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Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

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STATUTORY RULES 2017

First Draft 27/2/2017

S.R. No.

Retirement Villages Act 1986

**Retirement Villages (Contractual Arrangements)
Regulations 2017**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

MARLENE KAIROUZ

Minister for Consumer Affairs, Gaming and Liquor
Regulation

Clerk of the Executive Council

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

- (d) prescribe matters that must be, may be and must not be included in residence contracts and management contracts; and
- (e) prescribe terms for residence contracts and management contracts; and
- (f) 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 2017.

4 Revocation of Regulations

The following Regulations are **revoked**—

- (a) the Retirement Villages (Contractual Arrangements) Regulations 2006¹;
- (b) the Retirement Villages (Contractual Arrangements) Regulations Amendment (Formula) Regulations 2009²;
- (c) the Retirement Villages Amendment (Contractual Arrangements) Regulations 2013³;
- (d) the Retirement Villages (Contractual Arrangements) Amendment Regulations 2016⁴.

5 Definitions

In these Regulations—

determined date, in relation to an entitled person,
means the latest of—

- (a) the day that is 6 months after the entitled person delivers up vacant possession of the premises in the retirement village; or
- (b) the day that is 6 months after the entitled person enters into residential care; or
- (c) the day on which the entitled person is required to pay the refundable accommodation deposit to the approved provider of the residential care;

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

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

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

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

Victorian Division of the Australian Property Institute means the Victorian Divisional Council of the incorporated association registered as the Australian Property Institute under the Associations Incorporation Act 1985 of South Australia.

6 Condition for refund of in-going contribution to a non-owner resident

- (1) If a residence contract with a non-owner resident includes the clauses in Schedule 1, it is a condition of that contract for the purposes of section 26(2)(c) of the Act that the non-owner resident or the non-owner resident's legal personal representative is entitled to recover the amount refundable under section 26(1) of the Act—
- (a) on a day that is not more than 14 days after the earlier of—
 - (i) the day on which a payment is made by another person under a residence contract in respect of the premises of the non-owner resident that is equal to or more than the amount owed to the non-owner resident after the non-owner resident has delivered up vacant possession of the premises; or
 - (ii) 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
 - (b) on or after the day a court or tribunal makes a finding that the owner has breached any of the clauses in Schedule 1 included in the contract with the non-owner resident.
- (2) Subregulation (3) applies to a residence contract with a non-owner resident if—
- (a) it is a condition of the residence contract that—
 - (i) the amount of the in-going contribution is determined with reference to a factor other than or in addition to the market value of the residence right; and

- (ii) the amount of the in-going contribution is less than the market value of the residence right; and
 - (b) the residence contract includes the clauses in Schedule 2.
- (3) It is a condition of a contract to which this subregulation applies for the purposes of section 26(2)(c) of the Act that the resident or the resident's legal personal representative is entitled to recover the refundable in-going contribution—
 - (a) on a day that is not more than 14 days after the earlier of—
 - (i) the day on which a payment is made by another person under a residence contract in respect of the premises of the non-owner resident that is equal to or more than the amount owed to the non-owner resident after the non-owner resident has delivered up vacant possession of the premises; or
 - (ii) 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
 - (b) on or after the day a court or tribunal makes a finding that the owner has breached any of the clauses in Schedule 1 included in the contract with the non-owner resident.
- (4) If the whole or any part of a refundable in-going contribution has been paid to the non-owner resident under regulation 7, subregulations (1) and (3) do not apply to the extent of that payment.

7 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 entitled person's residence contract; and
 - (c) who has been accepted into residential care within the meaning of the Aged Care Act; and
 - (d) who is required to make an accommodation payment to the approved provider of the residential care within the meaning of the Aged Care Act.
- (2) If an entitled person entered into a residence contract before the date these Regulations commence and notifies the owner of the retirement village in writing that the entitled person has elected to make the accommodation payment by way of a refundable accommodation deposit within the meaning of the Aged Care Act, the owner of the retirement village must, if requested to do so in that notice, pay to the approved provider in accordance with subregulation (3)—
 - (a) if the amount of the unpaid refundable in-going contribution, as reasonably estimated by the owner or the retirement village, is equal to or less than the refundable accommodation deposit, the reasonable estimate of the amount of the unpaid refundable in-going contribution; or

