroyed or severely damaged or where a resident's safety, health or property is endangered);
  - (k) a restriction on the operation or membership of the residents committee;
  - (l) a provision to the effect that the written contract represents the entire agreement between the parties.

Reg. 8C  
inserted by  
S.R. No.  
171/2013  
reg. 7.

**8C Matters that must be included in residence and management contracts**

(1) A residence contract must—

(a) specify the following—

- (i) the date of the contract and, if the commencement date is different, the date the contract commences;
- (ii) the owner's name, address and address for service;
- (iii) the resident's name and address;
- (iv) the address of the residential premises;
- (v) the duration of the contract;
- (vi) the resident's garage, storeroom and parking entitlements (other than as accessories to any strata title of the resident);
- (vii) the date of occupation of the premises or the date of the resident's right to occupy the premises (as the case may be);
- (viii) the fixtures, fittings and furnishings provided by the owner with the residential premises; and

(b) address the following matters—

- (i) the resident's ability to alter and add to their residential premises;
- (ii) the resident's ability to transfer to other residential premises or other types of accommodation;
- (iii) if the residential premises are incomplete, the resident's ability to determine the design, construction and furnishing of the premises;

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- (iv) any restrictions on the resident's use of the residential premises;
  - (v) any restrictions on pets, visitors and car parking;
  - (vi) any restrictions on the persons to whom the resident can transfer the residential premises;
  - (vii) any rights of access of the owner to the resident's premises;
  - (viii) any right of the owner to relocate the resident to other premises in an emergency and without the resident's consent;
  - (ix) any legal costs of the owner payable by the resident;
  - (x) all costs and charges payable by the resident to the owner to gain entry to the village including any ingoing contribution and whether interest is payable to the resident;
  - (xi) all costs and charges payable by the resident to the owner during his or her residency in the village and the period after the resident has ceased to be a resident for which any such cost or charge continues to be payable;
  - (xii) all costs, fees and charges payable by the resident to the owner on permanent departure from their premises;
  - (xiii) the method of calculating any refundable ingoing contribution that the owner is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties;

- (xiv) the time when the refund referred to in subparagraph (xiii) is payable to the resident;
  - (xv) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the owner takes out;
  - (xvi) who is responsible for maintaining the residential premises, including replacement and maintenance of fixtures, fittings and furnishings;
  - (xvii) what renovation or reinstatement of the resident's premises will be required and who is liable for the cost;
  - (xviii) how the contract may be terminated, including any minimum advance notice;
  - (xix) the resident's right to refuse to agree to amendments to or termination of the contract;
  - (xx) the by-laws relating to the village (unless this matter is included in the management contract).
- (2) A management contract must—
- (a) specify the following—
    - (i) the date of the contract and, if the commencement date is different, the date the contract commences;
    - (ii) the manager's name, address and address for service;
    - (iii) the resident's name and address;
    - (iv) the address of the residential premises;



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- (v) the duration of the contract;
  - (vi) the services to be provided to the resident by the manager, including any service that, before the resident entered into the contract, the manager or its agents represented to the resident would be provided or made available and the date (if any) on or by which it was represented that such service would be provided or made available; and
- (b) address the following matters—
- (i) any rights of access of the manager to the resident's premises;
  - (ii) any legal costs of the manager payable by the resident;
  - (iii) all costs and charges payable by the resident to the manager during his or her residency in the village, including maintenance charges, and the period after the resident has ceased to be a resident for which any such cost or charge continues to be payable;
  - (iv) the matters for which maintenance charges may be used;
  - (v) how and when maintenance charges can be adjusted;
  - (vi) the repair and maintenance procedure for the resident's premises, including the responsibilities of the manager and the resident;
  - (vii) how special levies can be imposed;

- (viii) the method of calculating any refund of the ingoing contribution that the manager is liable to make to the resident, including how capital gains or losses are shared and any applicable fees, charges and financial penalties;
- (ix) the time when the refund referred to in subparagraph (viii) is payable to the resident;
- (x) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the manager takes out;
- (xi) how the contract may be terminated, including any minimum advance notice;
- (xii) the resident's right to refuse to agree to amendments to or termination of the contract;
- (xiii) the by-laws relating to the village (unless this matter is included in the residence contract);
- (xiv) the process for consultation with the resident or with the residents of the village on the proposed exercise of any right to change services provided by the manager that will result in a material change in the services provided.

Reg. 8D  
inserted by  
S.R. No.  
171/2013  
reg. 7.

