



## Elder Law: Retirement Village contracts – What are your rights?

Are you considering moving into a retirement village? Make sure you are aware of your rights before you sign a contract. This article provides more detail about the rights you have and need to be aware of before signing a retirement village contract.

# Your retirement village rights include:

- receiving information up-front about the residence, the operator of the retirement village, and the terms and conditions which will apply if you occupy the residence.
- the payments you are required to make initially and throughout the period you occupy the retirement village residence.
- the right to “cool-off” at any time within 10 business days of signing a residence contract.
- what happens when you leave the retirement village or die.

The law concerning retirement villages is found in the [Retirement Villages Act 2016](#) (“the Act”).

The Act replaced the old Retirement Villages Act 1987 on 8 August 2017 and came into operation on 1 January 2018.

# Required documents before you sign a retirement village contract:

Before entering into a retirement village, the operator is required to give you the following documentation at least 10 business days before you sign a residence contract:

1. copy of the residence contract
2. disclosure statement
3. financial statements presented at the last Annual Meeting of the village and a written statement of any subsequent changes in the affairs of the village and the operator (which may significantly affect your decision to enter the village)
4. copy of the minutes of the last two annual meetings of the village
5. copy of the residence rules
6. the operator’s remarketing policy
7. any code of conduct applicable
8. any other documents prescribed by the regulations

It is common for a retirement village operator to provide all of the above documents in one bundle or in a folder. Of those documents, the first two are often the most important.

# The residence contract

This is the contract which sets out all of your and the operator's rights and obligations with respect to your occupation of the residence. The contract is required by law to contain certain information including:

- details about the residence being occupied
- the name and contact details of the operator
- the right to cool-off
- the right to occupy the residence
- recurrent charges which you will be liable for
- additional services and facilities available to residents of the retirement village and the costs associated with those services and facilities
- the right to terminate the right to occupy and receive an exit entitlement
- the operator's dispute resolution policy
- details regarding who will be responsible for repairing or replacing the fixtures, fittings and furnishings in the residence

# The disclosure statement in retirement village contracts

The disclosure statement summarises key information contained in the residence contract, including all fees and charges, how the operator uses those fees and charges, any utilities, services or facilities provided by the operator and how the resident's exit entitlement is calculated and paid.

After entering into occupation of the residence, the operator is required to complete a premises condition report, which provides detailed information about the condition of the fixtures, fittings and furnishings, and any other information as prescribed by the law from time to time. Both the operator and yourself are required to sign the premises condition report.

# Summary of your rights

- You are entitled to cool-off within 10 business days after signing the residence contract without giving a reason for doing so. This will result in the contract being cancelled and you will have the right to be refunded the ingoing contribution paid by you less any

accommodation charges you paid during the period of occupation.

- You are entitled to leave the retirement village at any time but should be aware of when you are entitled to be repaid your ingoing contribution and how that repayment is calculated (called 'the exit entitlement').
- In most cases, you will be entitled to receive the exit entitlement (refund) but the amount will depend on how long you were a resident.
- You are normally entitled to receive the refund when the operator re-licenses the unit to another licensee. However, The Act stipulates that you are entitled to receive the exit entitlement if any of the following occurs:
  - you have ceased to live in the retirement unit for at least 18 months
  - you give notice to vacate and at least 3 months have elapsed since vacant possession was provided
  - the operator agrees to pay the refund.
- If you cease to reside in the retirement village you cannot be liable to pay more than 6 months' worth of recurrent charges unless the South Australian Civil and Administrative Tribunal orders otherwise.
- If you leave the retirement village to enter into an aged care facility, you may be entitled to have payments made by the retirement village to the aged care facility.

The above is not an exhaustive list of key points and it is always necessary to read the residence contract carefully.

Andersons Solicitors practice in Elder Law. Our Lawyers can help explain the key terms of a residence contract and advise you before signing a contract.

Know your rights before signing a retirement village contract.