- (b) if the amount of the unpaid refundable in-going contribution, as reasonably estimated by the owner or the retirement village, is more than the refundable accommodation deposit, the amount of the refundable accommodation deposit.
- (3) Payment under subregulation (2) by the owner of the retirement village must be made—
 - (a) if notice has been given at least 14 days before the determined date, on or before the determined date; or
 - (b) if notice is given less than 14 days before the determined date, not more than 14 days after the giving of the notice.
- (4) If an entitled person entered into a residence contract (whether before, on or after the commencement of these Regulations) and notifies the owner of the retirement village in writing that the entitled person has elected to make the accommodation payment by way of daily accommodation payments within the meaning of the Aged Care Act, the owner of the retirement village must, if requested to do so in that notice, pay to the approved provider the daily accommodation payments as they fall due.
- (5) If a retirement village owner is required under this regulation to pay a refundable accommodation deposit but considers that this would cause undue hardship, the owner may at any time apply to the Tribunal for an order to pay to the approved provider the entitled person's daily accommodation payments as they fall due.
- (6) Despite anything to the contrary in this regulation, the owner of a retirement village is not required to pay more than 85 per cent of the amount of the

unpaid refundable in-going contribution, as reasonably estimated by the owner.

- (7) The owner of the retirement village must notify the entitled person of the owner's reasonable estimate of the amount of the unpaid refundable in-going contribution and the owner's estimate of the current market value of the entitled person's residence right within 14 days of the relevant notice under subregulation (2).
- (8) The reasonable estimate of the amount of the unpaid refundable in-going contribution must be calculated according to the current market value of the entitled person's residence right.
- (9) If an entitled person notifies the owner of the retirement village in writing, within 14 days after receiving the notice under subregulation (7), that the entitled person disagrees with the owner's estimate of the amount of the unpaid refundable in-going contribution, the estimate of the amount of the unpaid refundable in-going contribution must be determined by—
 - (a) an independent valuer agreed on by the entitled person and the owner; or
 - (b) if the entitled person and the owner cannot agree on a valuer, a valuer appointed by the President of the Victorian Division of the Australian Property Institute.
- (10) Any costs of obtaining the valuation under subregulation (9) must be shared equally by the entitled person and the owner.

8 Calculation of amount of refundable in-going contribution if original in-going contribution based on market value

The clauses set out in Schedule 3 are included in a residence contract with a non-owner resident if—

- (a) the residence contract provides that 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) regulation 9 does not apply to the residence contract.

9 Calculation of amount of refundable in-going contribution if original in-going contribution less than market value

The clauses set out in Schedule 4 are included in a residence contract with a non-owner resident if—

- (a) it is a condition of the residence contract that—
 - (i) the amount of the in-going contribution is determined with reference to a factor other than or in addition to the market value of the residence right; and
 - (ii) the amount of the in-going contribution is 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.

10 Matters that must not be included in residence or management contracts

A residence contract or a management contract must not include any of the following—

- (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) if 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, 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;
- (e) a requirement for a resident to pay liquidated damages for breach of a contract, other than a requirement to forfeit a deposit, or for a breach 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;

- (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) that are charges for personal services or that are maintenance charges, the recovery of which would not constitute an offence against section 38A or 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.

11 Matters that must be included in residence and management contracts

- (1) A residence contract must specify the following—
- (a) the date of the contract and, if the contract does not commence on that date, the date the contract commences;
 - (b) the owner's name, address and address for service;
 - (c) the resident's name and address;
 - (d) the address of the residential premises;
 - (e) the duration of the contract;
 - (f) the resident's garage, storeroom and parking entitlements (other than as accessories to any strata title of the resident);
 - (g) the date of occupation of the premises or the date of the resident's right to occupy the premises (as the case may be);
 - (h) the fixtures, fittings and furnishings provided by the owner with the residential premises.
- (2) A residence contract must address the following matters—
- (a) the resident's ability to alter and add to the residential premises;
 - (b) the resident's ability to transfer to other residential premises or other types of accommodation;
 - (c) if the residential premises are incomplete, the resident's ability to determine the design, construction and furnishing of the premises;
 - (d) any restrictions on the resident's use of the residential premises;

- (e) any restrictions on pets, visitors and car parking;
- (f) any restrictions on the persons to whom the resident can transfer the residential premises;
- (g) any rights of access of the owner to the residential premises;
- (h) any right of the owner to relocate the resident to other premises in an emergency;
- (i) any legal costs of the owner payable by the resident;
- (j) all costs and charges payable by the resident to the owner to gain entry to the village including any in-going contribution and whether interest is payable to the resident;
- (k) all costs and charges payable by the resident to the owner during their 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;
- (l) all costs, fees and charges payable by the resident to the owner on permanent departure from the premises;
- (m) the method of calculating any refundable in-going 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;
- (n) the time at which the refund referred to in subparagraph (m) is payable to the resident;
- (o) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the owner is to take out;