**8D Matters that may be included in residence or management contracts**

Without limiting the matters that may be included in a residence contract or a management contract, they may include a warning that the resident should take out a house contents insurance policy or public liability insurance policy.

**8E Prescribed terms for residence and management contracts**

- (1) Subject to subregulation (3), a residence contract must contain the terms set out in Part A of Schedule 5 and is taken to include those terms.
- (2) Subject to subregulation (3), a management contract must contain the terms set out in Part B of Schedule 5 and is taken to include those terms.
- (3) Where, by this regulation, the same term would be required to be contained in and taken to be included in a residence contract and a management contract and where, as a matter of law or contract, the term is applicable only to one of those contracts, the term need not be contained in, nor is it to be taken to be included in, the other contract.
- (4) This regulation does not derogate from any term implied by law into a residence contract or management contract.

Reg. 8E  
inserted by  
S.R. No.  
171/2013  
reg. 7.

**8F Layout of residence and management contracts**

- (1) Subject to subregulation (5), a residence contract must be in the form set out in Part A of Schedule 6, including as to the order of matters.
- (2) Subject to subregulation (5), a management contract must be in the form set out in Part B of Schedule 6, including as to the order of matters.
- (3) Subject to subregulation (5), a combined residence contract and management contract where the owner and manager are the same person must be in the form set out in Part C of Schedule 6, including as to the order of matters.

Reg. 8F  
inserted by  
S.R. No.  
171/2013  
reg. 7.

- (4) Subject to subregulation (5), a combined residence contract and management contract, where the owner and manager are not the same person, must be in the form set out in Part D of Schedule 6, including as to the order of matters.
- (5) If, in a form of contract under this regulation, the same right or obligation is ascribed to the owner and manager but, as a matter of law or contract, only one has that right or obligation in relation to the resident, it may be omitted from the rights or obligations ascribed to the other.
- (6) It is sufficient compliance with the requirement of this regulation to insert relevant rights, obligations and other matters under the headings in the section of the relevant contract headed, "Matters required by the Regulation 8C of the Retirement Villages (Contractual Arrangements) Regulations 2006 to be addressed", if the text of the relevant rights, obligations and other material is inserted under the relevant heading and any variable matters are set out in a schedule or attachment to the contract.

Reg. 8G  
inserted by  
S.R. No.  
171/2013  
reg. 7.

**8G Regulations 8B, 8C, 8E and 8F do not apply to agreement to lease or contract of sale**

- (1) Subregulation (2) applies if a residence contract is annexed to an agreement to lease or if a management contract is annexed to a contract of sale of land, to a contract of sale of a unit in a unit trust or to a contract of sale of a share in a corporation.
- (2) Regulations 8B, 8C, 8E and 8F apply only to the residence contract or the management contract (as the case may be) and not to the agreement to lease or contract of sale.

### **8H Contracting out**

- (1) A provision in a contract or document concerning a retirement village which purports to exclude, modify or restrict the operation of regulations 8B, 8C, 8E or 8F is void.
- (2) If a contract or document includes a provision which is void under subregulation (1), that subregulation does not affect the validity or enforceability of other provisions of the contract or document, in so far as they are severable from the void provisions.

Reg. 8H  
inserted by  
S.R. No.  
171/2013  
reg. 7.

### **9 Transitional**

- (1) These Regulations, other than regulation 8A, do not apply to a residence contract entered into prior to the commencement of these Regulations.
- (2) In respect of any residence contract entered into by an owner and a non-owner resident after the commencement of these Regulations and before the end of 16 September 2006, being a contract which does not contain either the clauses in Schedule 1 or the clauses in Schedule 2, a condition in the residence contract which entitles the non-owner resident or the non-owner resident's legal personal representative to recover the amount refundable under section 26(1) as a consequence of either—
  - (a) the payment being made by another person under a residence contract of an in-going contribution in respect of the premises of the non-owner resident; or
  - (b) the happening of another event that precedes payment being made by another person under a residence contract of an in-going contribution in respect of the premises of the non-owner resident—

Reg. 9(1)  
amended by  
S.R. No.  
52/2009  
reg. 8(1).

is a condition for the purposes of section 26(2)(c) of the Act.

Reg. 9(3)  
inserted by  
S.R. No.  
52/2009  
reg. 8(2).

