

Living in a retirement village

May 2005



In Victoria, your rights as an existing retirement village resident are protected under legislation that is administered by Consumer Affairs Victoria. The Retirement Villages Act has been amended to strengthen your rights and widen your range of choices for resolving problems. The amendments come into effect in three stages between May 2005 and March 2006.

In addition to the legislative changes, the Government has funded the formation of a residents' association that will advocate on behalf of all retirement village residents.



Amendments to retirement villages legislation will be implemented in three stages during 2005 and 2006. If you have any questions about the timing or content of the amendments or whether and how they apply to you, ring Consumer Affairs Victoria on 1300 55 81 81.

Stage 1 amendments (effective 23 May 2005)

Retirement villages residents' association

Consumer Affairs Victoria has provided funding to the Council on the Ageing (COTA) Victoria to establish an association to provide information and support for residents. The association will also act as an independent policy advocate and advise the Government on retirement village issues, ensuring that the concerns of Victoria's retirement village residents are heard.

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.

Strengthening dispute resolution

Residents are able to seek advice from Consumer Affairs Victoria and, if necessary, take a complaint to the Victorian Civil & Administrative Tribunal (VCAT) for a binding decision. As the agency which administers the retirement villages legislation, Consumer Affairs is able to offer expert advice and information as well as a range of complaint handling and dispute resolution services.

Representation at meetings

Residents can appoint a family member or any other trusted person to represent them at annual meetings or residents committee meetings.

Stage 2 amendments (effective September 2005)

Selling your unit

If you own your unit, you will be able to sell it through an external agent of your choice should you wish to¹. Where you engage an external agent, the village operator will not be allowed to charge a fee or receive a commission.

Many residents will choose to continue to use the manager of the village for the sale of the unit. Sales through an external agent will be conditional on the operator approving the purchaser as a resident. If there is any dispute about this, it will be resolved through VCAT.

Exit entitlements and refunds

In most cases², if you leave the retirement village, you will receive any payment that is due to you:

- If you don't own the unit, at the latest within six months after you leave (if the unit is not reassigned sooner) or
- If you do own the unit, within 14 days after it is sold.

Ongoing fees

If you leave the retirement village, the operator will no longer be permitted to charge you for personal services beyond 28 days.

If you do not own the unit³, liability for maintenance charges will cease when one of the following happens, whichever is the earliest:

- A contract is entered into with a new resident, or
- The unit is reoccupied, or
- Six months elapses after exit.

¹ This does not apply if your contract specifically appoints the village operator as the selling agent for your unit. If this is the case, you will not be able to appoint a different selling agent.

² Existing contracts that were established before the commencement date of the amendment will not be affected if they specified different periods for payment.

³ If you are an owner, you will continue to be liable for maintenance fees until the unit is sold, since you will continue to be a member of the body corporate until that time.

Internal dispute resolution and complaints-handling procedures

Each retirement village will be expected to have a dispute resolution and complaints-handling system to deal with disputes between residents and complaints against the operator. This will enable problems to be handled within the village as a first resort and give the village community a level of independence in determining how disputes should be resolved.

Operators will be required to ensure that:

- Written policies and procedures for dispute resolution and complaints-handling are in place.
- Residents are fully informed about the procedures and have ready access to the policy and procedure documents.
- Records are maintained of complaints with details of actions and resolutions.
- Without identifying individuals a report is made to the annual meeting of residents on complaints and disputes and the action taken or proposed to address issues that have been raised.

Proxies

Operators will not be permitted to seek or accept a proxy from a resident to vote on their behalf at retirement village meetings, except where the resident is a relative of the operator. These meetings of residents have the power to change the rules or by-laws that people agree to live by in the village or allow or deny measures proposed by the operator, such as an increase in a maintenance fee that is greater than the CPI.

If your existing retirement village contract contains a provision granting your proxy to the operator, that proxy will be cancelled as soon as the legislation commences.

Power of attorney

Operators will not be permitted to seek or accept a power of attorney from a resident 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.

Retirement village registration

All retirement villages will be required to provide information to Consumer Affairs Victoria for a public register that will enable you to find out whether an establishment is a retirement village and whether there are any special conditions attached to its operation.

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 how your retirement village is being run, 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

Further reading:

- Operating a retirement village
- Entering 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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