- (p) who is responsible for maintaining the residential premises, including replacement and maintenance of fixtures, fittings and furnishings;
 - (q) what renovation or reinstatement of the resident's premises will be required and who is liable for the cost;
 - (r) how the contract may be terminated, including any minimum advance notice;
 - (s) the resident's right to refuse to agree to amendments to or termination of the contract;
 - (t) the by-laws relating to the village (unless this matter is included in the resident's management contract).
- (3) A management contract must specify the following—
- (a) the date of the contract and, if the contract does not commence on that date, the date the contract commences;
 - (b) the manager's name, address and address for service;
 - (c) the resident's name and address;
 - (d) the address of the residential premises;
 - (e) the duration of the contract;
 - (f) 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 the manager's 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.

- (4) A management contract must address the following matters—
- (a) any rights of access of the manager to the residential premises;
 - (b) any legal costs of the manager payable by the resident;
 - (c) all costs and charges payable by the resident to the manager during their 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;
 - (d) the matters for which maintenance charges may be used;
 - (e) how and when maintenance charges can be adjusted;
 - (f) the repair and maintenance procedure for the residential premises, including the responsibilities of the manager and the resident;
 - (g) how special levies can be imposed;
 - (h) the method of calculating any refund of the in-going 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;
 - (i) the time at which the refund referred to in subparagraph (h) is payable to the resident;
 - (j) the insurance policies in relation to the retirement village (excluding any policies in relation to any owners corporation in the village) that the manager is to take out;

- (k) how the contract may be terminated, including any minimum advance notice;
- (l) the resident's right to refuse to agree to amendments to or termination of the contract;
- (m) the by-laws relating to the village (unless this matter is included in the residence contract);
- (n) the process for consultation with the resident or with the residents of the retirement 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 under the contract.

12 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, a residence contract or a management contract may include a warning that the resident is advised to take out a house contents insurance policy or public liability insurance policy.

13 Prescribed terms for residence and management contracts

- (1) Subject to subregulation (3), a residence contract must include 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 include the terms set out in Part B of Schedule 5 and is taken to include those terms.
- (3) If under this regulation, a term is required to be included in and is taken to be included both in a residence contract and in a management contract and, as a matter of law or contract, that term is

applicable to only one of those contracts, the term need not be included 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.

14 Forms for residence and management contracts

- (1) Subject to subregulation (5), a residence contract must be in the form in Part A of Schedule 6.
- (2) Subject to subregulation (5), a management contract must be in the form in Part B of Schedule 6.
- (3) Subject to subregulation (5), a combined residence contract and management contract in which the owner and manager are the same person must be in the form in Part C of Schedule 6.
- (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 in Part D of Schedule 6.
- (5) If, in the form of a contract set out in Schedule 6, a right or obligation is ascribed to both the owner and manager but, as a matter of law or contract, only one of those parties has that right or obligation in relation to the resident, that right or obligation may be omitted from the rights or obligations ascribed to the other party in the contract.
- (6) It is sufficient compliance with a requirement under this regulation relating to the insertion of rights, obligations and other matters under the headings in the section in the form of a contract headed "Matters required by the Regulation 11 of the Retirement Villages (Contractual Arrangements) Regulations 2017 to be addressed" if the text of the relevant rights,

obligations and other material is inserted under the relevant heading and any variations are set out in a schedule or attachment to the contract.

15 Regulations not to 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 10, 11, 12 and 13—
 - (a) apply to the residence contract or the management contract (as the case may be); and
 - (b) do not apply to the agreement to lease or contract of sale.

16 Contracting out

- (1) A provision in a contract or document concerning a retirement village that purports to exclude, modify or restrict the operation of regulations 10, 11, 12 or 13 is void.
- (2) If a contract or document includes a provision that 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.

17 Transitional provisions

- (1) These Regulations do not apply to a residence contract entered into and in force immediately before the commencement of the Retirement Villages (Contractual Arrangements) Regulations 2006.