(3) Despite anything to the contrary in these Regulations, if at the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009, the last relevant financial year for an existing retirement village is yet to be completed, the adjusted maintenance charge payable for the remaining period of that financial year is to be calculated in accordance with the law as in force prior to the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009.

Reg. 9(4)  
inserted by  
S.R. No.  
52/2009  
reg. 8(2).

(4) Despite anything to the contrary in these Regulations, if an existing retirement village is determining an adjusted maintenance charge for the first time after the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009 in accordance with regulation 8A, in the formula set out in regulation 8A(2), "A" is deemed to be the adjusted maintenance charge that would have been payable for the last relevant financial year for the village commencing in the 12 months before the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009, under the law as in force at the commencement of the last relevant financial year.

#### Notes

- 1 Where an existing retirement village is part way through its financial year at the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009, all remaining adjusted maintenance charge payments for that year are to be in accordance with the formula prescribed under the Retirement Villages Regulations 1998.

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- 2 For an existing retirement village, "A" will be equal to the last adjusted maintenance charge determined in accordance with the Retirement Villages Regulations 1998 for the first adjustment following the commencement of the Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009. For all subsequent years, "A" will be equal to the adjusted maintenance charge determined in the previous relevant financial year.
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## **SCHEDULES**

### **SCHEDULE 1**

Regulation 5(1)

#### **CONDITIONS TO BE INCLUDED IN CERTAIN RESIDENCE CONTRACTS**

- 1 The parties agree that once the owner is notified in writing that the non-owner resident intends to deliver up vacant possession of his or her premises in the retirement village, the owner will ask the resident to advise the owner in writing within 5 business days whether or not the resident wishes the residence right relating to the premises to be sold through an estate agent who is not otherwise involved in the operation of the retirement village.
- 2 The owner agrees that if the resident advises in writing under clause 1 that the resident wishes the residence right to be sold through an estate agent not otherwise involved in the operation of the retirement village, the owner will appoint such an estate agent.
- 3 The owner agrees that an estate agent appointed under clause 2 must be an estate agent agreed between the owner and the resident.
- 4 If the owner and the resident cannot agree on an estate agent, the owner and the resident must use their best endeavours to agree on a fair and reasonable process for the selection and appointment of an estate agent.
- 5 The owner agrees that the owner's instructions to an estate agent appointed under clause 2 must be consistent with all reasonable endeavours being made to secure a residence contract with another person in respect of the premises and to procure payment of the in-going contribution from that person under that residence contract.



- 6 The owner agrees that if the resident does not advise in writing under clause 1 that the resident wishes the residence right to be sold through an estate agent not otherwise involved in the operation of the retirement village, the owner will make all reasonable endeavours to secure a residence contract with another person in respect of the premises and to procure payment of the in-going contribution from that person under that residence contract.
- 7 If, at any time, the resident advises the owner in writing of a price at which, or a price range within which, the resident wishes offers to be invited, the owner must not invite offers outside that range without the written agreement of the resident.
- 8 The owner must provide the resident at the end of each named month with a written summary of inquiries received about purchase of the residence right.
- 9 The owner must advise the resident without delay of any offer received to purchase the residence right.
- 10 Where the resident advises the owner in writing that the resident wishes a particular offer to purchase the residence right to be accepted, the owner must not unreasonably refuse or fail to accept the offer.
- 11 The owner must not reach an agreement with a prospective purchaser of the residence right on a purchase price without first obtaining the agreement of the resident to that purchase price.
- 12 The resident must not unreasonably refuse to agree in respect of the matters in clauses 7 and 11.
- 13 The owner agrees not to make any unreasonable charges on the resident in relation to the process of selling the residence right.

Retirement Villages (Contractual Arrangements) Regulations 2006

Sch. 1

S.R. No. 99/2006

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14 In clauses 1–13—

*estate agent* has the same meaning as in the **Estate Agents Act 1980**.

