

# Entering a retirement village

May 2005



*During 2005-2006, amendments to the Retirement Villages Act 1986 will be implemented in three stages, changing the way retirement village operators are required to deal with residents in a number of areas. You should make yourself familiar with these changes if you are thinking about entering a retirement village during 2005-2006.*



**Need more information?**

Call Consumer Affairs

Victoria on  
1300 55 81 81.

Things to watch out for if you are signing a contract before Stage 2 amendments commence in September 2005

1. *The contract requires you to give your power of attorney to the operator.*

The amendments will prohibit operators from seeking or accepting a power of attorney from a resident except where the resident is a relative of the operator or possibly in other limited circumstances, that could be defined in the regulations. However, powers of attorney in contracts that are signed before the Stage 2 amendments commence will remain unchanged.

2. *You are buying a strata title unit in the retirement village and the contract requires you to assign exclusive selling rights to the operator.*

The amendments will prevent an operator from requiring a resident who owns a strata title to assign exclusive selling rights to the operator, enabling the resident to sell the unit through the agent of their choice.

However, if you have signed a contract containing this provision before the Stage 2 amendments commence, it will remain unchanged.



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3. *The contract specifies that if you leave the retirement village, there will be a long delay before you receive the payments you are entitled to.*

In most cases, the amendments will require operators to make any payment to outgoing residents:

- at the latest within six months after a resident who does not own the unit delivers up vacant possession (if the unit is not reoccupied sooner) or
- within 14 days after a resident's own strata title unit is sold.

Some contracts currently defer payment of the proceeds of selling a self-owned unit for up to eight years. The deferred payment is payment in full and may be preferable to an immediate payout where substantial fees have been deducted. Further consultation during 2005 will determine whether these deferred payment contracts will continue to be allowed.

## Benefits of the amended legislation

### Stage 1 amendments (effective 23 May 2005)

- If residents or operators are not satisfied with the results of the internal dispute resolution or don't wish to use it, Consumer Affairs Victoria is the first point of contact. Operators are not permitted to include terms in their contracts that nominate other bodies as the arbitrators in such disputes.
- Residents can appoint a family member or any other trusted person to represent them at annual meeting or residents committee meetings.
- Consumer Affairs Victoria has provided funding to establish an association to provide information and support to retirement village residents. It will also act as an independent policy advocate and advise the Government on retirement village issues.

The association will be run by and for residents of retirement villages and will be a membership organisation which residents will be able to join.

If you wish to register to receive information about the establishment of the association, contact Seniors Information Victoria on 1300 13 50 90.

### Stage 2 amendments (effective September 2005)

- Where a resident uses an external estate agent to manage the sale of the unit, operators will not be permitted to charge a fee or receive a commission or interfere in a sale of a unit by that external agent. But the operator will need to be informed so that all the necessary arrangements can be made with the prospective purchaser before they become a resident of the village
- Operators will be prohibited from seeking or accepting a proxy from a resident to vote on their behalf at retirement village meetings, except where the resident is a relative of the operator. If you have already signed a contract requiring you to give the operator your proxy, the proxy will be cancelled.
- Operators will not be permitted to seek or accept a power of attorney from a residents except where the resident is a relative of the operator or possibly in other limited circumstances. However, if you have already signed over power of attorney that arrangement will not change.
- Every Victorian retirement village will be required to have an internal dispute resolution and complaint-handling system that satisfies basic requirements under the legislation and regulations. Operators will be required to provide information to residents about how the internal dispute system works.
- All retirement villages will be required to provide information to Consumer Affairs Victoria for a public register that will enable consumers to find out whether an establishment is a retirement village subject to the requirements of the Retirement Villages Act and whether there are any special conditions attached to its operation.
- Charges for personal services (such as meals, laundry and cleaning) to individuals will cease within 28 days after a resident leaves the village. Charges on non-owners (such as those who are licensed to occupy or have a lifetime lease) for general services to the village community (such as maintenance) will cease within six months.

# Retirement Villages Factsheet

Date of Issue:  
May 2005

## Stage 3 amendments (effective March 2006)

- The contract terms to be used by retirement village operators will be subject to regulation, which will enable residents to more easily understand their terms and conditions and compare the costs and services on offer from different retirement villages.

If you have any questions about the rights of retirement village residents or any problems with the retirement village operation after you move in call Consumer Affairs Victoria on 1300 55 81 81.

## More information

More information on Retirement Villages is available from:

### Consumer Affairs Victoria

2/452 Flinders Street

Melbourne 3000

Telephone: 1300 55 81 81

Website [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

## Further reading:

- Operating a retirement village
- Living in a retirement village

Stage	Amendments	Affects existing contracts
1 Effective from 23 May 2005	1 Dispute resolution through Consumer Affairs Victoria for conciliation or the Victorian Civil & Administrative Tribunal for a binding determination. Operators are not permitted to nominate other arbitrators in their contracts.	1 Yes
	2 Recognition of resident nominated representatives	2 N/A
2 Effective from September 2005	3 Prohibition of operators seeking or accepting voting proxies	3 Yes
	4 Voiding of any existing operator voting proxies	4 Yes
	5 Restrictions on powers of attorney	5 No
	6 Residents able to use external agents to sell their strata units	6 No
	7 Publicly accessible register of retirement villages	7 N/A
	8 Internal dispute resolution and complaint handling mechanisms in place	8 N/A
	9 Changes to exit payments	9 No
	10 Changes to ongoing charges	10 Yes
3 Effective from March 2006	11 Changes to contracts and pre-contractual disclosures	11 No

The information contained in this fact sheet is of a general nature only and should not be regarded as a substitute for a reference to the legislation or professional advice.

Authorised by the Victorian Government, 452 Flinders Street, Melbourne, Victoria, 3000.

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