- (2) Subregulation (3) applies to a residence contract that—
- (a) is entered into by an owner and a non-owner resident; and
 - (b) is entered into during the period beginning on the commencement of the Retirement Villages (Contractual Arrangements) Regulations 2006 and ending on 16 September 2006; and
 - (c) does not include the clauses in Schedule 1 or 2.
- (3) A condition included in a residence contract to which this subregulation applies is a condition for the purposes of section 26(2)(c) of the Act if that condition entitles the non-owner resident or the non-owner resident's legal personal representative to recover the amount refundable under section 26(1) of the Act as a consequence of—
- (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) any other event that precedes payment being made by another person under a residence contract of an in-going contribution in respect of the premises.

Schedule 1—Conditions to be included in certain residence contracts

Regulation 6(1)

- 1 The parties to the contract agree that if the owner is notified in writing that the non-owner resident intends to deliver up vacant possession of the resident's 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 other than that price or 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 If 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.
- 14 In clauses 1–13—

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

Schedule 2—Conditions to be included in certain residence contracts

Regulation 6(2)

- 1 The parties agree that if the owner is notified in writing that the non-owner resident intends to deliver up vacant possession of the resident's 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**.

Schedule 3—Calculation of refundable in-going contribution based on market value

Regulation 8

- 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 to the contract 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).

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Schedule 3—Calculation of refundable
in-going contribution based on market value

- 5 In clause 3, ***Victorian Division of the Australian Property Institute*** means the Victorian Divisional Council of the incorporated association registered as the Australian Property Institute under the Associations Incorporation Act 1985 of South Australia.

**Schedule 4—Calculation of refundable
in-going contribution where in-going
contribution less than market value**

Regulation 9

- 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 to the contract agree that—
 - (a) clause 3 applies 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; and
 - (b) in any other case, clause 5 applies.
- 3 For the purposes of clause 2(a), the refundable in-going contribution is calculated as if another person had paid the proxy amount determined in accordance with clause 4 as an in-going contribution under a residence contract in relation to the premises.
- 4 For the purposes of clause 3, the proxy amount is—
 - (a) the amount paid as an in-going contribution by the resident, indexed in accordance with the following formula—

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

Schedule 4—Calculation of refundable in-going contribution where in-going contribution less than market value

where—

- A** is the amount of in-going contribution paid by the resident; and
 - B** is the CPI for the quarter preceding the quarter in which the payment of the refundable in-going contribution falls due; and
 - C** is the CPI for the quarter preceding 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 For the purposes of clause 2(b), the refundable in-going contribution is calculated as if another person had paid the proxy amount determined in accordance with clause 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 to the contract 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).

Retirement Villages (Contractual Arrangements) Regulations 2017
S.R. No.

Schedule 4—Calculation of refundable in-going contribution where in-going
contribution less than market value

8 In clauses 1–7 and this clause—

CPI means the all groups consumer price index for
Melbourne in original terms published by the
Australian Bureau of Statistics; and

Victorian Division of the Australian Property Institute
means the Victorian Divisional Council of the
incorporated association registered as the Australian
Property Institute under the Associations
Incorporation Act 1985 of South Australia.

Schedule 5

Part A

Regulation 13(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 13(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.

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 5

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.

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 5

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 14(1)

[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
- sending 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 in-going 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 13 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017**

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 11 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017 TO BE ADDRESSED**

Costs payable on entry [*refer to regulation 11(1)(b)(x)*]

Costs payable during residency [*refer to regulation 11(1)(b)(xi)*]

Costs payable on departure [*refer to regulation 11(1)(b)(xii)*]

Owner's legal costs [*refer to regulation 11(1)(b)(ix)*]

Costs of renovation or reinstatement [*refer to regulation 11(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulation 11(1)(b)(xiii) and (xiv)*]

Maintenance of the resident's premises [*refer to regulation 11(1)(b)(xvi)*]

Village insurance [*refer to regulation 11(1)(b)(xv)*]

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 6

Any restrictions relating to the resident's premises [*refer to regulation 11(1)(b)(i)–(viii)*]

Termination and amendment of the contract [*refer to regulation 11(1)(b)(xviii) and (xix)*]

The village by-laws [*refer to regulation 11(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 14(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 13 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017**

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 11 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017 TO BE ADDRESSED**

Costs payable during residency [*refer to regulation 11(2)(b)(iii)*]

Manager's legal costs [*refer to regulation 11(2)(b)(ii)*]

Adjustments to maintenance charges [*refer to regulation 11(2)(b)(v)*]

Use of maintenance charges [*refer to regulation 11(2)(b)(iv)*]

The repair and maintenance procedure [*refer to regulation 11(2)(b)(vi)*]

Consultation on changes to services [*refer to regulation 11(2)(b)(xiv)*]

Special levies [*refer to regulation 11(2)(b)(vii)*]

Resident's exit entitlement [*refer to regulation 11(2)(b)(viii) and (ix)*]

Village insurance [*refer to regulation 11(2)(b)(x)*]

Manager's right of access to the resident's premises [*refer to regulation 11(2)(b)(i)*]

Termination and amendment of the contract [*refer to regulation 11(2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 11(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 14(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 in-going 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:

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 6

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 13 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017**

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.