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**SCHEDULE 2**

Regulation 5(2)

**CONDITIONS TO BE INCLUDED IN CERTAIN RESIDENCE CONTRACTS**

- 1 The parties agree that once the owner is notified in writing that the non-owner resident intends to deliver up vacant possession of his or her premises in the retirement village, the owner will ask the resident to advise the owner in writing within 5 business days whether or not the resident wishes the residence right relating to the premises to be sold through an estate agent who is not otherwise involved in the operation of the retirement village.
- 2 The owner agrees that if the resident advises in writing under clause 1 that the resident wishes the residence right to be sold through an estate agent not otherwise involved in the operation of the retirement village, the owner will appoint such an estate agent.
- 3 The owner agrees that an estate agent appointed under clause 2 must be an estate agent agreed between the owner and the resident.
- 4 If the owner and the resident cannot agree on an estate agent, the owner and the resident must use their best endeavours to agree on a fair and reasonable process for the selection and appointment of an estate agent.
- 5 The owner agrees that the owner's instructions to an estate agent appointed under clause 2 must be consistent with all reasonable endeavours being made to secure a residence contract with another person in respect of the premises and to procure payment of the in-going contribution from that person under that residence contract.
- 6 The owner agrees that if the resident does not advise in writing under clause 1 that the resident wishes the residence right to be sold through an estate agent not otherwise involved in the operation of the retirement village, the owner will make all reasonable endeavours to

secure a residence contract with another person in respect of the premises and to procure payment of the in-going contribution from that person under that residence contract.

- 7 The owner must provide the resident at the end of each named month with a written summary of inquiries received about purchase of the residence right.
  - 8 The owner must advise the resident without delay of any offer received to purchase the residence right.
  - 9 The owner agrees not to make any unreasonable charges on the resident in relation to the process of selling the residence right.
  - 10 In clauses 1–9—  
*estate agent* has the same meaning as in the **Estate Agents Act 1980**.
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**SCHEDULE 3**

Regulation 7

**CALCULATION OF REFUNDABLE IN-GOING  
CONTRIBUTION BASED ON MARKET VALUE**

- 1 The following clauses apply if the resident becomes entitled to payment of the refundable in-going contribution before another person has paid an in-going contribution in respect of the premises of the non-owner resident.
- 2 The parties agree that the refundable in-going contribution will be calculated as if another person had paid the proxy amount determined in accordance with clause 3 as an in-going contribution under a residence contract in relation to the premises.
- 3 For the purposes of clause 2, the proxy amount is the current market value of the residence right as determined by an independent valuation obtained from—
  - (a) an independent valuer agreed by the parties; or
  - (b) if the parties cannot agree, a valuer appointed by the President of the Victorian Division of the Australian Property Institute.
- 4 The parties agree that—
  - (a) if the resident is entitled under this contract to a proportion of any amount by which the in-going contribution paid by the resident is exceeded by the next in-going contribution paid in respect of the premises, the resident is liable for the costs of a valuation under clause 3 in the same proportion; and
  - (b) the owner is liable for any costs of a valuation under clause 3 for which the resident is not liable under subclause (a).

- 5 In clause 3, *Victorian Division of the Australian Property Institute* means the division of the association registered as the Australian Property Institute under the Associations Incorporation Act 1985 of South Australia managing the association's business in Victoria.
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**SCHEDULE 4**

Regulation 8

**CALCULATION OF REFUNDABLE IN-GOING  
CONTRIBUTION WHERE IN-GOING CONTRIBUTION LESS  
THAN MARKET VALUE**

- 1 The following clauses apply if the non-owner resident becomes entitled to payment of the refundable in-going contribution before another person has paid an in-going contribution in respect of the premises of the non-owner resident.
- 2 The parties agree that—
  - (a) if—
    - (i) the amount of the in-going contribution being sought in respect of the premises is determined with reference to factors other than or in addition to the market value of the residence right; and
    - (ii) the amount of the in-going contribution is accordingly less than the market value of the residence right—

clause 3 will apply; and
  - (b) in any other case, clause 5 will apply.
- 3 Under subclause (2)(a), the refundable in-going contribution will be calculated as if another person had paid the proxy amount determined in accordance with subclause (4) as an in-going contribution under a residence contract in relation to the premises.

- 4 For the purposes of subclause (3), the proxy amount is—
- (a) the amount paid as an in-going contribution by the resident, indexed in accordance with the following formula—
- $$A \times \frac{B}{C}$$
- where—
- A* is the amount of in-going contribution paid by the resident; and
- B* is the CPI for the quarter previous to the quarter in which the payment of the refundable in-going contribution falls due; and
- C* is the CPI for the quarter previous to the quarter in which the in-going contribution was paid by the resident under the residence contract; or
- (b) if a higher amount is agreed between the parties, that amount.
- 5 If subclause (2)(b) applies, the refundable in-going contribution will be calculated as if another person had paid the proxy amount determined in accordance with subclause (6) as an in-going contribution under a residence contract in relation to the premises.
- 6 For the purposes of clause 5, the proxy amount is the current market value of the residence right as determined by an independent valuation obtained from—
- (a) an independent valuer agreed by the parties; or
- (b) if the parties cannot agree, a valuer appointed by the President of the Victorian Division of the Australian Property Institute.



7 The parties agree that—

- (a) if the resident is entitled under this contract to a proportion of any amount by which the in-going contribution paid by the resident is exceeded by the next in-going contribution paid in respect of the premises, the resident is liable for the costs of a valuation under clause (6) in the same proportion; and
- (b) the owner is liable for any costs of a valuation under clause (6) for which the resident is not liable under subclause (a).

8 In clauses 1–7 and this clause—

*Australian Statistician* has the same meaning as it has in the Australian Bureau of Statistics Act 1975 of the Commonwealth;

*CPI* means the All Groups Consumer Price Index number (for Melbourne) published by the Australian Statistician; and

*Victorian Division of the Australian Property Institute* means the division of the association registered as the Australian Property Institute under the Associations Incorporation Act 1985 of South Australia managing the association's business in Victoria.

Sch. 5  
inserted by  
S.R. No.  
171/2013  
reg. 8.

## SCHEDULE 5

### PART A

Regulation 8E(1)

#### PRESCRIBED TERMS FOR RESIDENCE CONTRACTS

##### Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

##### Basic obligations of the owner

The owner must—

- (a) give exclusive and vacant possession of the resident's premises in a clean and tidy condition; and
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

##### Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of the owner, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village; and

- (f) if the owner exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right—

- (a) to any payment that the owner is liable to make consequent on the resident's permanent departure from their premises or death, unaffected by termination of the residence contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently departing the premises, subject to making good any damage caused by the removal; and
- (c) if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain—to not be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) The owner and the resident must deal with each other in good faith.

**PART B**

Regulation 8E(2)

**PRESCRIBED TERMS FOR MANAGEMENT CONTRACTS**

Primacy of the **Retirement Villages Act 1986** and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the manager

The manager must—

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and

- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of the manager, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village.

Basic rights of the resident

The resident has the right to any payment that the manager is liable to make consequent on the resident's permanent departure from their premises or death, unaffected by termination of the management contract, whether for breach of contract or otherwise.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) The manager and the resident must deal with each other in good faith.

**SCHEDULE 6**

**PART A**

Regulation 8F(1)

Sch. 6  
inserted by  
S.R. No.  
171/2013  
reg. 8.

**[TRADING NAME OF VILLAGE]**

**RESIDENCE CONTRACT**

*[on front page of contract]*

**COOLING-OFF RIGHT**

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by—

- giving a notice of cancellation to [*name or abbreviation of owner*] or our agent; or
- ending the notice to [*name or abbreviation of owner*] at the above mentioned address for service of notices or to the address of our agent.

If you cancel, [*name or abbreviation of owner*] may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Date contract signed:

Name and address of village owner:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises [*delete whichever is inapplicable*]:

Date contract commences [*if different from above*]:

Term of contract/date contract expires [*delete whichever is inapplicable*]:

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner with the resident's premises are as follows:

**OPERATIVE WORDS**

*[insert any desired statement of the nature or operation of the contract, for instance, the grant of the interest in the premises]*

**PRESCRIBED TERMS UNDER REGULATION 8E OF THE  
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)  
REGULATIONS 2006**

Primacy of the **Retirement Villages Act 1986** and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the owner

*[name or abbreviation of owner]* must—

- (a) give exclusive and vacant possession of the resident's premises in a clean and tidy condition; and
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of *[name or abbreviation of owner]*, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village; and

- (f) if [*name or abbreviation of owner*] exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right—

- (a) to any payment that [*name or abbreviation of owner*] is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal; and
- (c) [*if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain*] not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) [*name or abbreviation of owner*] and the resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 8C OF THE  
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)  
REGULATIONS 2006 TO BE ADDRESSED**

Costs payable on entry [*refer to regulation 8C(1)(b)(x)*]

Costs payable during residency [*refer to regulation 8C(1)(b)(xi)*]

Costs payable on departure [*refer to regulation 8C(1)(b)(xii)*]

Owner's legal costs [*refer to regulation 8C(1)(b)(ix)*]

Costs of renovation or reinstatement [*refer to regulation 8C(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulation 8C(1)(b)(xiii) and (xiv)*]

Maintenance of the resident's premises [*refer to regulation 8C(1)(b)(xvi)*]