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 6

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.

Confidential Draft prepared by the Office of Chief Parliamentary Counsel Victoria

**MATTERS REQUIRED BY REGULATION 11 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017 TO BE ADDRESSED**

Costs payable on entry [*refer to regulation 11(1)(b)(x)*]

Costs payable during residency [*refer to regulation 11(1)(b)(xi)
and (2)(b)(iii)*]

Costs payable on departure [*refer to regulation 11(1)(b)(xii)*]

Legal costs [*refer to regulation 11(1)(b)(ix) and (2)(b)(ii)*]

Costs of renovation or reinstatement [*refer to regulation 11(1)(b)(xvii)*]

Resident's exit entitlement [*refer to regulation 11(1)(b)(xiii), (xiv)
and (2)(b)(viii) and (ix)*]

Adjustments to maintenance charges [*refer to regulation 11(2)(b)(v)*]

Special levies [*refer regulation 11(2)(b)(vii)*]

Use of maintenance charges [*refer to regulation 11(2)(b)(iv)*]

Maintenance of the resident's premises [*refer to regulation 11(1)(b)(xvi)*]

The repair and maintenance procedure [*refer to regulation 11(2)(b)(vi)*]

Village insurance [*refer to regulation 11(1)(b)(xv) and (2)(b)(x)*]

Consultation on changes to services [*refer to regulation 11(2)(b)(xiv)*]

Any restrictions relating to the resident's premises [*refer to
regulation 11(1)(b)(i)–(viii)*]

Manager's right of access to resident's premises [*refer to
regulation 11(2)(b)(i)*]

Termination and amendment of the contract [*refer to
regulation 11(1)(b)(xviii) and (xix) and (2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 11(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 14(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 in-going 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 13 OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2017

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

Retirement Villages (Contractual Arrangements) Regulations 2017
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Schedule 6

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- (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 11 OF THE
RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS)
REGULATIONS 2017 TO BE ADDRESSED**

The owner

Costs payable on entry *[refer to regulation 11(1)(b)(x)]*

Costs payable during residency *[refer to regulation 11(1)(b)(xi)]*

Costs payable on departure *[refer to regulation 11(1)(b)(xii)]*

Owner's legal costs *[refer to regulation 11(1)(b)(ix)]*

Costs of renovation or reinstatement *[refer to regulation 11(1)(b)(xvii)]*

Resident's exit entitlement *[refer to regulation 11(1)(b)(xiii) and (xiv)]*

Maintenance of the resident's premises *[refer to regulation 11(1)(b)(xvi)]*

Village insurance *[refer to regulation 11(1)(b)(xv)]*

Any restrictions relating to the resident's premises *[refer to regulation 11(1)(b)(i)–(viii)]*

The manager

Costs payable during residency *[refer to regulation 11(2)(b)(iii)]*

Manager's legal costs *[refer to regulation 11(2)(b)(ii)]*

Adjustments to maintenance charges *[refer to regulation 11(2)(b)(v)]*

Use of maintenance charges *[refer to regulation 11(2)(b)(iv)]*

The repair and maintenance procedure *[refer to regulation 11(2)(b)(vi)]*

Consultation on changes to services *[refer to regulation 11(2)(b)(xiv)]*

Special levies *[refer regulation 11(2)(b)(vii)]*

Resident's exit entitlement *[refer to regulation 11(2)(b)(viii) and (ix)]*

Retirement Villages (Contractual Arrangements) Regulations 2017

S.R. No.

Schedule 6

Village insurance [*refer to regulation 11(2)(b)(x)*]

Manager's right of access to resident's premises [*refer to regulation 11(2)(b)(i)*]

Other

Termination and amendment of the contract [*refer to regulation 11(1)(b)(xviii) and (xix) and (2)(b)(xi) and (xii)*]

The village by-laws [*refer to regulation 11(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 Reg. 4(a): S.R. No. 99/2006.

² Reg. 4(b): S.R. No. 42/1999.

³ Reg. 4(c): S.R. No. 171/2013.

⁴ Reg. 4(d): S.R. No. 78/2016.