Village insurance [*refer to regulation 8C(1)(b)(xv)*]

Any restrictions relating to the resident's premises [*refer to regulation 8C(1)(b)(i)–(viii)*]

Termination and amendment of the contract [*refer to regulation 8C(1)(b)(xviii) and (xix)*]

The village by-laws [*refer to regulation 8C(1)(b)(xx)—unless set out in the management contract*]

**OTHER TERMS—WHICH MUST NOT INCLUDE ANY TERM PROHIBITED BY THE RETIREMENT VILLAGES ACT 1986 OR REGULATIONS**

**PART B**

Regulation 8F(2)

**[TRADING NAME OF VILLAGE]**

**MANAGEMENT CONTRACT**

Date contract signed:

Name and address of village manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date contract commences:

Term of contract/date contract expires [*delete whichever is inapplicable*]:

The services to be provided to the resident—including any service that, before the resident entered into the contract, [*name or abbreviation of manager*] or its agents represented to the resident would be provided or made available, and the date (if any) on or by which it was represented that such service would be provided or made available—are as follows—

*[insert services and where applicable date service is to be provided or made available]*

**OPERATIVE WORDS**

*[insert any desired statement of the nature or operation of the contract]*

**PRESCRIBED TERMS UNDER REGULATION 8E OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2006**

Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and



other applicable legislation, including any inconsistency with these prescribed terms.

Basic obligations of the manager

[*name or abbreviation of manager*] must—

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of [*name or abbreviation of manager*], its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village.

Basic rights of the resident

The resident has the right to any payment that [*name or abbreviation of manager*] is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the management contract, whether for breach of contract or otherwise.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) [*name or abbreviation of manager*] and the resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 8C OF THE  
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)  
REGULATIONS 2006 TO BE ADDRESSED**

Costs payable during residency [*refer to regulation 8C(2)(b)(iii)*]

Manager's legal costs [*refer to regulation 8C(2)(b)(ii)*]

Adjustments to maintenance charges [*refer to regulation 8C(2)(b)(v)*]

Use of maintenance charges [*refer to regulation 8C(2)(b)(iv)*]

The repair and maintenance procedure [*refer to regulation 8C(2)(b)(vi)*]

Consultation on changes to services [*refer to regulation 8C(2)(b)(xiv)*]

Special levies [*refer to regulation 8C(2)(b)(vii)*]

Resident's exit entitlement [*refer to regulation 8C(2)(b)(viii) and (ix)*]

Village insurance [*refer to regulation 8C(2)(b)(x)*]

Manager's right of access to the resident's premises [*refer to regulation 8C(2)(b)(i)*]

Termination and amendment of the contract [*refer to regulation 8C(2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 8C(2)(b)(xiii)—unless set out in the residence contract*]

**OTHER TERMS—WHICH MUST NOT INCLUDE ANY TERM  
PROHIBITED BY THE RETIREMENT VILLAGES ACT 1986 OR  
REGULATIONS**

**PART C**

Regulation 8F(3)

**[TRADING NAME OF VILLAGE]**

**RESIDENCE AND MANAGEMENT CONTRACT**

*[on front page of contract]*

**COOLING-OFF RIGHT**

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by—

- giving a notice of cancellation to [*name or abbreviation of owner/manager*] or our agent; or
- sending the notice to [*name or abbreviation of owner/manager*] at the above mentioned address for service of notices or to the address of our agent.

If you cancel, [*name or abbreviation of owner/manager*] may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Date contract signed:

Name and address of the person who is the village owner and manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises [*delete whichever is inapplicable*]:

Date contract commences [*if different from above*]:

Term of contract/date contract expires [*delete whichever is inapplicable*]:

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner and manager with the resident's premises are as follows:

The services to be provided to the resident—including any service that, before the resident entered into the contract, [*name or abbreviation of manager*] or its agents represented to the resident would be provided or made available, and the date (if any) on or by which it was represented that such service would be provided or made available—are as follows—

[*insert services and where applicable date service is to be provided or made available*]

#### OPERATIVE WORDS

[*insert any desired statement of the nature or operation of the contract, for instance, in relation to the residence contract, the grant of the interest in the premises*]

#### PREScribed TERMS UNDER REGULATION 8E OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2006

##### Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

##### Basic obligations of the owner and manager

[*name or abbreviation of the owner/manager*] must—

- (a) give exclusive and vacant possession of the resident's premises in a clean and tidy condition; and
- (b) use best endeavours to ensure that its tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (c) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (d) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (e) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of [*name or abbreviation of owner/manager*], its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village; and
- (f) if [*name or abbreviation of owner/manager*] exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right—

- (a) to any payment that [*name or abbreviation of owner/manager*] is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract or the management contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal; and
- (c) [*if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain*] not to be liable for fair wear and tear to the resident's premises.

General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) [*name or abbreviation of owner/manager*] and the resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 8C OF THE  
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)  
REGULATIONS 2006 TO BE ADDRESSED**

Costs payable on entry [*refer to regulation 8C(1)(b)(x)*]

Costs payable during residency [*refer to regulation 8C(1)(b)(xi) and (2)(b)(iii)*]

Costs payable on departure [*refer to regulation 8C(1)(b)(xii)*]

Legal costs [*refer to regulation 8C(1)(b)(ix) and (2)(b)(ii)*]

Costs of renovation or reinstatement [*refer to regulation 8C(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulation 8C(1)(b)(xiii), (xiv) and (2)(b)(viii) and (ix)*]

Adjustments to maintenance charges [*refer to regulation 8C(2)(b)(v)*]

Special levies [*refer regulation 8C(2)(b)(vii)*]

Use of maintenance charges [*refer to regulation 8C(2)(b)(iv)*]

Maintenance of the resident's premises [*refer to regulation 8C(1)(b)(xvi)*]

The repair and maintenance procedure [*refer to regulation 8C(2)(b)(vi)*]

Village insurance [*refer to regulation 8C(1)(b)(xv) and (2)(b)(x)*]

Consultation on changes to services [*refer to regulation 8C(2)(b)(xiv)*]

Any restrictions relating to the resident's premises [*refer to regulation 8C(1)(b)(i)–(viii)*]

Manager's right of access to resident's premises [*refer to regulation 8C(2)(b)(i)*]

Termination and amendment of the contract [*refer to regulation 8C(1)(b)(xviii) and (xix) and (2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 8C(1)(b)(xx) and (2)(b)(xiii)*]

**OTHER TERMS—WHICH MUST NOT INCLUDE ANY TERM  
PROHIBITED BY THE RETIREMENT VILLAGES ACT 1986 OR  
REGULATIONS**

**PART D**

Regulation 8F(4)

**[TRADING NAME OF VILLAGE]**

**RESIDENCE AND MANAGEMENT CONTRACT**

*[on front page of contract]*

**COOLING-OFF RIGHT**

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this contract at any time before the expiry of 3 clear business days after you have signed this contract, by—

- giving a notice of cancellation to [*name or abbreviation of owner/manager*] or our agent; or
- sending the notice to [*name or abbreviation of owner/manager*] at the above mentioned address for service of notices or to the address of our agent.

If you cancel, [*name or abbreviation of owner/manager*] may retain \$100 or 0.2% of the ingoing contribution, whichever is greater.

Date contract signed:

Name and address of village owner:

Address for service of notices:

Name and address of village manager:

Address for service of notices:

Name and address of resident:

Address of resident's premises:

Date of resident's occupation of resident's premises/date of resident's right to occupy premises [*delete whichever is inapplicable*]:

Date contract commences [*if different from above*]:

Term of contract/date contract expires [*delete whichever is inapplicable*]:

Garage, storeroom and parking entitlements:

Fixtures, fittings and furnishings provided by the village owner with the resident's premises are as follows:

The services to be provided to the resident—including any service that, before the resident entered into the contract, [*name or abbreviation of manager*] or its agents represented to the resident would be provided or made available, and the date (if any) on or by which it was represented that such service would be provided or made available—are as follows—

[*insert services and where applicable date service is to be provided or made available*]

#### OPERATIVE WORDS

[*insert any desired statement of the nature or operation of the contract, for instance, in relation to the residence contract, the grant of the interest in the premises*]

#### PRESCRIBED TERMS UNDER REGULATION 8E OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2006

##### Primacy of the Retirement Villages Act 1986 and regulations

This contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

##### Basic obligations of the owner

[*name or abbreviation of owner*] must—

- (a) give exclusive and vacant possession of the resident's premises in a clean and tidy condition; and
- (b) use best endeavours to ensure that the owner's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.



Basic obligations of the manager

[*name or abbreviation of owner*] must—

- (a) use best endeavours to ensure that the manager's tenants, employees and invitees or other persons lawfully on village premises comply with the by-laws relating to the village; and
- (b) if the manager is required to carry out repairs or replacements to the common facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (c) obtain the resident's consent to enter the resident's premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the resident and keep a record of such payments.

Basic obligations of the resident

The resident must—

- (a) use best endeavours to ensure that the resident's invitees or other persons lawfully on the resident's premises comply with the by-laws relating to the village; and
- (b) respect the rights of other residents and persons in the village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of [*names or abbreviations of owner and manager*], their employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the village; and
- (f) if [*name or abbreviation of owner and/or manager—as applicable*] exercises a right to relocate the resident to other premises with the consent of the resident, not withhold consent unreasonably.

Basic rights of the resident

The resident has the right to—

- (a) any payment that [*name or abbreviation of owner*] is liable to make consequent on the resident leaving the village or dying, unaffected by termination of the residence contract or the management contract, whether for breach of contract or otherwise; and

- (b) remove any fixture that the resident has added to the resident's premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal; and
- (c) *[if the resident's only obligation in relation to the condition of the resident's premises is to remedy damage and if the resident does not share in any capital gain]* not to be liable for fair wear and tear to the resident's premises.

**General**

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this contract or any inconsistent by-laws relating to the village.
- (b) *[names or abbreviations of owner and manager]* and the resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 8C OF THE  
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)  
REGULATIONS 2006 TO BE ADDRESSED**

**The owner**

Costs payable on entry *[refer to regulation 8C(1)(b)(x)]*

Costs payable during residency *[refer to regulation 8C(1)(b)(xi)]*

Costs payable on departure *[refer to regulation 8C(1)(b)(xii)]*

Owner's legal costs *[refer to regulation 8C(1)(b)(ix)]*

Costs of renovation or reinstatement *[refer to regulation 8C(1)(b)(xvii)]*

Resident's exit entitlement *[refer to regulation 8C(1)(b)(xiii) and (xiv)]*

Maintenance of the resident's premises *[refer to regulation 8C(1)(b)(xvi)]*

Village insurance *[refer to regulation 8C(1)(b)(xv)]*

Any restrictions relating to the resident's premises *[refer to regulation 8C(1)(b)(i)–(viii)]*

**The manager**

Costs payable during residency *[refer to regulation 8C(2)(b)(iii)]*

Manager's legal costs *[refer to regulation 8C(2)(b)(ii)]*

Adjustments to maintenance charges *[refer to regulation 8C(2)(b)(v)]*

Use of maintenance charges *[refer to regulation 8C(2)(b)(iv)]*

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The repair and maintenance procedure [*refer to regulation 8C(2)(b)(vi)*]

Consultation on changes to services [*refer to regulation 8C(2)(b)(xiv)*]

Special levies [*refer regulation 8C(2)(b)(vii)*]

Resident's exit entitlement [*refer to regulation 8C(2)(b)(viii) and (ix)*]

Village insurance [*refer to regulation 8C(2)(b)(x)*]

Manager's right of access to resident's premises [*refer to regulation 8C(2)(b)(i)*]

**Other**

Termination and amendment of the contract [*refer to regulation 8C(1)(b)(xviii) and (xix) and (2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 8C(1)(b)(xx) and (2)(b)(xiii)*]

**OTHER TERMS—WHICH MUST NOT INCLUDE ANY TERM  
PROHIBITED BY THE RETIREMENT VILLAGES ACT 1986 OR  
REGULATIONS**

## ENDNOTES

### 1. General Information

The Retirement Villages (Contractual Arrangements) Regulations 2006, S.R. No. 99/2006 were made on 1 August 2006 by the Governor in Council under section 43 of the **Retirement Villages Act 1986**, No. 126/1986 and came into operation on 1 August 2006: regulation 3.

The Retirement Villages (Contractual Arrangements) Regulations 2006 will sunset 10 years after the day of making on 1 August 2016 (see section 5 of the **Subordinate Legislation Act 1994**).

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## 2. Table of Amendments

This Version incorporates amendments made to the Retirement Villages (Contractual Arrangements) Regulations 2006 by statutory rules, subordinate instruments and Acts.

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Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009, S.R. No. 52/2009

*Date of Making:* 19.5.09

*Date of Commencement:* 19.5.09

Retirement Villages Amendment (Contractual Arrangements) Regulations 2013, S.R. No. 171/2013

*Date of Making:* 17.12.13

*Date of Commencement:* 1.7.14: reg. 3

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**3. Explanatory Details**

No entries at date of publication.